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FOR REGISTRATION REGISTER OF DEEDS
REBECCA P. SMITH
NEW HANOVER COUNTY, NC
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INSTRUMENT # 2006069998

**DECLARATION OF CONDOMINIUM
THE ESPLANADE CONDOMINIUMS**

**Prepared by and returned to:
Block, Crouch, Keeter, Behm & Sayed, LLP
310 North Front Street, Suite 200
Wilmington, North Carolina
28401**

**DECLARATION
OF
CONDOMINIUM**

**THE ESPLANADE CONDOMINIUMS
an office and retail condominium**

1. SUBMISSION; DEFINITIONS

1.1 Submission of Property. MARTIN PARK DEVELOPMENT COMPANY, LLC, a North Carolina Limited Liability Company ("Declarant"), owner in fee simple of the real estate described in Exhibit "A", located within New Hanover County, North Carolina, hereby submits such real estate, including all improvements, easements, rights and appurtenances thereunto belonging to the provisions of Chapter 47C of the General Statutes of North Carolina, known as the North Carolina Condominium Act ("Condominium Act"), and hereby creates with respect to said real estate a condominium to be known as "The Esplanade Condominiums" ("Condominium"). The Declarant may, but is not obligated to, add additional real estate to this Declaration of Condominium or create additional Units in this Condominium, including improvements, easements, rights and appurtenances thereunto belonging, and submit same to the condominium form of ownership. If Declarant exercises such development right, it shall do so in one or more subsequent amendments hereto. The recording of such Amendment with an Exhibit "A" describing the real estate, including improvements, easements, rights and appurtenances thereto belonging, shall, for the purposes of this condominium, be considered a supplementation and addition to the Exhibit "A" attached hereto.

1.2 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 The Esplanade Unit Owners Association, 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, all exterior surfaces of buildings and easement rights appurtenant to the Property.

(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;
- (ii) expenses declared to be Common Expenses by the Condominium Documents or by the Condominium Act;
- (iii) expenses agreed upon as Common Expenses by the Association; and
- (iv) 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.

(g) "Condominium Documents" means this Declaration, the Plats and Plans 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 MARTIN PARK DEVELOPMENT COMPANY, LLC, or its successor 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 add real estate to the Condominium; to create units, common elements, or limited common elements within the Condominium; to subdivide units or convert units into common elements; or to withdraw real estate from 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 all Units which may be created hereunder, to Unit Owners other than a Declarant;
- (ii) two years after Declarant, its successors and assigns, has ceased to offer Units for sale in the ordinary course of business;
- (iii) two years after any development right to add new Units was last exercised; or
- (iv) voluntary termination of the Declarant Control Period by the Declarant, its successors and assigns..

(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 one or more 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 votes in the Association.

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

(r) "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.

(s) "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.

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

(u) "Plats and Plans" means the Plats and Plans recorded simultaneously with this Declaration in Condominium Book 16 at Pages 294 through 301, and constituting a part hereof, as the same may be amended from time to time.

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

(w) "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.

(x) "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.

(y) "Special Declarant Rights" means the rights reserved herein 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) further subdivide Units created by this Declaration, as set forth herein;
- (iv) maintain sales offices, management offices, signs advertising the Condominium, and models;
- (v) 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;
- (vi) appoint or remove any officer of the Association or any Executive Board member during the Declarant Control Period;
- (vii) to grant such easements across Common Areas as Declarant deems necessary or convenient; or
- (viii) amend the Bylaws of the Association during the period of Declarant Control.

(z) "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 Board from time to time constituted, acting by majority vote, as executed by the President and attested by the Secretary.

(aa) "Unit" means a physical portion of the Condominium designated for separate ownership or occupancy, whether referred to herein and on the plats and plans as Unit or Suite. The boundaries of each Unit are described in Section 2.2 of this Declaration. If Declarant subdivides any "Unit" as provided herein, thereby creating two or more spaces which may be conveyed separately, then each such subdivided space shall be considered a "Unit" for all purposes expressed herein.

(bb) "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.

2. MAXIMUM NUMBER OF UNITS; BOUNDARIES

2.1 Maximum Number of Units. The Condominium, upon creation, contains three buildings consisting of 23,789 square feet of total heated and cooled space. Those buildings are currently divided into Twenty-Two (22) Units, but may be further subdivided as permitted by this Declaration. As additional Units are created, the Condominium will contain the number of Units listed in the most current Exhibit "B". The maximum number of Units that may ever be created under to through this Declaration, as amended from time to time, shall be Forty Seven (47) Units.

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: For Units located on the second or upper floor of any building, the upper boundary shall be the horizontal or sloping plane or planes of the unfinished lower surfaces of the ceiling or roof, as the case may be, bearing structure surfaces, beams, and rafters, extended to an intersection with the vertical perimeter boundaries. For Units located on the first floor of any building, the upper boundary shall be the horizontal plane or planes of the unfinished surfaces of the ceiling, extended to an intersection with the vertical perimeter boundaries.

(b) Lower Boundary: The horizontal plane or planes of the undecorated or unfinished upper surfaces of the floors extended to an intersection with the vertical perimeter boundaries and open, horizontal, unfinished surfaces of trim, sills and structural components.

(c) Vertical Perimeter Boundary: The planes defined by the inner surfaces of the studs and framing of the perimeter walls; the unfinished inner surfaces of perimeter walls; the unfinished surfaces of the interior trim and thresholds along perimeter walls and floors; the unfinished inner surfaces of closed windows and closed perimeter doors; and the innermost unfinished planes of all interior bearing studs and framing of bearing walls, columns, bearing partitions, and partition walls between separate Units.

(d) Inclusions: Each Unit will include the spaces and Improvements lying within the boundaries described in Subsections 2.2(a), (b), and (c), above, and will also include the spaces and Improvements within such spaces including water heating and air conditioning apparatus, smoke detector systems and all electrical switches, wiring, pipes, ducts, conduits, smoke detector systems

and television, telephone, and electrical receptacles and light fixtures and boxes serving that Unit exclusively, from the point of entry into the Unit from any adjoining Common Areas. Moreover, included in the definition of Unit shall be all HVAC systems which exclusively serve such Unit, whether located within the Unit or beyond the perimeter boundaries of such Unit, whether or not contiguous.

(e) Exclusions: Except when specifically included by other provisions of Section 2.2, the following are excluded from each Unit: The spaces and Improvements lying outside of the boundaries described in Subsections 2.2(a), (b) and (c), above; and all chutes, pipes, flues, ducts, wires, conduits, skylights and other facilities running through or within any interior wall or partition for the purpose of furnishing utility and similar services to other Units and Common Elements or both.

(f) Non-Contiguous Portions: Certain Units may include special portions, pieces or equipment such as air conditioning compressors, meter boxes, utility connection structures and storage portions situated in buildings or structures that are detached or semidetached from the buildings containing the principal occupied portion of the Units. Such special equipment and storage portions are a part of the Unit notwithstanding their non-contiguity with the occupied portions.

(g) Inconsistency with Plats and Plans: If this definition is inconsistent with the Plats and Plans, then this definition will control

3. LIMITED COMMON ELEMENTS

The following portions of the Common Elements are Limited Common Elements assigned to the Units as stated:

(a) If a chute, flue, pipe, duct, wire, conduit, bearing or non load bearing wall, bearing column, or other fixture lies partially within and partially outside the designated boundaries of a Unit, the portion serving only the Unit is a Limited Common Element, allocated solely to the Unit, the use of which is limited to that Unit, and any portion thereof serving more than one Unit or a portion of the Common Elements is a part of the Common Elements.

(b) Any shutters, awnings, window boxes, doorsteps, stoops, decks, porches, balconies and patios or other fixture designed to serve a single Unit that is located outside of the boundaries of the Unit, are Limited Common Elements allocated exclusively to the Unit and their use is limited to that Unit.

(c) Stoops and steps at the entrances to each building, which provide access to less than all Units, the use of which is limited to the Units to which they provide access.

(d) Stairways, the use of which is limited to certain Units as shown on the Plats and Plans.

(e) Utility areas, the use of which is limited to the Unit or Units as shown on the Plats and Plans.

(f) Storm windows and storm doors, if any, will be Limited Common Elements of the Unit to which they service.

(g) Mailboxes, nameplates, and exterior lighting affixed to the building will be Limited Common Elements allocated to the Unit served.

(h) Parking spaces may be assigned to specific units as Limited Common Elements, as may be shown, from time to time, upon plats recorded for the Condominium.

(i) The elevator located within Building 1 shall be a Limited Common Element for Units in said Building.

(j) Signage space for a sign approved by the Declarant during the period of Declarant control and by the Association thereafter, located on the free standing stack stone sign shall be limited common elements to each unit to which a signage space is assigned. For so long as Declarant owns any Unit in the Condominium, the colors, style and content of all such signage to be located upon or attached to such stacked stone sign shall be subject to the approval of Declarant. After Declarant has conveyed all Units in the Condominium, such signage regulation shall be delegated to the Association.

4. MAINTENANCE, REPAIR AND REPLACEMENT

4.1 Common Elements. The Association shall 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.

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.

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. Any Common Expense associated with the maintenance, repair or replacement of the elevator serving Building 1 shall be assessed against the Units located within said Building 1. Any Common Expense associated with the maintenance, repair or replacements of those Limited Common Elements identified in Section 3 (b), 3 (d), 3 (f), 3 (g) and 3 (j) above shall be assessed against the Unit or Units to which the Limited Common Element is assigned.

Common Expenses associated with the maintenance, repair or replacement of components and elements attached to, planted on or a part of patios, exterior doors and windows 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 upon approval by the covenants control committee, if any. 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 patios, decks, sidewalks and balconies, which are 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.

4.4 Access. Any Person authorized by the Executive Board shall have the right of access to all portions of the Property through any Unit, 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 HVAC units, utility meters, plumbing 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.

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. 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.

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.

6. DEVELOPMENT RIGHTS AND OTHER SPECIAL DECLARANT RIGHTS

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

(a) The right by amendment to create, recombine, subdivide or otherwise modify any Unit or Units by relocating boundary walls in, between or among any Unit or Units owned by the Declarant.

(b) 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 designated "Development Rights Reserved in this Area" on the Plats and Plans. 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.

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 the initial Declaration;

(b) Not more than a total of Forty Seven (47) Units may be created under the Development Rights;

(c) 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 office, retail and restaurant use, as permitted in a Commercial Services Zoning District under the current Zoning Ordinance for the City of Wilmington, in the same manner and to the same extent as the Units created under this Declaration as initially recorded.

6.3 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 subdivide, recombine or otherwise change the boundaries between any Unit or Units created by this Declaration of Condominium or any Amendment or Supplementation hereto;

(f) 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 6.8 of this Declaration.

6.4 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.

6.5 Construction; Declarant's Easements. The Declarant reserves the right to perform repairs and construction work, and to store materials in secure areas, in 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, riparian owners or upland owners to fulfill the plan of development. Further Declarant reserves an easement across the Common Elements to access any properties adjoining the Condominium for any purposes and by any means, provided however the use of such easement shall not materially damage the Condominium or Common Elements.

6.6 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.

6.7 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 premises 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.

6.8 Declarant Control of the Association.

(a) Subject to Subsection 6.8(b), during the Declarant Control Period, Declarant or persons designated by the Declarant may appoint and remove the officers and members of the Executive Board. 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 Units comprising twenty five percent (25%) of the total square footage of heated and cooled floor area of all Units that may be created 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 Units comprising fifty percent (50%) of the total square footage of heated and cooled floor area of all Units that may be created 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, by a sixty-seven percent (67%) vote 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.

6.9 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 to create additional Units or Common Elements or to withdraw real estate from the Condominium; or
- (ii) so long as Declarant owns any Unit; or
- (iii) fifteen (15) years after recording this Declaration.

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

7. ALLOCATED INTERESTS

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, or if any Unit is subdivided or Unit boundaries relocated. The Allocated Interests shown on Exhibit "B" may be modified upon Declarant exercising its Declarant rights to submit additional properties to the Condominium, or upon Declarant subdividing or recombining a Unit in accordance with this Declaration. Such reallocation shall be shown upon an exhibit attached to any

Amendment recorded to evidence the submission of new properties, or subdivision of Units, or the relocation of boundaries between adjoining Units, and shall, upon recording, supplant and supersede the attached Exhibit "B".

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 is based on the relative heated and cooled floor area of each Unit as compared to the heated and cooled floor area of all of the Units in the Condominium. For the purposes of computing such undivided interest, no attic areas shall be considered to be "heated and cooled floor area" of a Unit.

(b) Liability for the Common Expenses. Each Unit in the Condominium shall share in the Common Expenses of the Condominium in the same percentage of liability as their respective percentage of ownership in the Common Expenses as established therein. Nothing contained in this Subsection shall prohibit certain Common Expenses from being apportioned to particular Units under Article 17 of this Declaration.

(c) Votes. Each Unit in the Condominium shall have one vote which shall be equal to such percentage portion or fraction of Unit Owners, unless otherwise stated in the Condominium Documents, means the specified percentage, portion, or fraction of all of the votes as allocated in Exhibit "B".

7.3 Assignment of Allocated Interest Upon Creation of Units Pursuant to Exercise of Development Rights. The effective date for assigning Allocated Interests to Units created pursuant to Section 6.1 of this Declaration shall be the date on which the amendment creating the Units is recorded in the Office of the Register of Deeds of New Hanover County, North Carolina.

8. RESTRICTIONS ON USE, ALIENATION AND OCCUPANCY

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) Except as may be otherwise expressly provided in this Declaration, each Unit may only be used for general office and retail purposes and for such other purposes as are compatible or consistent therewith and are, in the opinion of the Board in its sole discretion, consistent with the maintenance of the general character of the Property as a first class condominium development. However and notwithstanding the generality of the foregoing statement, no Unit may be used for brokerage and sale of Insurance products except the Unit or Units located in Building 2A; and, no Unit may be used as a real estate sales office except Unit (Suite) 106 or any subdivision thereof.

(b) Lease of Units A Unit may not be leased or rented for a term of less than six months. All leases and rental agreements shall be in writing and shall be made subject to the requirements of the Condominium Documents and the rights of 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.

(c) Hazardous Use and Waste. Nothing shall be done to or kept in any Unit or the Common Elements that will increase any rate of insurance maintained with respect to the Condominium without the prior written consent of the Board. No Unit Owner or Occupant shall permit anything to be done to or kept in his Unit or the Common Elements that will result in the cancellation of insurance maintained with respect to the Condominium, or that would be in violation of any law, or that will result in the commitment of waste (i.e., damage, abuse, or destruction) to or in his Unit or the Common Elements.

(d) Signage. Except as reserved by Declarant or otherwise approved in this Declaration, no advertising signs, billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on the Common Areas subject to this Declaration without the prior written approval of the Board.

(e) Nuisances. No noxious or offensive activity shall be carried on in any Dwelling Unit or in the Common Areas, nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to the other Unit Owners or occupants.

(f) Alterations of Common Elements. No Unit Owner or Occupant, except Declarant during the Declarant Control Period, shall alter, construct anything upon, or remove anything from, the Common Elements, or paint, decorate, landscape or adorn any portion of the Common Elements, without the prior written consent of the Board.

8.2 Compliance with Declaration, Bylaws and Rules and Regulations. Each Unit Owner and Occupant shall comply with all applicable provisions of the Act, this Declaration, the Bylaws, the Articles of Incorporation of the Association, and the Rules and Regulations promulgated by the Board or the Association, as amended. Failure to comply shall be grounds for an action by the Association, an aggrieved Unit Owner, or any person adversely affected, for recovery of damages, injunction, or other relief.

8.3 Administration of Condominium. The Condominium shall be administered in accordance with the provisions of the Act, this Declaration and the Bylaws.

8.4 Use by Declarant.

(a) Any other provision of this Declaration or the Bylaws notwithstanding, Declarant shall have an easement to maintain sales offices and models for sales of Units throughout the Condominium. Declarant shall have the right to relocate, from time to time, and to discontinue and reestablish, from time to time, within the Condominium, until all of the Units have been conveyed to a Unit Owner other than a Declarant, any one or more of such offices or models. Declarant also shall have the right to change the use or combination of uses of such offices or models, provided that such offices or models shall be used only for sales offices or models.

(b) Declarant shall also have an easement to maintain signs on the Common Elements advertising the Condominium until all of the Units have been conveyed to Unit Owners other than a Declarant. Declarant shall remove all such signs not later than thirty (30) days after all of the Units have been conveyed to Unit Owners other than Declarant and shall repair or pay for the repair of all damage done by removal of such signs.

8.5 Rules and Regulations. In addition to the foregoing restrictions, conditions and covenants concerning the use of the Condominium, reasonable rules and regulations not in conflict therewith and supplementary thereto may be promulgated and amended from time to time by the Board or the Association, as more fully provided in the Bylaws.

8.6 Restrictions, Conditions and Covenants to Run With Land. Each Unit Owner and Occupant shall be subject to all restrictions, conditions and covenants of this Declaration, and all such restrictions, conditions and covenants shall be deemed to be covenants running with the land, and shall bind every person having any interest in the Property, and shall inure to the benefit of every Unit Owner.

8.7 Access to Units. The Association and its agents shall have access to each Unit from time to time during reasonable working hours, upon oral or written notice to its Unit Owner or Occupant of the Unit, as may be necessary for the maintenance, repair or replacement of any of the Common Elements. The Association and its agents shall also have access to each Unit at all times without notice, as may be necessary to make emergency repairs to prevent damage to Common Elements or to other Units.

9. EASEMENTS AND LICENSES

All easements or licenses to which the Condominium is presently subject are recited in Exhibit "A" to this Declaration. In addition, the condominium may be subject to other easements or licenses granted by the Declarant pursuant to its powers under Article 6 of this Declaration. Those easement areas that are upon or across the property adjoining on the South and East of the Condominium, may be subject or subordinate to mortgages or deeds of trust, the exercise of rights in which may affect the use of said easement to the Owners of Units in the Condominium.

10. ALLOCATION AND REALLOCATION OF LIMITED COMMON ELEMENTS

A Common Element not previously allocated as a Limited Common Element may be so allocated only pursuant to provisions of Article 5 of the Declaration. The allocations will be made by amendments to the Declaration, specifying to which Unit or Units the Limited Common Element is allocated.

No Limited Common Element depicted on the Plats and Plans may be reallocated by an amendment to this Declaration pursuant to this Article 10 except as part of a relocation of boundaries of Units pursuant to Article 12 of this Declaration. Such amendment shall require the approval of all holders of Security Interests in the affected Units, which approval shall be endorsed thereon. The Person executing the amendment shall provide an executed copy thereof to the Association which, if