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J. LEE WARREN JR.
REGISTER OF DEEDS
CUMBERLAND CO., N.C.

Prepared by and mail to:
Steven J. O'Connor, Attorney
McCoy Weaver Wiggins Cleveland Rose Ray, PLLC
P.O. Box 87009, Fayetteville, NC 28304-7009

STATE OF NORTH CAROLINA
COUNTY OF CUMBERLAND

DECLARATION OF CONDOMINIUM
FOR LIBERTY SQUARE APARTMENTS
CONDOMINIUM

LIBERTY SQUARE, LLC, a North Carolina limited liability company doing business in the County of Cumberland, State of North Carolina, (herein "Developer"), does hereby make, declare and establish this Declaration of Condominium as the plan of unit ownership of "LIBERTY SQUARE APARTMENTS CONDOMINIUM" being the property and improvements hereinafter described and known as the "Condominiums."

ARTICLE I.
ESTABLISHMENT OF CONDOMINIUM

- A. Developer is the owner in fee simple of certain real property situated in Fayetteville, Cumberland County, North Carolina, which property is more particularly described in Exhibit "A (1)" attached hereto and incorporated herein by reference, hereinafter (Property). Developer does hereby submit the above described property and improvements to condominium ownership under the provisions of Chapter 47C of the General Statutes of North Carolina (North Carolina Condominium Act), and hereby declares the same to be a condominium to be known and identified as "LIBERTY SQUARE APARTMENTS CONDOMINIUM". Developer shall have the right to convey any part of the common area at any time during development and in its sole discretion the Developer may amend these covenants at any time up and until all units are conveyed out or until December 31, 2008, whichever occurs first.
- B. Pursuant to the Act and to establish a plan of condominium ownership for the Condominium, the Declarant does hereby divide the Property into Phase 1 which consists of nine (9) building sites on which a two-story apartment building with 8 apartments will be constructed on each building site. Each building site will be one separate Unit. The Units are numbered 1 through 9 inclusive. Each Unit shall contain 4272.2 square feet of land area. Phase 1 consists of all nine building sites, as shown on the Plats and Plans and does hereby designate all such Units for separate ownership. The building sites will have common parking spaces, which will be located on the side of the building sites. Each Unit is the entire building site within which it is located, subject to such encroachments as are contained in the building site, whether the same now exists or may be caused or created by construction, settlement or movement

of the Building, or permissible repairs, construction or alteration, as provided in General Statutes Section 47C-2-114.

- C. The total number of Units in Phase 1 will not exceed nine (9). The Developer reserves the right to build less than the maximum amount allowed at any time. The methods and procedures for expanding the Condominiums to include additional buildings and the effects of such expansion are described in Articles IV and XXVII of this Declaration. There shall also be a common area for amenities.

ARTICLE II
SURVEY AND DESCRIPTION OF IMPROVEMENTS

Referenced hereto and expressly made a part hereof as Exhibit B are those pages recorded in Condominium Book 007, Page 08, Cumberland County Registry, a survey of the land and graphic descriptions and plans of the improvements constituting Phase 1 of "LIBERTY SQUARE APARTMENTS CONDOMINIUM", identifying the Condominium Units and Common Areas and Facilities, as said terms are hereinafter defined, and their respective locations, approximate dimensions and principal building materials. Each Condominium Unit is identified by specific numerical designation on Exhibit B and no Unit bears the same designation as any other Condominium Unit.

ARTICLE III
DEFINITIONS

The Condominium consists of Condominium Units and Common Area and Facilities as said terms are hereinafter defined:

- A. The Condominium shall contain a total of nine (9) "Condominium Units" (alternately referred to as "Unit") which as defined herein shall comprise the separate numerically identified Units which are designated on attached plats and plans (and any subsequent additions). Each Unit is one building site. It is the intent of this Declaration to establish that each Unit will serve as an apartment building with 8 apartments. Each Unit shall be bounded, as to horizontal and vertical boundaries, by the metes and bounds description of each Unit as shown on attached Plat and Plans and as provided in N.C.G.S §47C-2-102.
- B. Common Areas and Facilities, sometimes referred to herein as "Common Property" shall mean and comprise all of the real property, improvements and facilities of the Condominium other than the Condominium Units, and all personal property held and maintained for the use and enjoyment of all Owners and Condominium Units. Limited Common Areas are Common Areas.
- C. Limited Common Areas are a portion of the common areas allocated by this Declaration or by operation of N.C.G.S. Section 47C-2-102(2) or (4) for the exclusive use of one or more but fewer than all of the units. As used herein, the term "Limited Common Areas" shall also mean and refer to the following:
 - (1) The patios, porches, breezeways and or decks which are located immediately adjacent to each unit, access to which shall be only through a Unit. The use of each patio, porch and/or deck shall

be limited to the Unit Owner or occupant whose Unit affords interior access to them.

- (2) As shown on Exhibit "B", the walks, halls and breezeways located in each building which are reserved for the use of the Owners of Units in those buildings, their families, guests, invitees and lessees.
 - (3) Such other Limited Common Areas as may be shown on the Plats and Plans recorded in Condominium Plat Book 007, Page 68 Cumberland County Registry, including Garage Units assigned as a limited common area to a specific Unit.
- D. The terms "Association of Unit Owners", "Buildings", "Common Areas and Facilities", "Declaration", "Majority" or "Majority of Unit Owners", "Person", "Property", "Unit" or "Condominium Unit", "Unit Designation" and "Unit Owner", unless it is plainly evident from the context of this Declaration that a different meaning is intended, shall have the meaning set out in Section 1-103 of Chapter 47C of the General Statutes of North Carolina, known as the North Carolina Condominium Act, as that statute exists as of the date of filing of this Declaration.

ARTICLE IV.
OWNERSHIP OF CONDOMINIUM UNITS AND
APPURTENANT INTEREST IN COMMON PROPERTY

- A. Each Condominium Unit shall be conveyed and treated as individual property capable of independent use and fee simple ownership, and the Owner of each shall also own, as an appurtenance to the ownership of each said Condominium Unit, an undivided interest in the Common Property. The undivided interest appurtenant to each Condominium Unit as of the date of this Declaration is set out in Exhibit "C" attached hereto and made a part hereof. The proportional interest in the Common Property that is appurtenant to each Condominium Unit as shown in Exhibit "C" has been determined by a ratio formulated upon the percentage that each Unit bears to the total number of Units. Each Condominium Unit Estate shall also include the right to use Limited Common Areas as they are defined in Article III and as they are shown on the plats and plans recorded and applicable to each Unit.

ARTICLE V.
THE CONDOMINIUM SUBJECT TO RESTRICTIONS

The Condominium Units, Common Property and Limited Common Areas 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 Property and Limited Common Areas and setting forth the obligations and responsibilities incident to ownership of each Condominium Unit and its appurtenant undivided interest in the Common Property, and said Condominium Units, Common Property and Limited Common Areas are further declared to be subject to the restrictions, easements, conditions, and limitations now of record affecting the land and improvements of the Condominium. Each Unit owner will be subject to all rights and duties as set out herein and when Declarant is the owner of any unsold units in the Condominium, it will enjoy the same rights of the Unit Owners and assume the same duties of the Unit Owners as they relate to each individual unit, subject to the provisions of Article XXIII B.

ARTICLE VI
RESTRICTIONS ON USE OF UNITS

Owners or other occupants are prohibited from maintaining fires of any kind, including but not limited to, charcoal grills, gas grills or hibachis on any structure including but not limited to decks, patios, porches, breezeways, balconies or other appurtenant structures. No personal belongings are allowed in a breezeway.

ARTICLE VII.
EASEMENTS

- A. Perpetual Non-Exclusive Easement in Common Property. The Common Property shall be, and the same is hereby declared to be, subject to a perpetual non-exclusive easement in favor of all of the Owners of Condominium Units in the Condominium for their use and the use of their immediate families, guests, invitees and lessees, for all proper and normal purposes, and for the furnishing of services and facilities for which the same are reasonably intended, for the enjoyment of said Owners of Condominium Units. The Common Property shall be subject, also, to an easement of ingress, egress, and regress in favor of Developer, its representatives, employees, and designees for the purpose of construction of succeeding phases, as further defined in Article XXVI hereof. Notwithstanding anything above provided in this Article, the Association hereinafter shall have the exclusive right to establish the rules and regulations pursuant to which the Owner of any Condominium Unit, his family, guests and invitees, may be entitled to use the Common Property, including the right to make permanent and temporary assignments of parking spaces, and to establish regulations concerning the use thereof.
- B. Easement for Unintentional and Non-Negligent Encroachments. In the event that any Condominium Unit shall encroach upon any Common Property, or any other Condominium Unit for any reason not caused by the purposeful or negligent act of the Condominium Unit Owner, or agents of such Owners, then an easement appurtenant to such Condominium Unit shall exist for the continuance and maintenance of such encroachment upon the Common Property or upon a Condominium Unit for as long as such encroachment shall naturally exist; and in the event that any portion of the Common Property shall encroach upon any Condominium Unit, then an easement shall exist for the continuance and maintenance of such encroachment of the Common Property upon any Condominium Unit for as long as such encroachment shall naturally exist. If any Condominium Unit or Common Property 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 and/or Common Property in accordance with Article XXI hereof, there exists encroachments of portions of the Common Property upon any Condominium Unit or upon any portion of the Common Property, then such encroachments shall be permitted and a valid easement for the continuation and maintenance thereof shall exist so long as such encroachments shall naturally remain.
- C. Rights of Ingress and Egress for Unit Owners. Every Unit Owner shall have a perpetual right of ingress to and egress from its Unit over the Common Areas, such right being appurtenant to the right of Unit Ownership.

- D. Easement to the City of Fayetteville. As common areas on the map referenced hereinabove are hereby made subject to an easement to the City of Fayetteville as the same is shown on said map.

ARTICLE VIII.
RESTRAINT UPON SEPARATION, PARTITION & LEASE
OF COMMON PROPERTY

Recognizing that the proper use of a Condominium Unit by an Owner or Owners is dependent upon the use and enjoyment of the Common Property 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 Property be retained in common by the Owners, it is hereby declared that the proportional undivided interest in the Common Property 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. Any conveyance, encumbrance, judicial sale, or other transfer (voluntary or involuntary) of an individual interest in the common elements will be void unless the unit to which that interest is allocated is also transferred. Further, no part of the Common Areas shall be subject to a lease between the Unit Owners (or the Association) and another party.

ARTICLE IX.
ADMINISTRATION OF THE CONDOMINIUM BY
LIBERTY SQUARE APARTMENTS CONDOMINIUM
HOMEOWNERS ASSOCIATION

To provide efficiently and effectively for the administration of the Condominium by the Owners of the Condominium Units, a non-profit North Carolina Corporation known and designated as "LIBERTY SQUARE CONDOMINIUM OWNERS ASSOCIATION." (herein "Association") has been organized, and said corporation shall administer the operation and management of the Condominium and undertake and perform all acts and duties incident thereto in accordance with the terms of its Articles of Incorporation and Bylaws. It is understood that the purpose of the Condominium is for it to be managed as one integrated apartment complex. All Units shall be managed collectively and an individual Unit owner cannot manage his or her building individually. To that end, the Owners Association is given the authority to either manage the complex or to hire a management company. This includes all maintenance, renting of individual apartments, collection of rents, payment of regular bills and all other general management activities. The Association has the power to enter into a long term management agreement with a professional management company; such company is to be chosen by majority of the Unit Owners. A true copy of said Articles of Incorporation and Bylaws are annexed hereto and expressly made a part hereof as Exhibits D and E, respectively. The Owner or Owners of each Condominium Unit shall automatically become members of the Association upon acquiring an ownership interest in title to any Condominium Unit and its appurtenant undivided interest in Common Property and such membership shall terminate automatically upon the Owner or Owners being divested of such ownership interest in the title to such Condominium Unit, regardless of how such ownership may be divested. No person, firm or corporation 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 the Association or to any of the rights or privileges of such membership. In the administration of the operation and management of the Condominium, the Association is hereby granted the authority and power to enforce the provisions of this Declaration, to levy and to collect

assessments in the manner hereinafter provided, and to adopt, promulgate and enforce such rules and regulations governing the use of the Condominium Units and Common Property as its Board of Directors may deem to be in its best interest. Any Unit Owner, as the same is defined herein, is granted a right of action against the Association for failure to comply with the provisions of this declaration or with decisions of the Association which are made pursuant to authority granted the Association.

ARTICLE X.
RESIDENTIAL USE RESTRICTIONS APPLICABLE TO
CONDOMINIUM UNITS: EXCEPTIONS TO TITLE

Each Condominium Unit is hereby restricted to apartment use by its Owner, his immediate family, guests, invites and lessees. Any leases entered into by an Owner with a tenant shall provide that the terms of the lease are subject to the provisions of this Declaration, the Articles of Incorporation and Bylaws of the Association, and that any failure by the lessee to comply with the terms of such documents shall be a default under the terms of the lease. The Developer acknowledges that every Unit may contain up to eight (8) individual apartments. No Owner of any Condominium Unit shall permit the use of his Unit for transient hotel or for commercial purposes other than as a residential apartment building. There shall be no more than four (4) persons residing in any two bedroom apartment, and no more than five (5) persons residing in a three bedroom apartment. This is left to the discretion of the Board of Directors of the Association. Corporate or partnership members, other than the Developer, shall permit the use of a Condominium Unit owned by it only by its principal officers, directors or partners, or other guests or lessees. Such corporate or partnership member shall annually, or as changes necessitate, sign and deliver to the Association a written statement designating the name of the party (or parties) entitled to use such Condominium Unit, together with a written covenant of such party in favor of the Association whereby the party agrees to comply with the terms and provisions of this Declaration of Condominium and with the rules and regulations which may be promulgated by the Association from time to time and acknowledging that the party's right to use such Condominium Unit shall exist only so long as the corporation or partnership shall continue to be a member of the Association. Upon demand by the Association to any corporate or partnership member to remove a party for failure to comply with the terms and provisions of the Declaration of Condominium and/or the rules and regulations of the Association or for any other reason, the corporate or partnership member shall forthwith cause such party to be removed, failing which, the Association, as agent of the Owner, shall take such action as it may deem appropriate to accomplish such removal, and all such action by the Association shall be at the cost and expense of the Owner who shall reimburse the Association therefore upon demand, together with such attorneys' fees as the Association may have incurred in the process of removal. The Board of Directors may maintain a portion of the clubhouse as an office.

Notwithstanding anything in this Declaration to the contrary, Developer shall have the right to maintain a Unit owned by the Developer as a sales office. In addition, the Developer shall also have the right to utilize condominium units owned by the Developer as models and to display advertising signs upon the Common Property during the period of Unit Sales. Such right shall terminate when all Units in all phases of the Condominium are sold and transferred by deed. Developer, its representatives, employees and designees shall have an easement of ingress, egress and regress upon across the Common Property for construction of succeeding phases, as described in Article XXVI hereof, which easement shall terminate when all Units in all phases are completed and sold and transferred by deed.

The liens, defects and encumbrances on the property to which the Unit owners are hereby made subject

are set out on Exhibit "F" attached hereto and incorporated herein by reference.

ARTICLE XI
USE OF COMMON PROPERTY SUBJECT TO RULES OF ASSOCIATION

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

ARTICLE XII
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 Property, and all laws, zoning ordinance and regulations of all governmental authorities having jurisdiction of the Condominium shall be observed. No Owner of any Condominium Unit shall permit anything to be done or kept in his Condominium Unit, or on the Common Property, which will increase the rate of insurance on the Condominium, or which will interfere with the rights of enjoyment of other occupants of the Condominium because of unreasonable noises, nor shall any Owner undertake any use which shall 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 Property.

The Board of Directors has the authority to regulate the type, size and number of domestic animals allowable on or within the Condominium.

ARTICLE XIII.
RIGHT OF ENTRY INTO CONDOMINIUM UNITS IN 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 emergency, and such right of entry shall be immediate.

ARTICLE XIV.
RIGHT OF ENTRY FOR MAINTENANCE OF COMMON PROPERTY:
RIGHTS OF ASSOCIATION FOR PROPER OPERATION OF PROJECT

Whenever it may be necessary to enter any Condominium Unit in order to perform any maintenance, alteration or repair to any portion of the Common Property, the Owner of each Condominium Unit shall permit an agent of 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. The Owner of each Unit further permits the Association the right to grant permits, licenses, and easements for utilities, road construction and repair and other necessary items for proper operation of the Condominium project.

ARTICLE XV.
LIMITATION UPON RIGHT OF OWNERS TO ALTER AND MODIFY
CONDOMINIUM UNITS: NO RIGHT TO ALTER COMMON PROPERTY

No owners of a Condominium Unit shall permit any structural modification or alteration to such Condominium Unit without first obtaining the written consent of the Association, and consent may be withheld in the event that a majority of the Board of Directors of the Association shall determine, in their sole discretion, that such structural modifications or alterations would adversely affect or in any manner endanger the Condominium in part or in its entirety.

The Association, through the Board of Directors (or its Architectural control committee), shall regulate the external design, appearance, use, location and maintenance of the Condominium and of improvements therein, including window treatments and blinds, in such a manner so as to preserve and enhance values and to maintain a harmonious relationship among structures and the natural vegetation and topography. No owner shall cause any improvements, alteration, repairs or changes to be made on the exterior of the Condominium or any Condominium Unit (including painting or other decoration, the installation of electrical wiring, television or radio antennae or any other objects or devices which may protrude through the walls or roof of the Condominium), or window treatments and blinds, or in any manner alter the other appearance of the exterior portion of any building without the written consent of the association being first had and obtained. No Unit Owner shall cause any object to be fixed to the Common Property or to any Limited Common Area (including but not limited to the location or construction of fences and the planting or shrubs or any other vegetation) or in any manner change the growing of flowers, trees, appearance of the Common Property or Limited Common Area without the written consent of the Association being first obtained.

Any Unit Owner desiring to make improvements, alteration or changes described above shall submit the plans and specifications therefor, showing the nature, kind, shape, height, materials, and location of the same, to the Board of Directors which shall evaluate such plans and specifications in light of the purpose of this Article as set forth above. The Board of Directors shall have sole discretion in making this decision. As a condition to the granting of approval of any request made under this article, the Association may require that the Unit Owner requesting such change be liable for any cost of maintaining, repairing and insuring the approved alteration. If such condition is imposed, the Owner shall evidence his consent thereto by a written document in recordable form satisfactory to the Association. Thereafter, the Unit Owner, and any subsequent Owner of the Unit, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree that the cost of maintaining, repairing and insuring such alteration shall be a part of the annual assessment or charge set forth in Article XXIII subject to the lien rights described in said Article.

ARTICLE XVI.
RIGHT OF ASSOCIATION TO ALTER AND IMPROVE
COMMON PROPERTY AND ASSESSMENT THEREFOR

The Association shall have the right to make or cause to be made such alterations or improvements to Common Property (including the right to grant and establish upon, over and across the Common Property such

easements as are necessary or desirable for providing service or utilities to the Units and the Common Property) which do not materially 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 and improvements shall be common expenses to be assessed and collected from all of the Owners of Condominium Units. However, where any alterations and improvements are exclusively or substantially for the benefit of the Owner or Owners of certain Condominium Unit or Units requesting the same, then the cost of making, maintaining, repairing and insuring such alterations or improvements shall be assessed against and collected solely from the 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.

ARTICLE XVII.
MAINTENANCE AND REPAIR BY OWNERS OF
CONDOMINIUM UNITS

Every Owner shall perform promptly all maintenance and repair work within and without 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 its failure to do so engenders. The Owner of such Condominium Unit shall be liable and responsible for the maintenance, repair and replacement of all heating and air conditioning equipment, regardless of where located, stoves, refrigerators, fans or other appliances or equipment, including any fixtures and/or their connections required to provide water, light, power, telephone, sewage and sanitary service to his Condominium Unit. Such Owner shall further be responsible and liable for the maintenance, repair, and replacement of the exterior surfaces of any and all walls, ceilings and floors including but not limited to carpet within his Condominium Unit, including painting, decorating and furnishing, and all other accessories which such Owner may desire to place or maintain in his Condominium Unit. Whenever the maintenance, repair or replacement of any item for which the Owner is obligated to maintain or replace 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 shall be used by the Association for the purposes 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 deductibility provision of such insurance, exceed the amount of the insurance proceeds applicable to such maintenance, repair or replacement. All doors, window frames, panes and screens are a part of the respective Condominium Units and shall be maintained by the respective Unit Owners. Every owner shall perform promptly all maintenance and repair work to the exterior surfaces and roof of all buildings and structures on his Condominium Unit to the standards mandated by the Association. In the event an Owner fails to maintain and repair the exterior surface of his Condominium Unit to the standards mandated by the Association, in the discretion of the Association, the Association may, but is not required to, do such maintenance and make such repairs, and shall assess the defaulting Owner the entire cost of such maintenance and repairs as a lump sum special assessment. The defaulting Owner grants to the Association a temporary easement to allow the Association and its contractors and agents to go upon the Owner's Condominium Unit to do and perform such repairs and maintenance.

ARTICLE XVIII.
MAINTENANCE AND REPAIR OF COMMON PROPERTY
BY THE ASSOCIATION

The Association, at its expense, shall be responsible for the maintenance, repair and replacement of all the Common Property and Limited Common Areas (except where the Owner of a Condominium Unit has the exclusive use of any Limited Common Area wherein that unit owner shall maintain such at his own expense) including as part of the Common Area and Limited Common Areas those portions thereof which contribute to the support of the buildings, and all conduits, ducts, plumbing, wiring and other facilities located in the Common Property, and further including the maintenance of all private streets and drives in the common areas. The Association will maintain an adequate reserve fund out of the monthly assessment fees for replacement or improvement of Common Areas and any Limited Common Areas it is obligated to maintain. If there shall be any incidental damage done pursuant to the furnishing of utility, heating and other services to the 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 Property; the Association shall, at its expense, repair such incidental damage. Whenever the maintenance, repair and replacement of any item for which the Association is obligated to maintain, replace or repair at its expense is occasioned by an act of a Condominium Unit Owner, his immediate family, guests, lessees or invitees, 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 family; guests, lessees or invitees) shall be required to pay such portion of the cost of such maintenance, repair and replacement as shall, by reason of the applicability of any deductibility provision of such insurance, or by reason of any deductibility provision of such insurance proceeds, exceed the amount of the insurance proceeds applicable to such maintenance, repair or replacement.

ARTICLE XIX.
AUTHORITY TO PURCHASE INSURANCE

Insurance policies upon the Common Property, including Limited Common Areas and Facilities (except title insurance) shall be purchased by the Association, as Trustees for the Condominium Unit Owners, for the benefit of the Condominium Unit Owners and their respective mortgagees as their interests may appear, and shall provide for the issuance of certificates or mortgage endorsements to the holders of first mortgages on the Condominium Units or any of them, and if the companies writing such policies will agree, the policies shall provide that the insurer waives its rights of subrogation as to any claims against Condominium Unit Owners, the Association and their respective servants, agents and guests. Each Condominium Unit Owner shall obtain insurance, at his own expense, covering his Condominium Unit, his personal property and premises liability, but all such insurance shall contain the same waiver of subrogation as that referred to above if the same is available. If a Condominium Unit Owner fails to maintain hazard insurance covering the building(s) on his Unit, the Association may, but is not required to, obtain hazard insurance covering the defaulting Owner's Unit, and shall assess the defaulting Owner the entire cost of such insurance, as a lump sum special assessment. Each Unit Owner shall provide the Association written evidence of hazard insurance coverage showing the insurer and the amounts of coverage. If a Unit Owner fails to provide such evidence of insurance coverage within 3 days of written request by the Association, the Association may consider such coverage not to exist and may obtain

coverage for such Owner as set out above.

ARTICLE XX.

**INSURANCE COVERAGE TO BE MAINTAINED; USE AND
DISTRIBUTION OF INSURANCE AND CONDEMNATION PROCEEDS**

A. The following insurance coverage shall be maintained in full force and effect by the Association covering the operation and management of the Condominium Units and Common Property:

- (1) Casualty insurance covering the buildings and all improvements upon the land and all personal property included within the Property described in Exhibit "A" hereto or as it may amend from time to time, except on each Unit and such personal property as may be owned by the Condominium Unit Owners, shall be procured in amount equal to 100% of the current replacement cost (exclusive of excavation, foundations, streets and parking facilities) as determined annually by the insurance company affording such coverage. Such policy shall contain an Agreed Amount Endorsement or inflation Guard Endorsement, if available. By the way of illustration and not of limitation, such casualty insurance shall not cover furniture, furnishings, or other household or personal property owned by, used by or in the care, custody or control of a Condominium Unit Owner (whether located within or without the Unit), or fixtures, installations or additions that are placed in an individual Condominium Unit by the Owner thereof at his expense. Such coverage shall afford protection against: (a) loss or damage by fire and other hazards covered by the standard extended coverage endorsement; (b) such other risks as from time to time customarily shall be covered with respect to buildings similar in construction, location and use, including but not limited to vandalism and malicious mischief.

The Owner of a Unit shall be responsible for obtaining casualty and liability insurance covering any improvements constructed on a Unit. By the way of illustration and not of limitation, such casualty insurance shall cover fixtures comprising a part of the building within each individual Condominium Unit (as that term is defined in Article III hereof) in accordance with the original condominium plans and specifications.

- (2) A comprehensive policy of public liability insurance insuring the Association in an amount no less than Two Million Dollars (\$2,000,000.00) for claims for personal injury and/or property damage arising out of a single occurrence, such coverage to include protection against liability for non-owned and hired automobiles and liability for property of others, and if available, may include coverage for water damage.
- (3) The Board of Directors shall maintain fidelity coverage against dishonest acts by the Association's officers, directors, trustees and employees, and all others who are responsible for handling funds of the Association. If the Association employs a professional property management person or firm to manage the Association and to receive and disburse the monies of the Association, then such professional management person or firm shall provide adequate fidelity coverage against dishonest acts and the existence of such coverage shall satisfy the requirement of the paragraph XX-A(3), herein below. If the Association elects to manage its own affairs and directly receive and disburse its own funds (or, if in addition to professional management, the officers or directors of the Association can and do directly receive or disburse

the monies of the Association), then the Board of Directors shall provide the coverage set forth in this paragraph. Any such fidelity bonds shall name the Association as an obligee; shall be written in an amount equal to at least but not less than a sum equal to 3 months aggregate assessments on all units plus reserve funds; shall contain waivers of any defense based on the exclusion of persons who serve without compensation from any definition of "employee" or similar expression; and shall provide that they may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least ten (10) days prior written notice to the Association and to any Institutional Lender who has given the notice required under Article XXVIII of this Declaration.

- (4) All liability insurance shall contain cross-liability endorsements to cover liabilities of the Condominium Unit Owners as a group to a condominium Unit Owner.
- B. Premiums upon insurance policies purchased by the Association shall be paid by the association as Common Expenses to be assessed and collected from all of the Owners of Condominium Units.
- C. All insurance policies purchased by the Association attributable to the Common Property shall be for the benefit of the association and the Condominium Unit Owners and their mortgagees, as their respective interests may appear, and shall provide that all proceeds payable as a result of casualty losses shall be paid to the Association. The Association shall hold such proceeds in trust for the benefit of Association, the Condominium Unit Owners and their respective mortgagees as follows:
- (1) Proceeds on account of damage to Common Property shall be held by the Association in undivided shares for each condominium Unit Owner and his mortgagee, if any, which shares as to each Condominium Unit are shown on Exhibit "C" attached hereto.
 - (2) Proceeds on account of damages to Condominium Units shall be held in the following undivided shares:
 - (a) If the damage is considered partial destruction when the Condominium is to be restored as set out in Article XXI process shall be payable to the Owners of damaged Condominium Unit Owners, the share of each being set forth in Exhibit "C".
 - (b) In the event a mortgagee endorsement has been issued as to a Condominium Unit, the share of the Condominium Unit Owner shall be held for the mortgagee and the Condominium Unit Owner as their interests may appear.
- D. In the event of a taking by eminent domain, or by a conveyance in lieu thereof, of all or any part of the Property, the same shall be repaired or restored, and the awards paid on account thereof shall be used and applied, in accordance with N.C.G.S. Section 47C-1-107.
- E. Each Condominium Unit Owner shall be deemed to have delegated to the Board of Directors of the Association his right to adjust with insurance companies all losses under policies purchased by the Association and to negotiate with governmental authorities any condemnation claims.

ARTICLE XXI.

RECONSTRUCTION OR REPAIR OF CASUALTY DAMAGE;
DAMAGE TO COMMON PROPERTY: DAMAGE TO CONDOMINIUM UNITS

- A. If any part of the Common Property shall be damaged by casualty, the determination of whether or not to reconstruct or repair it shall be made as follows:
- (1) Partial destruction shall be deemed to mean destruction which renders less than two-thirds (2/3) of the Condominium Units untenable. In the event of partial destruction, the Common Property shall be reconstructed or repaired unless this Declaration is terminated by the unanimous vote of all the Condominium Unit Owners at a meeting of the members of the Association called and held prior to commencement of such reconstruction or repair. Any restoration or repair of the condominium after a partial condemnation or damage due to an insurable hazard shall be substantially in accordance with the declaration and the original plans and specifications.
 - (2) Total destruction shall be deemed to mean destruction which renders two thirds (2/3) or more of the Condominium Units untenable. In the event of total destruction, the Common Property shall not be reconstructed or repaired if, at a meeting which shall be called within (30) days after the occurrence of the casualty, or if by such date the insurance loss has not been finally adjusted, then within thirty (30) days after such adjustment, Condominium Unit Owners who in the aggregate own three-fourths (3/4) or more of the Condominium Units vote against reconstruction or repair and such vote is approved by the Institutional Lenders as set out in Article XXVIII below to which at least 51% of the votes of units subject to mortgages held by the Institutional Lenders are allocated.
- B. If the damage is only to those parts of one or more Condominium Units for which the responsibility for maintenance and repair is that of Condominium Unit Owner, the Owner(s) shall be responsible for reconstruction and repair after casualty or condemnation. In all other instances, the responsibility of reconstruction and repair after casualty or condemnation shall be that of Association as follows:
- (1) Immediately after the casualty or condemnation causing damage to property for which the Association has the responsibility for maintenance and repair, the Association shall obtain reliable and detailed estimates of the cost to place the damaged property in conditions good as that before the casualty or Condemnation. Such costs may include professional fees and premiums for such bonds as the Board of Directors deems necessary or appropriate.
 - (2) When the damage is to both Common Property and Condominium Units or to Common Property only, the insurance or condemnation proceeds shall be payable to the Association and shall be applied first to the cost of repairing the Common Property and the balance to the Condominium Units.

ARTICLE XXII.
ASSOCIATION TO MAINTAIN REGISTER
OF OWNERS AND MORTGAGEES

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

ARTICLE XXIII.
ASSESSMENTS: LIABILITY, LIEN AND ENFORCEMENT

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

- A. Unless specifically otherwise provided for in this Declaration of Condominium, all assessments made by the Association shall be in such an amount that any assessment levied against a Unit Owner and his Condominium Unit shall bear the same ratio to the total undivided interest in Common Property appurtenant to all Condominium Units as shown on Exhibit "C" attached hereto.
- B. Assessments provided for herein shall be payable in monthly installments as determined by the Board of Directors of the Association. Unit Owners shall be subject to assessment by the Board of Directors upon acquiring title to their Units. The Declarant shall not be liable for assessments for unsold Units contemplated by this declaration until such time as said Unit is (i) completed and a certificate of occupancy issued therefore; and (ii) occupied or used for model, sales or other purposes by the Declarant, or (iii) offered or used for rental purposes by the Declarant. However, all units must be allocated their full assessment share not later than 60 days after said unit has

been finished. Finished units shall be considered any unit that has been issued a certificate of occupancy and all fixtures including, but not limited to carpet, have been installed.

- C. In addition to the annual assessment authorized above, the Board of Directors may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of the Common Areas, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of Unit Owners owning two-thirds (2/3) of the Common Areas and Facilities who are voting in person or by proxy at a meeting duly called for such purposes. In addition thereto, the Association may assess, as a lump sum special assessment, any Unit Owner the entire cost of any repairs and maintenance to such Unit Owner's building incurred by the Association under Article XVII above, and/or the entire cost of any hazard insurance procured by the Association for such Unit Owner pursuant to Article XIX above.
- D. In order to insure that the Association will have sufficient monies available to meet operational needs during the initial months of the Condominium's existence, the Association has established a Working Capital Fund. At the time of the closing of the first sale of each Unit, the purchaser thereof shall pay into such Fund an amount equal to two-twelfths (2/12) of the current annual assessment established by the Association. No such payments made into the working Capital Fund shall be considered advance or current payment of regular assessments. All monies paid into the Working Capital Fund shall be held and administered by the Association in accordance with the terms of this Declaration and the Bylaws. Once control of the Homeowners' Association is transferred to the Unit Owners pursuant to Article XXIX herein, the Working Capital Fund will be transferred to a segregated fund. Developer may not use any funds designated as Working Capital Funds to defray any of its expenses, reserve contributions or construction costs or to recoup any budget deficits while it retains control of the Board of Directors pursuant to Article XXIX, or at any time thereafter.
- E. The Board of Directors of the Association shall establish an Annual Budget in advance for each fiscal year (which shall correspond to the calendar year, except that in the initial year of operation of the Condominium, the fiscal year shall commence with the closing of the sale of the first Condominium Unit). Such budget shall project all expenses for the forthcoming year which may be required for the proper operation, management and maintenance of the Condominium, including a reasonable allowance for contingencies and reserves, and the budget shall take into account projected anticipated income which is to be applied in reduction of the amounts required to be collected as an assessment each year. The Board of Directors shall keep separate, in accordance with paragraph "G" hereof, items relating to operation and maintenance of the items relating to capital improvements. Upon adoption of such Annual Budget by the Board of Directors of the Association, copies of said Budget shall be delivered to each Owner of a Condominium Unit and the assessment for said Budget of each Owner shall not affect the liability of any Owner for such assessment.
- F. Until January 1 of the year immediately following the conveyance of the first unit to an owner, the maximum annual assessment shall be Nine Hundred Forty-Eight and No/100 (\$948.00) Dollars per Unit. After January 1 of the year immediately following the conveyance of the first

Unit to an Owner, the maximum annual assessment may be increased each year not more than five percent (5%) by the Board of Directors. Any increase of more than five percent (5%) over the previous year's assessment shall require a vote of the Unit Owners owning two-thirds (2/3rds) of the Common Areas and Facilities who are voting in person or by proxy, at a meeting duly called for such purpose. This 5% excludes special circumstances which include but are not limited to city assessments, regulatory fees, and insurance assessments. In order to maintain the financial stability of the Association, the Board shall have the ability to assess the unit owners without the two-thirds (2/3rds) voting requirement. This ability shall be triggered when a situation arises that would place the Association in any detrimental financial position. The Board of Directors may assess the unit owners in proportion to the financial detriment.

- G. The Board of Directors of the Association, in establishing the Annual Budget for operation, management and maintenance of the Condominium, shall designate therein a sum to be collected and maintained as a reserve fund for replacement of any capital improvements to the Common Property (Capital Improvement Fund). This Fund shall be for the purpose of enabling the Association to replace structural elements and mechanical equipment constituting a part of the Common Property, as well as the replacement of portions of the Common Property. The amount to be allocated to the Capital Improvement Fund shall be established by said Board of Directors so as to collect and maintain a sum reasonably necessary to anticipate the need for replacement of Common Property. The amount collected for the Capital Improvement Fund may be maintained in a separate account by the Association and such monies shall be used only to make capital improvements to Common Property. Any interest earned on monies in the Capital Improvement Fund may, in the discretion of the Board of Directors of the Association, be expended for current operation and maintenance. Each Unit Owner shall be deemed to own a portion of the Capital Improvement Fund equal to his proportionate interest in the Common Property as shown on Exhibit "C" and the Association shall annually notify each Unit Owner of the amount of his balance in the Capital Improvement Account; however, such balance shall not be subject to withdrawal by a Unit Owner.
- H. All monies collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by the Association to the payment of any expense of operating and managing the Condominium, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration of Condominium, the Articles of Incorporation and the Bylaws of the Association. As monies for any assessment are paid unto the Association by any Owner of a Condominium Unit, the same may be commingled with monies paid to the Association by the other Owners of Condominium Units. Although all funds and common surplus, including other assets of the association, and any increments thereto or profits derived there from or from the leasing or use of Common Property, shall be held for the benefit of the members of the Association, no member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his Condominium Unit. When the Owner of a Condominium Unit shall cease to be a member of the Association by reason of his divestment of ownership of such Condominium Unit, by whatever means, the Association shall not be required to account to such Owner for any share of the funds or assets of the Association, or which may have been paid to the Association by such Owner, as all monies which any Owner has paid to the Association shall be and

constitute an asset of the Association which may be used in the operation and management of the Condominium.

- I. The Association shall have the right from time to time to levy fines against Unit Owners who violate the rules, regulations and restrictive covenants, in such amount as deemed necessary to enforce said rule, regulation and restrictive covenant. The Association shall publish and maintain at its office a schedule of fines to be levied in accordance with this Declaration.
- J. The payment of any assessment or installment thereof shall be in default if such assessment or installment is not paid to the Association within thirty (30) days of the due date for such payment. When in default, the delinquent assessment or delinquent installment thereof due to the Association shall bear interest at eighteen percent (18%) per annum until such delinquent assessment or installment thereof, and all interest due thereof, has been paid in full to the Association. All monies owing to the Association shall be due and payable at the main office of the Association in the State of North Carolina.
- K. The Owner or Owner of each Condominium Unit shall be personally liable, jointly and severally, to the Association for the payment of all assessments, regular or special, which may be levied by the Association against such Condominium Unit while such party or parties are Owner or Owners of a Condominium Unit. In the event that any Unit Owner or Owners are in default in payment of any assessment or installment thereof owed to the Association, such Unit Owner or Owners shall be personally liable, jointly and severally, for interest on such delinquent assessment or installment thereof as above provided, and for all costs of collecting such assessment or installment thereof and interest thereon, including a reasonable attorney's fees, whether suit be brought or not.
- L. No Owner of a Condominium Unit may exempt himself from liability for any assessment levied against him or his Condominium Unit by waiver of the use of enjoyment of any of the Common Property, or by abandonment of the Condominium Unit or in any other way.
- M. Recognizing that proper operation and management of the Condominium requires the continuing payment of costs and expenses therefore, and that such proper operation and management results in benefit to all of the Owners of Condominium Units, and that the payment of such common expenses represented by the assessments levied and collected by the Association is necessary in order to preserve and protect the investment of each Unit Owner, the Association is hereby granted a lien upon each Condominium Unit and its appurtenant undivided interest in Common Property, which lien shall secure and does secure the monies due for all assessments now or hereafter levied against the Owner of each such Condominium Unit, which lien shall also secure interest if any, which may be due on the amount of any delinquent assessments owing to the Association and, which lien shall also secure all costs and expenses, including a reasonable attorney's fee, which may be incurred by the Association in enforcing this lien upon said Condominium Unit and its appurtenant undivided interest in Common Property, which lien shall secure and does secure the monies due for all assessments now or hereafter levied against the Owner of each such Condominium Unit, which lien shall also secure interest if any, which may be due on the amount of any delinquent assessments owing to the Association and, which lien

shall also secure all costs and expenses, including a reasonable attorney's fee, which may be incurred by the Association in enforcing this lien upon said Condominium Unit and its appurtenant undivided interest in Common Property. The lien granted to the Association may be foreclosed in the same manner that real estate deeds of trust and mortgages may be foreclosed in the State of North Carolina, and in any suit for the foreclosure of said lien, the Association shall be entitled to a reasonable rental from the Owner of any Condominium Unit from date on which the payment of any assessment or installment thereof became delinquent, and shall be entitled to the appointment of a receiver for said Condominium Unit. The lien granted to the Association shall further secure such advances for taxes and payments on account of superior mortgages, liens or encumbrances which may be required to be advanced by the Association shall further be entitled to interest at eighteen percent (18%) per annum on any such advances made for such purpose. All persons, firms or corporations who shall acquire, by whatever means, any interest in the ownership of any Condominium Unit, or who may be given or acquire a mortgage, lien or other encumbrance thereof, are hereby placed on notice of the lien rights granted to the Association, and shall acquire such interest in any Condominium Unit expressly subject to such lien rights.

- N. The lien herein granted unto the Association shall be enforceable from and after the time of recording a claim of lien in the Public Records of Cumberland County, North Carolina, which claim shall state the description of the Condominium Unit encumbered thereby, the name of the record owner, the amount due and the date when due. The claim of lien shall be recordable any time after default and the lien shall continue in effect until all sums secured by said lien as herein provided shall have been fully paid. Such claims of lien shall include only assessments which are due and payable when the claim of the lien is recorded, plus interest, costs, attorney's fees, advances to pay taxes and prior encumbrances and interest thereon, all as above provided. Such claims of lien shall be signed and verified by an officer or agent of the Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record. The lien provided for herein shall be subordinate to the lien of any first mortgage or deed of trust recorded prior to the lien and any person, firm or corporation acquiring title to any Condominium Unit and its appurtenant undivided interests in Common Property by virtue of any foreclosure of a first deed of trust, deed in lieu of foreclosure of a first deed of trust or judicial sale relating to a first deed of trust, shall be liable and obligated only for assessments as shall accrue and become due and payable for said Condominium Unit and its appurtenant undivided interest in Common Property subsequent to the date of acquisition of such title, and it shall not be liable for the payment of any assessments which were in default and delinquent at the time it acquired such title. In the event of the acquisition of title to a Condominium Unit by foreclosure, deed in lieu of foreclosure or judicial sale, any assessment or assessments as to which the party so acquiring title shall not be liable shall be absorbed and paid by all Owners of all Condominium Units as a part of the Common Expense, although nothing herein contained shall be construed as releasing the party liable for such delinquent assessment from the payment thereof or the enforcement of collection of such payment by means other than foreclosure.
- O. Whenever any Condominium Unit may be leased, sold or mortgaged by the Owner thereof, the Association, upon written request of the Unit Owner, shall furnish to the proposed lessee, purchaser, or mortgagee, a statement verifying the status of payment of any assessment which

shall be due and payable to the Association by such Unit. Such statement shall be executed by any officer of the Association, and any lessee, purchaser or mortgage may rely upon such statement in concluding the proposed lease, purchase or mortgage transaction, and the Association shall be bound by such statement.

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

In any voluntary conveyance of a Condominium Unit, the Purchaser thereof shall be jointly and severally liable with Seller for all unpaid assessments against Seller made prior to the time of such voluntary conveyance, without prejudice to the rights of the Purchaser to recover from Seller the amounts paid by Purchaser therefor.

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

ARTICLE XXIV. COMMON SURPLUS

“Common Surplus”, meaning all funds and other assets of the Association (including excess of receipts of the Association, including but not limited to assessments, rents, profits and revenues from whatever source) over the amount of the Common Expense, shall be owned by the Owners of all Condominium Units in the same proportion that the undivided interest in Common Property appurtenant to all Condominium Units; provided, however, that said Common Surplus shall be held by the Association in the manner prescribed in, and subject to, the terms, provisions and conditions of this Declaration, imposing certain limitations and restrictions upon the use and distribution thereof. Except for distribution of any insurance indemnity herein provided, or upon termination of the Condominium, any attribution or distribution of Common Surplus which may be made from time to time shall be made to the then Owners of Condominium Units in accordance with their percentage interest as set out in Exhibit “C”.

ARTICLE XXV. TERMINATION

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

- A. The termination of the Condominium may be affected only by the unanimous agreement of all Condominium Unit Owners and by unanimous consent of the eligible institutional lenders as defined in Article XXVIII as expressed in an instrument to that effect duly recorded; and provided, that the holders of all liens affecting any of the Condominium Units consent thereto, or agree, in either case by instrument duly recorded, that their liens be transferred to the percentage of the undivided interest of the Condominium Unit Owner in the Property as provided in subparagraph "C" below. The termination shall become effective when such Agreement has been recorded in the public records of Cumberland County, North Carolina.
- B. If it is determined in the manner elsewhere provided that the Condominium shall not be reconstructed after casualty, the Condominium plan of ownership shall be terminated and the Declaration of Condominium revoked. The determination not to reconstruct after casualty shall be evidenced by a Certificate of the Association certifying as to the facts affecting the termination, which Certificate shall become effective upon being recorded in the public records of Cumberland County, North Carolina.
- C. After termination of the Condominium, the Condominium Unit Owners shall own the Property as tenants in common in undivided shares and the holders of mortgages and liens against the Condominium Unit or Units formerly owned by such Condominium unit Owners shall have mortgages and liens upon the respective undivided share or interest owned as tenants in common shall be that percentage of the undivided interest in the Common Area and Facilities previously owned by each Unit Owner. All funds held by the Association and insurance proceeds, if any, shall be and continue to be held for the Unit Owners in the same proportion. The costs incurred by the Association in connection with the termination shall be a Common Expense.
- D. Following termination, the property shall be subject to an action for sale for partition at the suit of any Condominium Unit Owner and upon the express agreement of all Unit Owners affected. If the Board of Directors determines by not less than a three-fourths (3/4ths) vote to accept an offer for the sale of the property, and each Unit owner affected expressly agrees to the sale, each Condominium Unit Owner shall execute such deeds and other documents reasonably required to effect such sale at such times and in such form as the Board of Directors directs. In such event, any action for partition or other division of the property shall be held in abeyance pending such other sale, and upon the consummation thereof shall be discontinued by all parties thereof.

ARTICLE XXVI.
AMENDMENT OF DECLARATION OF CONDOMINIUM:
AMENDMENT TO ADD REAL ESTATE

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

- A. Amendment to Declaration: An Amendment or Amendments to this Declaration of Condominium may be proposed by the Board of Directors of the Association acting upon a vote of a majority of the Directors, or by the members of the Association owning a majority of the Condominium Units, whether meeting as members of the Association owning a majority of the Condominium

Units, whether meeting as a members or by instrument in writing signed by them. Upon any Amendment or Amendments to this Declaration of Condominium being proposed by said Board of Directors or members, such proposed Amendment or Amendments shall be transmitted to the President of the Association, or other officer of the Association in the absence of the President, who shall thereupon call a Special Meeting of the Members of the Association for a date not sooner than twenty (20) days and not later than sixty (60) days from receipt by him of the proposal Amendment or Amendments. It shall be the duty of the Secretary to give each member written or printed notice of such Special Meeting, stating the time and place thereof, and reciting the proposed Amendment or Amendments in reasonably detailed form, which notice shall be mailed not less than ten (10) days and no more than thirty (30) days before the date set for such Special Meeting. If mailed, such notice shall be deemed to be properly given when deposited in the United States mail addressed to the member at his Post Office address as it appears on the records of the Association, the postage thereon prepaid. Any member may, by written waiver of notice signed by such member, waive such notice and such waiver, when filed in the records of the Association, whether before or after the holding of the meeting, shall be deemed equivalent to the giving of notice to such member. At the meeting, the Amendment or Amendments proposed must be approved by an affirmative vote of the members owning Units in the Condominium in order for such Amendment or Amendments to become effective. During the twenty year period beginning with the date of Declaration, an affirmative vote of Unit Owners owning ninety percent (90%) of the undivided interest in the Common Areas and Facilities shall be required to amend this Declaration. From and after the expiration of said twenty year period, an affirmative vote of Unit Owners in person or by proxy in a meeting duly called, owning seventy-five (75%) percent of the undivided interest in the Common Areas and Facilities shall be required. Upon adoption such Amendment or Amendments of this Declaration of Condominium shall be transcribed and certified by the President and Secretary of the Association as having been duly adopted. The original or an executed copy of such Amendment or Amendments, so certified and executed with the same formalities as a Deed, shall be recorded in the Public Records of Cumberland County, North Carolina, within ten (10) days from the date on which the same became effective, such Amendment or Amendments to specifically refer to the recording date identifying the Declaration of Condominium. Thereafter, a copy of said Amendment or Amendments in the form in which the same were placed of record by the officers of the Association shall be delivered to the Owners of all Condominium Units, but delivery of a copy thereof shall not be a condition precedent to the effectiveness of such Amendment or Amendments. At any meeting held to consider such Amendment or Amendments, the written vote of any member of the Association shall be recognized if such member is not in attendance at such meeting or represented there or by proxy, provided such written notice is delivered to the Secretary of the Association prior to such meeting or at such meeting.

- (1) Amendments which require approval of 51% of First Mortgage Holders. Unless otherwise set forth herein, at least 51% of the Institutional Lenders as the same are defined in Article XXVIII of this Declaration and as the same have given notice pursuant to Article XXVIII, must approve any material amendments of provisions which establish, provide for, govern or regulate any of the following:
 - (a) Voting;

- (b) Assessments, assessment liens or subordination of such liens;
- (c) Reserves for maintenance, repair and replacement of the common elements;
- (d) Insurance or Fidelity Bonds;
- (e) Rights to use of Common Elements;
- (f) Responsibility for maintenance and repair of the several portions of the condominiums;
- (g) Expansion or contraction of the condominium or the addition, annexation or withdrawal of property to or from the condominium except as provided in Paragraph B below;
- (h) Boundaries of any unit;
- (i) The interests in the general or limited common elements;
- (j) Convertibility of units into common elements of common elements into units;
- (k) Leasing of units;
- (l) Imposition of the right of first refusal or similar restriction on the right of a Unit owner to sell or convey his or her Unit;
- (m) Establishment of self-management by the Condominium Association where professional management has been required previously;
- (n) Provisions pertaining to or related to the express benefit of Institutional Lenders as the same are defined herein;

B. Amendment to Add Real Estate. Developer shall have the right to file an amendment to this Declaration at anytime and from time to time for a period not to exceed seven (7) years from the date of recordation of these declarations at the Cumberland County Registry, without the further consent of the Unit Owners, to incorporate into the Condominium any and all of the additional land described in Exhibit "A (2)". All or part of the Additional Real Estate identified in Exhibit "A(2)" may be added to the Condominium at different times, but no assurances are made with regard to the order in which such proportions may be added. Declarant shall have no duty or to the order in which such portion obligation of any kind to add any or all of the additional Real Estate. In the event this Declaration is so amended, the terms "Condominium" and "Property" as used herein shall be deemed to mean and include the property described in Exhibits "A (1)" and "A (2)" as the case may be and all improvements and structures now or hereafter placed by Developer thereof, all easements, rights and appurtenances thereto, and all articles of personal property provided by Developer and intended for use in connection therewith. The Developer shall have total discretion with regard to materials used in the construction of any additional Units. In addition, the developer shall have total discretion in the layout, size and architectural style of the additional Units. No amendment made by Developer in accordance with this paragraph shall divest an Owner of any portion of his dwelling Unit without the consent of such Owner and no such amendment shall materially alter the plan of development set forth herein without the consent of all Owners affected thereby.

- (1) In the event the Developer elects to add additional phases to the Condominium, then the percentage undivided interest in the Common Property appurtenant to each Condominium Unit will be reallocated in proportion to the percentage that each Unit bears to the total number of Units and the voting rights for each additional unit owner shall be reallocated equally to each unit so that each Unit added will have one vote in the Association. In the event Developer elects to add additional phases to the Condominium, Developer shall, in each instance, file an amendment to this Declaration stating that the percentage of

undivided interest in the Common Area appurtenant to each Unit then a part of the Condominium at the time of such filing is as shown in the appropriate column of Exhibit "C". The additional Unit Owners shall be subject to assessment by the Board of Directors upon acquiring title to their Units in such amount as their percentage undivided interest in the Common Area is shown on the applicable Exhibit "C". The Declarant shall not be liable for assessments for unsold Units contemplated by the addition of phases to this declaration until such time as said Unit (i) completed and a certificate of occupancy issued therefore; and (ii) occupied or used for model, sales or other purposes by the Declarant, or (iii) offered or used for rental purpose by the Declarant, or as shown in Article X.

- (2) No additional property may be added to the existing Condominium pursuant to Paragraph B Article XXVI of this Declaration without the prior written consent of HUD, VA and FNMA, if VA, HUD or FNMA hold, insure or guarantee any mortgage in the existing Condominium at the time such property is to be added.

- C. Amendment of Common Ownership Percentages. Except as expressly set forth this Declaration, no alteration in the percentage of ownership in Common Property except as expressly set forth this Declaration, no alteration in the percentage of ownership in Common Property appurtenant to each Condominium Unit, or alteration of the basis for sharing Common Expenses and other apportionment of assessment which may be levied by the Association in accordance with the provisions hereof, or alteration of basis of ownership of Common Surplus, shall be made without the prior written consent of all of the Owners of Condominium Units and all of the Institutional Lenders holding first mortgages or first deeds of trust on the Condominium Units.

ARTICLE XXVII.
REMEDIES IN EVENT OF DEFAULT

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

- A. Failure to comply with any of the terms of the Declaration of Condominium or other restrictions and regulations contained in the Articles of Incorporation or Bylaws of the Association, or which may be adopted pursuant thereto, shall be grounds for relief including without limitation an action to recover sums due for damages, injunction, relief, foreclosure of lien, or any combination thereof. Such relief may be sought by the Association or, if appropriate, by an aggrieved Unit Owner.
- B. Each Unit Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness, or by that of any member of his family, or his or their guests, employees, agents, or lessees, but only to the extent that such expense is not

met by the proceeds of insurance carried by the Association. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy, or abandonment of a Condominium Unit or its appurtenances. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation.

- C. In any proceeding arising because of an alleged default by a Unit Owner, the Association, if successful, shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be determined by the Court, in no event shall any Unit Owner be entitled to such attorney's fees.
- D. The failure of the Association or any Unit Owner to enforce any right, provision, covenant or condition which may be granted by this Declaration of Condominium or other above-mentioned documents shall not constitute a waiver of the right of the Association or of the Unit Owner to enforce such right, provision, covenant or condition in the future.
- E. All right, remedies and privileges granted to the Association or the Owner or Owners of Condominium Units, pursuant to any terms, provisions, covenants or conditions of the Declarations of Condominium or other above-mentioned documents, shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party this exercising the same from exercising such other and additional rights, remedies or privileges as may be available to such party at law or in equity.
- F. The failure of Developer to enforce any right, privilege, covenant or condition which may be granted to it by this Declaration of Condominium or other above mentioned document shall not constitute a waiver of the right of Developer to thereafter enforce such right, provision, covenant or condition in the future.
- G. The failure of an Institutional Lender or Institutional Lenders, as said term is herein defined, to enforce any right, provision privilege, or covenant or condition which may be granted to it or them by this Declaration of Condominium or other above-mentioned documents shall not constitute a waiver of the right of said party or parties to thereafter enforce such right, privilege, covenant or condition in the future.

ARTICLE XXVIII

RIGHTS RESERVED UNTO INSTITUTIONAL LENDERS

- A. "Institutional Lender" or Institutional Lenders", as the terms are used herein, shall mean and refer to banks, savings and loan associations, insurance companies, other firms or entities customarily affording loans secured by first liens on residences the Federal Housing Administration, its eligible insurers and governmental guarantors, who holds, guarantees or insures a first mortgage on a Unit and which has requested notice pursuant to the provision of Paragraph B as set out herein below. In addition, to any other rights set forth in this Declaration, so long as any Institutional Lender or Institutional Lenders shall hold any first mortgage upon any first mortgage upon any Condominium Unit or Units, or shall be the owner of any Condominium Unit or Units, such Institutional Lender or Institutional Lenders, shall have the following rights:

1. To approve the company and companies with whom casualty insurance is placed, and to be notified of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.
 2. To examine, at reasonable times and upon reasonable notice, the books and records of the Association and to be furnished at least one copy of the annual financial statement and report of the Association, prepared by a certified public accountant designated by the Association, such financial statement and report to be furnished by the end of each year.
 3. To be given notice by the Association of the call of any meeting of the membership to be held for the purpose of considering: (1) any proposed Amendment to the Declaration of Condominium, or the Article of Incorporation and Bylaws of the Association effecting a change in (i) the boundaries of any unit or the exclusive easement rights appertaining to any unit or the liability for common expenses appertaining thereto, (ii) the number of votes in the owners association appertaining to any unit or (iii) the purposes to which any unit or the common elements are restricted; (2) the proposed termination or abandonment of the Condominium; (3) the effectuation of any decision to terminate professional management of the Association and assume self-management by the Association. Such notice shall state the nature of the Amendment or action being proposed.
 4. To be given notice of any delinquency in the payment of any assessment or charge (which delinquency remains uncured for a period of sixty (60) days) by any Owner owning a Condominium Unit encumbered by a mortgage held by the Institutional Lender or Institutional Lenders, such notice to be given in writing and to be sent to the principal office of such Institutional Lender or Institutional Lenders, or to the place which it or they may designate in writing.
 5. To be given notice of any condemnation loss or casualty loss which affects a material portion of the Common Areas or a material portion of any Unit on which there is a first mortgage held, insured or guaranteed by any Institutional Lender.
 6. To be given notice of any proposed action that requires the consent of a specified percentage of eligible mortgage holders.
- B. Whenever any Institutional Lender or Institutional Lenders desires the provisions of this Article to be applicable to it, it shall serve or cause to be served written notice of such fact upon the Association by Registered Mail or Certified Mail addressed to the Association and sent to its address stated herein, identifying the Condominium Unit or Units upon which any such Institutional Lender or Institutional Lenders hold any mortgage or mortgages, or identifying any Condominium Units owed by them, or any of the, together with sufficient pertinent facts to identify any mortgage or mortgages which may be held by it or them, and which notice shall designate the place to which notices are to be given by the Association to such Institutional Lender or Institutional Lenders.

- C. Upon written request from any agency or corporation which has an interest or a prospective interest in the Condominium, the Association shall prepare and furnish within a reasonable time, an audited financial statement of the Association for the immediately preceding fiscal year.

ARTICLE XXIX.
DEVELOPER CONTROL PERIOD

- A. Developer Representation on Board: The Developer may exercise the right to appoint and remove members of the Board until the Developer control period ends as specified in Paragraph B. Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Units (including Units which have been created pursuant to Special Declarant Rights) to Unit Owners other than a Declarant, at least one member and not less than twenty-five percent (25%) of the members of the Board of Directors shall be elected by Unit Owners other than the Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Units (including Units which have been created pursuant to Special Declarant Rights) to Unit Owners other than a Declarant, not less than thirty-three percent (33%) of the members of the Board of Directors shall be elected by Unit Owners other than the Declarant. Not later than the termination of any period of Declarant control, the Unit Owners shall elect a Board of Directors of at least three (3) members, at least a majority of whom must be Unit Owners. Whenever Developer shall be entitled to designate and select any person or persons to serve on any Board of Directors of the Association, the manner in which such person or persons shall be designated shall be as provided in the Articles of Incorporation and/or Bylaws of the Association, and Developer shall have the right to remove any person or persons selected by it to act and serve on said Board of Directors and to replace such person or persons with another person or other persons to act and serve in the place of any Director or remainder of the unexpired term of any Director or Directors so removed. Any Director designated and selected by Developer need not be a resident in the Condominium. However, Developer shall be responsible for the payment of any assessments which may be levied by the Association against any Condominium Unit or Units owned by the said Developer, and for complying with the remaining terms and provisions hereof in the same manner as any other Owner of a Condominium Unit or Units.
- B. Termination of Declarant Rights: Developer shall have the right to designate and select a majority of the persons who shall serve as members of each Board of Directors of the Association. However, this period of Declarant control terminates no later than the earlier of: (i) 120 days after conveyance of seventy-five percent (75%) of the Units (including Units which have been created pursuant to Special Declarant Rights) to Unit Owners other than a Declarant; or (ii) seven years after first unit is conveyed by Declarant. The Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board of Directors before termination of that period, but in that event it may require, for the duration of the period of Declarant control, that specified actions of the Association or the Board of Directors, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.
- C. Special Declarant Rights. Declarant reserves the following Special Declarant rights for the entire Property, which shall be exercisable during the Period of Declarant Control:
 - (a) To complete any and all improvements indicated on the plats and plans;

- (b) To exercise any Development Right reserved in this Declaration;
 - (c) To construct and maintain any sales office or signs advertising the Condominium, management office or model in any of the Units or on any of the Common Elements shown on the Plat;
 - (d) To use easements through the Common Elements for the purpose of making improvements within the Condominium or within real estate which may be added to the Condominium;
 - (e) To appoint and remove any Executive Board Members during the Period of Declarant Control; and
 - (f) To make the Condominium part of a larger condominium.
- (g) Declarant reserves the following Development Rights for the entire Property and additional properties as described below during the Period of Declarant Control:
- (1) To create Units, Common Elements, or Limited Common Elements within the Condominium; to alter the size of any Unit, combine or merge two or more Units, to subdivide Units or convert Units into Common Elements;
 - (2) To add real estate to the Condominium, or
 - (3) To withdraw real estate from the Condominium.
- D. Sales Office and Model: The Developer shall have the right to maintain a sales office in a Unit or in Common Area as long as the Developer owns any Units in the project. In addition, the developer may maintain a model in any of the condominium units that the developer owns.
- E. Dissolution: In the event of dissolution of Developer at a time when it is the Owner of a Condominium Unit, then the rights of the Developer shall pass to and may be exercised by its successor receiving ownership of any such Condominium Unit in dissolution.

ARTICLE XXX.
SEVERALTY

In the event that any of the terms, provisions or covenants of this Declaration of Condominium are held to be partially or wholly invalid or unenforceable for any reason whatsoever, such holding shall not affect, alter, modify or impair in any manner whatsoever any of the other terms, provisions or covenants hereof or the remaining portions of any terms, provisions or covenants held to be partially invalid or unenforceable.

ARTICLE XXXI.
LIBERAL CONSTRUCTION

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

ARTICLE XXXII.
DECLARATION OF CONDOMINIUM BINDING ON
ASSIGNS AND SUBSEQUENT OWNERS

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

ARTICLE XXXIII.
AGENT FOR SERVICE OF PROCESS

The following named individual is designated as the person to receive service of process for the Association: Julie Rufenacht, c/o JMJ Builders, P.O. Box 53922, Fayetteville, NC 28303

ARTICLE XXXIV.
CONFLICTING PROVISIONS

To the extent the provisions of this Declaration conflict with any applicable provisions of the Fayetteville City Code or Chapter 47C of the General Statutes of North Carolina, the conflicting provisions of the City Code and the North Carolina General Statutes shall control.

ARTICLE XXXV.
DEVELOPER CONTRACTS AND TERMINATION
OF DEVELOPER CONTRACTS

- A. DEVELOPER CONTRACTS: Any management agreement between the Developer or the Association and a professional manager or any other agreement providing for services of the developer shall not exceed a term of two years and shall be subject to renewal by the consent of parties and shall be consistent with Section B of this Article. The termination of any professional contract entered into may not require a penalty or advance notice of more than 90 days. The Developer may enter into a professional management agreement before control of the Board of Directors is passed in accordance

with Article XXIX of this Declaration. However, the management contract shall give the Homeowners Association the right to terminate the contract without cause which right can be exercised at any time after the transfer of control pursuant to Article XXIX.

- B. TERMINATION OF DEVELOPER CONTRACTS: Pursuant to N.C.G.S.47-C-3-105, if entered into by or on behalf of the Association before the Board of Directors elected by the Unit Owners pursuant to Section 47C-3-103(f) takes office, (1) any management contract, employment contract, or lease or recreational or parking areas or facilities, (2) any other contract or leases between the Association and a Developer or an affiliate of a Developer, or (3) any contract or lease that is not bona fide or was unconscionable to the Unit Owners at the time entered into under the circumstances then prevailing may be terminated without penalty by the Association at any time after the Board elected by the Unit Owners pursuant to Section 47C-3-103(f) takes office upon not less than ninety days notice to the other party. Notice of the substance of the provisions of this section shall be set out in each contract entered into by or on behalf of the Association before the board elected by the Unit Owners pursuant to Section 47C-3-103(f) takes office. Failure of the contract to contain such a provision shall not affect the rights of the Association under this section. This section does not apply to any lease the termination of which would terminate the Condominium or reduce its size unless the real estate subject to that lease was included in the Condominium for the purpose of avoiding the right of the Association to terminate a lease under this section.

ARTICLE XXXVI
AD VALOREM TAXES

Any City of Fayetteville and/or County of Cumberland ad valorem taxes on the Common Area shall be the responsibility of and paid by the Association of Unit Owners from the assessments provided for under Article XXIII herein and subject to all provisions of said Article XXIII including those providing for assessments and liens.

Upon default by the Association of Unit Owner in the payment of any ad valorem taxes levied against Common Areas or assessments for public improvements, which continues for a period of six months, each Owner of a Condominium Unit shall become personally obligated to pay to the tax assessing governmental authority a portion of such taxes or assessments in an amount determined by dividing the total taxes and/or assessments due by the total number of building sites. If not paid by the Owner within 30 days, said sum shall become a continuing lien and taxing or assessing governmental authority may either bring an action at law against the owner personally obligated to pay the same or elect to foreclose the lien.

IN WITNESS WHEREOF, Developer has caused this Declaration to be executed in its company name by its duly authorized manager, this the 14th day of September, 2006.

LIBERTY SQUARE, LLC

By: Julie Rufenacht (SEAL)
Julie Rufenacht, Manager

STATE OF NORTH CAROLINA
COUNTY OF CUMBERLAND

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Julie Rufenacht, Manager, Liberty Square, LLC.

This the 14th day of September, 2006.

My commission expires: 11-18-2009

Notary Public Susan Britt Huggins

