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WAKE COUNTY, NC 952
LAURA M RIDDICK
REGISTER OF DEEDS
PRESENTED & RECORDED ON
07/14/2003 AT 16:18:57

BOOK:010273 PAGE:00249 - 00294

~~WAKE COUNTY, NC 672
LAURA M RIDDICK
REGISTER OF DEEDS
PRESENTED & RECORDED ON
07/10/2003 AT 16:39:50~~

~~BOOK:010265 PAGE:01140 - 01184~~

Prepared by and return to:
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Post Office Box 33550
Raleigh, NC 27636

NORTH CAROLINA

WAKE COUNTY

DECLARATION OF CONDOMINIUM
FOR
COTTAGES OF STONEHENGE

DANIEL MID-ATLANTIC PROPERTIES II, LLC, a North Carolina limited liability company (hereinafter referred to as "Declarant") does hereby make, declare and establish this Declaration of Condominium as and for the plan of dwelling ownership of **COTTAGES OF STONEHENGE, A CONDOMINIUM**, being the property and improvements hereinafter described.

I.

ESTABLISHMENT OF CONDOMINIUM

Declarant is the owner of the fee simple title to that certain real property situated in Wake County, State of North Carolina, which property is more particular described on Exhibit "A" attached hereto and incorporated herein by reference, and on which property there have been constructed thirty-six (36) two story buildings containing a total of one hundred eighty-eight (188) condominium living units and their supporting facilities, areas designated for parking spaces and other appurtenant improvements. The buildings are of wood frame construction on slab foundation. There are no basements. Declarant does hereby submit the above-described property and improvements to condominium ownership under the provisions of Chapter 47C of the General Statutes of North Carolina (North Carolina Condominium Act), and hereby declares the same to be a condominium to be known and identified as "Cottages of Stonehenge," sometimes hereinafter referred to as the "Condominium."

This document is being re-recorded to correct file# on page 2. Error was made by ROD Staff
P. Anne Redd, Asst.

II.

SURVEY AND DESCRIPTION OF IMPROVEMENTS

Recorded contemporaneously herewith and expressly made a part hereof is a survey of the land and graphic descriptions and plans of the improvements constituting the Condominium (the "Condominium Plan"), identifying the Units and Common Elements, as said terms are hereinafter defined, and their respective locations and approximate dimensions. Each Unit has been assigned an Identifying Number in the Condominium Plan and no Unit bears the same Identifying Number as any other Unit. The Condominium Plan is recorded in Condominium File No. __*__, Pages __*__ through ____, in the Office of the Registry of Deeds, Wake County, North Carolina (the "Wake County Registry").

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III.

DEFINITIONS

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

A. Units as the term is used herein shall mean and comprise the one hundred eighty-eight (188) separately identified Units that are designated on the Condominium Plan to this Declaration, excluding, however, all spaces and improvements lying:

1. Beneath the subflooring material of all floors;

2. Beneath the interior surfacing material of all perimeter walls, interior bearing walls and/or bearing partitions;

3. Above the interior surfacing material of the ceilings.

All air conditioning and heating equipment, door and/or window panes or screens, stoves, refrigerators, fans and other appliances, fixtures or equipment, and all fixtures, pipes, ducts, wires, conduits and other connections required to provide water, light, power, telephone, sewage and sanitary service that serve a single Unit are a part of the Unit which they serve. All pipes, ducts, wires and conduits serving two or more Units and/or the Common Elements are Common Elements. The patio and interior portions of the storage area located to the rear of each Unit as shown on the Condominium Plan is a part of the Unit to which it is attached. All fireplaces, including dampers, chimney caps and chimneys are a part of the Unit they serve.

B. Common Elements shall mean and comprise: (i) all of the real property, improvements and facilities of the Condominium other than the Units; and, (ii) all personal property held and maintained for the use and enjoyment of all the Unit Owners. The parking areas and walkways which are Common Elements of the Condominium are as depicted on the Condominium Plan. In addition, a swimming pool, clubhouse, tennis courts and related facilities are a part of the Common Elements. **No other recreational amenities exist or are proposed to be constructed by Declarant**. For so long as Declarant continues to offer for sale any Unit within the Condominium, Declarant shall have the right, **but not the obligation,** to make repairs to or replace any existing improvements to the Common Elements and/or add additional landscaping, sidewalks, fencing, signage, playground equipment, benches, paths, decking and other similar improvements to the Common Elements, and any such replacements or additional improvements, if so placed and constructed, shall become part of the Common Elements of the Condominium.

C. Certain portions of the Common Elements are reserved for the use of a particular Unit or Units to the exclusion of other Units and are designated as "Limited Common Elements." Limited Common Elements and the Units to which they are reserved are as follows:

> Any shutters, awnings, window boxes, doorsteps, stoops and all exterior doors and window frames designed to serve a single Unit but located outside the Unit's boundaries are allocated exclusively for the use of that Unit.

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

IV.

OWNERSHIP OF UNITS AND ALLOCATED INTEREST IN COMMON ELEMENTS

Each Unit shall be conveyed and treated as an individual property capable of independent use and fee simple ownership, and the Unit Owner of each Unit shall also own, as an appurtenance to the ownership of each said Unit, an Allocated Interest in the Common Elements. The Allocated Interest appurtenant to each Unit as of the date of this Declaration, expressed as a percentage, is as set out in Exhibit "B" attached hereto and made a part hereof. The Allocated Interest in the Common Elements appurtenant to each Unit as shown in said Exhibit has been determined based on whether such Unit is a Unit containing two bedrooms (a "Two Bedroom Unit") or a Unit containing three bedrooms (a "Three Bedroom Unit"). All of the Units are identified on Exhibit "B" as either a Two Bedroom Unit or a Three Bedroom Unit. Two Bedroom Units contain approximately 1200 square feet and Three Bedroom Units contain approximately 1408 square feet. For the purpose of calculating each Unit's Allocated Interest in the Common Element, absent gross error, these square footages shall be deemed conclusively to be the actual number of square feet of floor area contained in each of the two Unit types. The Allocated Interest in the Common Elements appurtenant to each Unit as shown in said Exhibit is the percentage obtained by multiplying 100 times the ratio produced by dividing the number of square feet of floor area contained in said Unit (either 1200 or 1408, as the case may be) by the aggregate number of square feet of floor area contained in all Units of the Condominium on the date of this Declaration (235,792). In applying the foregoing to determine the Allocated Interest appurtenant to each Unit, all products were rounded to the nearest thousandth. In order that the sum of the Allocated Interest allocated to all Units totals one hundred percent (100%), the Allocated Interest appurtenant to similar Units may vary slightly.

V.

RESTRICTION AGAINST FURTHER SUBDIVIDING OF UNITS;
REALLOCATION OF LIMITED COMMON ELEMENTS;

No Unit may be divided or subdivided to create additional Units, except with the unanimous consent of all Unit Owners, the consent of at least two-thirds (2/3rds) of the holders of first mortgage or deed of trust liens on the Units (based on one (1) vote for each first mortgage or deed of trust lien held), and the consent of all holders of mortgage or deed of trust liens on the Unit(s) to be divided or subdivided. If any Unit is subdivided in accordance with the foregoing provisions, the Association shall cause to be filed an amendment to this Declaration reallocating the Allocated Interest appurtenant to the original Unit between or among the new Units created by the subdivision of the Unit in proportion to the number of square feet of heated floor area contained in each new Unit.

Limited Common Elements may be reallocated by the Owners of two or more Units by an amendment to the Declaration executed by all of the Owners of the Units between or among which the reallocation is made. The Association, at the expense of such Owners, shall prepare and record the executed amendment in the names of the Owners executing same, in the same manner as a deed, in the Wake County Registry.

VI.

SEPARATE CONVEYANCE OF COMMON ELEMENT INTEREST PROHIBITED

Except as otherwise provided in this Declaration, the Allocated Interest in the Common Elements declared to be an appurtenance to each Unit shall not be conveyed, devised, encumbered or otherwise dealt with separately from said Unit, and the Allocated Interest in the Common Elements appurtenant to each Unit shall be deemed conveyed, devised, encumbered or otherwise included with the Unit even though such Allocated Interest is not expressly mentioned or described in the instrument conveying, devising, encumbering or otherwise dealing with such Unit. Any conveyance, encumbrance, judicial sale or other voluntary or involuntary transaction which purports to grant any right, interest or lien in, to or upon a Unit shall be null, void and of no effect insofar as the same purports to affect any interest in a Unit and its Allocated Interest in Common Elements, unless the same purports to convey, devise, encumber or otherwise trade or deal with the entire Unit. Any instrument conveying, devising, encumbering or otherwise dealing with any Unit, which describes said Unit by the Identifying Number assigned thereto in the Condominium Plan without limitation or exception, shall be deemed and construed to affect the entire Unit and its Allocated Interest in the Common Elements. Nothing herein contained shall be construed as limiting or preventing ownership of any Unit and its Allocated Interest in the Common Elements by more than one person or entity as tenants in common, joint tenants, or as tenants by the entirety.

VII.

THE CONDOMINIUM SUBJECT TO RESTRICTIONS

The Units, Common Elements and Limited Common Elements shall be, and the same are hereby declared to be, subject to the restrictions, easements, conditions and covenants prescribed and established herein governing the use thereof and setting forth the obligations and responsibilities incident to ownership of each Unit and its Allocated Interest in the Common Elements. Each Unit Owner is subject to all rights and duties assigned to Unit Owners under the terms of this Declaration, the Articles of Incorporation and Bylaws of the Association, and the duly adopted rules and regulations of the Association, as such documents from time to time may be supplemented or amended in accordance with their terms (the "Condominium Documents") and Declarant enjoys the same rights and assumes the same duties as they relate to any unsold Units owned by Declarant. In addition the Units, Common Elements and Limited Common Elements are further declared to be subject to the restrictions, easements, conditions and limitations now of record affecting the land and improvements of the Condominium.

Listed below is the recording data for all easements and licenses which have been recorded prior to this Declaration and which now affect the Condominium:

1. Easement(s) to Carolina Power and Light Company recorded in Book 858, Page 11, Book 1120, page 374; Book3281, page 61, Wake County Registry.
2. Easement(s) to Southern Bell Telephone and Telegraph Company recorded in Book 859, Page 40; Book 3326, Page 328, Wake County Registry.
3. Easement(s) to Southern Bell Telephone and Telegraph Company recorded in Book 3326, Page 325, Wake County Registry, as shown on survey prepared by Richard Ellis Bullock, Jr., dated May 21, 2002.
4. Permanent fifteen foot (15') drainage easement in favor of the Department of Transportation recorded in Book 5435, Page 501, Wake County Registry, as shown on survey prepared by Richard Ellis Bullock, Jr., dated May 21, 2002.
5. Rights of tenants in possession, as tenants only, under unrecorded residential lease agreements.
6. The following matters revealed by survey by Richard Ellis Bullock, Jr., dated May 21, 2002:
   - (a) Portion of twenty foot (20') sewer easement with manholes along southern property line (Book of Maps 1995, Page 1305);
   - (b) Water valves, water meters, manholes, sanitary sewer clean-out, water cabinet and fire hydrants;
   - (c) Power poles and electric boxes;
   - (d) Phone pedestals;
   - (e) Storm drain lines, catch basins and drainage ditches;

(f) Building No. 6 encroaches of twenty foot (20') zoned building setback lines a maximum of eight feet (8');

(g) Perimeter fence in right-of-way; and

(h) Twenty foot (20') sanitary sewer easement (Book of Maps 1984, Page 934).

In addition, as provided in Article X below, Cottages of Stonehenge Condominium Homeowners Association, Inc., hereinafter identified, shall have the authority and power to grant non-exclusive easements, leases, licenses and concessions through, over or with respect to the Common Elements for utilities or other purposes consistent with the intended use of the Common Elements by the Condominium without a vote or the consent of the Unit Owners; provided, however, no such grant shall unreasonably interfere with or obstruct utility service to, ingress or egress to and from, or drainage of any Unit or the Common Elements. Also, as provided in Article XII below, Declarant has reserved certain special declarant rights and, in connection therewith, has reserved certain easements to facilitate the exercise of such rights.

VIII.

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

The Common Elements shall be, and the same are hereby declared to be, subject to a perpetual non-exclusive easement in favor of all of the Unit Owners for their use and the use of their immediate families, guests and invitees, 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 Unit Owners. Notwithstanding the foregoing or anything provided herein to the contrary, Cottages of Stonehenge Condominium Homeowners Association, Inc. shall have the exclusive right to establish the rules and regulations for the use and enjoyment of the Common Elements and improvements thereon and the governance of the Condominium, which regulations may further restrict the use of the Common Elements, and specifically including the right to establish rules and regulations concerning parking and vehicular traffic flow on and along the roadways and parking areas which are a part of the Common Elements, and may be enforced by towing at the expense of the vehicle's owner, by reasonable fine levied against the vehicle's owner and/or any Owner of a Unit to which such violation reasonably may be attributed, or by any other reasonable method of enforcement established by the Association's Executive Board. In addition, the rules and regulations may establish permanent and temporary assignments of parking spaces, and may restrict or prohibit the parking of recreational and/or commercial vehicles in the Common Elements. The rules and regulations also may establish rules concerning pet ownership and may restrict the number, type and size of domestic pets. The rules and regulations may restrict or prohibit the placement or storage of personal property (such as bicycles, coolers and wind chimes, for example) on decks, stoops or patios.

The foregoing easement of enjoyment shall include an easement in favor of each Unit Owner, and such Owner's agents, representatives and contractors, for the purpose of performing any repair or maintenance to such Owner's Unit, provided, however, if such maintenance or repair would result in the disturbance of any portion of the Common Elements, the Association may require that the Association cause such maintenance to be performed on behalf of the Unit Owner and that all cost incurred by the Association in performing such maintenance, together with an administrative fee not to exceed ten percent (10%) of the cost incurred, shall be assessed against the Unit Owner and such Owner's Unit pursuant to the provisions of Article XXVI hereof.

If construction, reconstruction, repair, shifting, settlement, or other movement of any improvement which is a part of the Condominium results in the encroachment of such improvement upon either a Unit or a portion of the Common Elements, an easement shall exist for the continuance of such encroachment upon the Unit or portion of the Common Elements for so long as such encroachment shall naturally exist, so long as the physical boundaries of the Units after the construction, reconstruction, repairs, etc. are in substantial accord with the description of those boundaries that appear in this Declaration.

Except in accordance with the provisions of Section 47C-3-112 of the North Carolina Condominium Act and with the consent of the Unit Owners to which are allocated at least eighty percent (80%) of the Allocated Interests in the Common Elements (including the Unit Owners to which are allocated at least eighty percent (80%) of the Allocated Interest in the Common Elements not allocated to a declarant) and the consent of at least two-thirds (2/3rds) of the holders of first mortgage or deed of trust liens on the Units (based on one (1) vote for each first mortgage or deed or trust lien held), no portion of the Common Elements may be abandoned, partitioned, subdivided, encumbered, sold, conveyed or otherwise transferred. Notwithstanding the foregoing, however, the Association shall have the authority and power to grant non-exclusive easements, leases, licenses and concessions through, over or with respect to the Common Elements for utilities or other purposes consistent with the intended use of the Common Elements by the Condominium without a vote or the consent of the Unit Owners or the holders of first mortgage or deed of trust liens. Notwithstanding anything herein provided to the contrary, no conveyance or encumbrance of any portion of the Common Elements shall unreasonably interfere with or obstruct utility service to, ingress or egress to and from, or drainage of any Unit or the Common Elements.

IX.

RESTRAINT UPON SEPARATION AND PARTITION OF COMMON ELEMENTS

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

X.

ADMINISTRATION OF THE CONDOMINIUM BY COTTAGES OF STONEHENGE CONDOMINIUM HOMEOWNERS ASSOCIATION, INC.

To efficiently and effectively provide for the administration of the Condominium by the Unit Owners, a nonprofit North Carolina corporation known and designated as Cottages of Stonehenge Condominium Homeowners Association, Inc. (the "Association") has been organized, and said corporation shall administer the operation and management of the Condominium and undertake and perform all acts and duties incident thereto in accordance with the terms of the Condominium Documents. The Unit Owner(s) of each Unit shall automatically become members of said corporation upon his, their or its acquisition of an ownership interest in title to any Unit and its Allocated Interest in the Common Elements, and the membership of such Unit Owner(s) shall terminate automatically upon such Unit Owner(s) being divested of such ownership interest in the title to such Unit, regardless of the means by which such ownership may be divested. On all matters which the membership of the Association shall be entitled to vote, the Unit Owner(s) of each Unit shall have one (1) vote. No person, firm or corporation holding any lien, mortgage or other encumbrance upon any Unit shall be entitled, by virtue of such lien, mortgage or other encumbrance, to membership in said corporation or to any of the rights or privileges of such membership except as set forth in Article XXXI hereof. In the administration of the operation and management of the Condominium, the Association shall have and is hereby granted the authority and power to enforce the provisions of this Declaration, 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 Units and Common Elements as the Executive Board of the Association may deem to be in the best interests of the Association, including, without limitation, the right to make permanent and temporary assignments of parking spaces, the right to restrict or prohibit the parking of recreational and/or commercial vehicles in the Common Elements and the right to restrict the number, type and size of domestic pets and to promulgate rules concerning pet ownership. The rules and regulations may restrict or prohibit the placement or storage of personal property (such as bicycles, coolers and wind chimes, for example) on decks, stoops or patios. In addition, the Association shall have and is hereby granted the authority and power to grant non-exclusive easements, leases, licenses and concessions through, over or with respect to the Common Elements for utilities or other purposes consistent with the intended use of the Common Elements by the Condominium without a vote or the consent of the Unit Owners, upon and subject to such terms and conditions as the Association in its sole discretion deems appropriate; provided, however, no such grant shall unreasonably interfere with or obstruct utility service to, ingress or egress to and from, or drainage of any Unit or the Common Elements.

XI.

RESIDENTIAL USE RESTRICTIONS APPLICABLE TO UNITS

Except as provided in Paragraph A of Article XII hereof, each Unit is hereby restricted to single family residential use by the Owner thereof, his immediate family, guests, invitees and lessees. Any lease or rental agreement for a Unit shall be in writing and shall have an initial term of at least thirty (30) days, unless the prior written approval of the Executive Board shall be had and obtained. Each such lease shall provide that the terms of the lease are subject to the provisions of the Condominium Documents, and that any failure by the lessee to comply with the terms of such documents shall be a default under the terms of the lease. The Executive Board shall be furnished with a copy of all leases. No Owner of any Unit shall permit the use of his Unit for transient hotel or commercial purposes. Corporate or partnership members, other than the Declarant, shall permit the use of a Unit owned by it only by its tenant(s) in accordance with the terms of this Article XI or its principal officers, directors or partners, or other guests or lessees. Such corporate or partnership member shall annually sign and deliver to the Association a written statement designating the name of the party (or parties) entitled to use such 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 and with the rules and regulations which may be promulgated by the Association from time to time.

XII.

SPECIAL DECLARANT RIGHTS

A. Sales, Leasing and Management Offices; Model Units; Advertising on Common Elements. Declarant shall have the right to maintain a sales office, a leasing office, a management office, and Unit models in Units owned by Declarant and to display advertising signs upon the Common Elements. Any such offices, model Units or signs may be located within such Units and upon such portions of the Common Elements as Declarant shall select, and Declarant shall have the right at any time and from time to time to relocate any offices, model Units or signs from their previous location to another location. Such rights shall terminate when all Units in the Condominium owned by Declarant are sold.

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

XIII.

USE OF COMMON ELEMENTS SUBJECT TO RULES OF ASSOCIATION

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

XIV.

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

No immoral, improper, offensive or unlawful use shall be made of any Unit or of the Common Elements, nor any part thereof, and all laws, zoning ordinances and regulations of all governmental authorities having jurisdiction of the Condominium shall be observed. No Unit Owner shall permit or suffer anything to be done or kept in his Unit or on the Common Elements, including any Limited Common Elements, which will increase the rate of insurance on the Condominium, or which will obstruct or interfere with the rights of other occupants of the Condominium or annoy them by unreasonable noises, nor shall any Unit Owner undertake any use or practice which shall create and constitute a nuisance to any other Unit Owner, or which interferes with the peaceful possession and proper use of any other Unit or the Common Elements. Each Unit Owner shall be deemed by his acceptance of the deed to a Unit to have expressly waived any claim against Declarant for any violation of this provision, except to the extent such provision is violated by Declarant or by Declarant's agent, and any claim against the Association for any violation of this provision, except to the extent such provision is violated by the Association or the Association's agent.

XV.

RIGHT OF ENTRY INTO UNITS IN EMERGENCIES

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

XVI.

RIGHT OF ENTRY FOR MAINTENANCE OF COMMON ELEMENTS

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

(i) performing any improvement, maintenance, alteration or repair to any Common Elements, including any Limited Common Elements, whether or not such Limited Common Elements serve the Unit entered, or

(ii) performing any improvement, maintenance, alteration or repair to any equipment, improvements, wires, pipes and other facilities or conduits serving another Unit but located within or accessible through the Common Elements.

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

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

XVII.

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

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

2. A Unit Owner may, after acquiring an adjoining Unit and obtaining the written consent of the Executive Board, remove or alter any intervening partition or create apertures therein, even if the partition is a Common Element, if such acts do not impair the structural integrity or mechanical systems or lessen the support of any portion of the Condominium. Such removal of partitions or creation of apertures as described in this paragraph is not an alteration of Unit boundaries.

The Association, through the Executive Board (or its Architectural Control Committee), shall regulate the external design, appearance, use, location and maintenance of the Condominium and of improvements thereon in such a manner so as to preserve and enhance values and to maintain a harmonious relationship among structures and the natural vegetation and topography. No Unit Owner shall cause any improvements, alterations, repairs or changes to be made to the exterior of the Condominium (including painting or other decoration, the installation of storm doors or windows, electrical wiring, television or radio antennae or any other objects or devices which may protrude through the walls or roof of the Condominium) or in any manner alter the appearance of the exterior portion of any building without the written consent of the Executive Board of the Association (or its Architectural Control Committee) being first had and obtained. No Unit Owner shall cause any object to be fixed to or located on the Common Elements (including the Limited Common Elements) or any portion of a Unit visible from the exterior of the Condominium buildings (including the construction or location of fences, the planting or growing of flowers, trees, shrubs or any other vegetation and the placement of yard ornaments, figurines, statues, bird baths, houses and feeders, flags and similar items) or in any manner change the appearance of the Common Elements or the exterior portions of the Units without the written consent of the Association (or its Architectural Control Committee) being first had and obtained. Provided, however, blinds, draperies and other window treatments (although visible from the exterior of the Condominium buildings), outdoor furniture, planters and other customary decorative items placed on a patio and temporary seasonal exterior decorations shall not require the prior approval of the Executive Board (or its Architectural Control Committee), but if any such decorations are determined, in the sole discretion of the Executive Board (or its Architectural Control Committee), to be distasteful or otherwise disruptive of the aesthetics or visual harmony of the community, the Executive Board (or its Architectural Control Committee) may require that such window treatments, furniture, planters, decorative items or seasonal decorations promptly and permanently be removed. In the event that an Owner neglects or fails to remove any such items at the request of the Executive Board (or its Architectural Control Committee), the Association may provide such removal. In order to enable the Association to accomplish the foregoing, there is hereby reserved to the Association the right to unobstructed access over and upon each Unit at all reasonable times for such purpose and the cost of such removal shall be added to and become a part of the assessment to which such Unit is subject. Notwithstanding the foregoing, nothing herein contained shall prevent or interfere with the right of Declarant to improve and develop the Common Elements or market the Units as permitted by the terms of this Declaration. Accordingly, Declarant need not seek or obtain the approval of the Executive Board for improvements erected by or at the direction of Declarant.

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

XVIII.

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

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

XIX.

MAINTENANCE AND REPAIR OF UNITS BY UNIT OWNERS

Every Unit Owner shall perform promptly all maintenance and repair work to his Unit which, if omitted, would affect the Condominium, either in its entirety or in a part belonging to other Unit Owners, every Unit Owner being expressly responsible for the damages and liability which his failure to do so may engender. Each Unit Owner shall be liable and responsible for the maintenance, repair and replacement, as the case may be, of all air conditioning and heating equipment, door and/or window panes or screens, stoves, refrigerators, fans and other appliances, fixtures or equipment, and all fixtures, pipes, ducts, wires, conduits and other connections required to provide water, light, power, telephone, sewage and sanitary service to his Unit, which serve his Unit exclusively, whether or not such item is located within the Common Elements. Each Unit 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 within his Unit including painting, decorating and furnishings, and all other accessories which such Owner may desire to place or maintain in his Unit. In addition, each Unit Owner shall be responsible for household-type maintenance, such as sweeping and removing snow and debris from the Limited Common Elements appurtenant to such Unit Owner's Unit. Whenever the maintenance, repair and replacement of any item for which a Unit Owner is obligated to maintain, replace or repair at his own expense is occasioned by any loss or damage which 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 such Unit Owner shall be, in said instance, required to pay such portion of the costs of such maintenance, repair and replacement as shall, by reason of the applicability of any provision of such insurance for the payment of a deductible or by any other reason, exceed the amount of the insurance proceeds applicable to such maintenance, repair or replacement.

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

XX.

MAINTENANCE AND REPAIR OF COMMON ELEMENTS BY THE ASSOCIATION

Except as otherwise provided in Article XIX above with respect to normal household-type maintenance of certain Limited Common Elements, the Association shall be responsible for the maintenance, repair and replacement of all of the Common Elements, including those portions thereof which contribute to the support of the buildings, and all conduits, ducts, plumbing, wiring and other facilities for the furnishing of utilities and other services to two or more Units and/or the Common Elements, and should any incidental damage be caused to any Unit by virtue of any work which may be done or caused to be done by the Association in the maintenance, repair or replacement of any Common Elements, the Association shall, at its expense, repair such incidental damage. The Association shall be deemed to have such easements on, across and over the Common Elements as shall be reasonably necessary in the exercise and discharge of its maintenance rights and obligations reserved and imposed by this Declaration or under the North Carolina Condominium Act. Whenever the maintenance, repair and replacement of any item for which the Association is obligated to maintain, replace or repair at its expense is occasioned by any act of a Unit Owner, his immediate family, guests or invitees, and such loss or damage 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 and the Unit Owner who is responsible for the act causing the damage (whether done by himself or by his family, guests or invitees) shall be required to pay such portion of the cost of such maintenance, repair and replacement as shall, by reason of the applicability of any provision of such insurance for the payment of a deductible or by any other reason, exceed the amount of the insurance proceeds applicable to such maintenance, repair or replacement.

XXI.

INSURANCE, AUTHORITY TO PURCHASE

Insurance policies upon the Condominium (other than title insurance) shall be purchased by the Association in the name of the Association, as trustees for the Unit Owners and their respective mortgagees as their interests may appear, and shall provide for the issuance of certificates or memoranda of insurance to the Association and, upon written request, to any Unit Owner or mortgagee endorsements or to the holders of first mortgages on the Units or any of them. Each Unit Owner may obtain insurance, at his own expense, affording coverage upon his Unit, his personal property and for his personal liability and as may be permitted or required by law, but all such insurance shall contain the same waiver of subrogation as that referred to above if the same is available.

XXII.

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

A. Commencing not later than the time of the first conveyance of a Unit to a person other than a declarant, the following insurance coverage shall be maintained in full force and effect by the Association covering the operation and management of the Condominium:

1. Single entity condominium casualty insurance covering the Common Elements and Units, except such personal property as may be owned by the Unit Owners, shall be procured in an amount equal to 100% of the current replacement cost (exclusive of excavation, foundations, streets and parking facilities) as determined annually by the insurance company affording such coverage. Such policy shall contain an Agreed Amount Endorsement or an Inflation Guard Endorsement, if available. By way of

illustration and not of limitation, such casualty insurance shall cover fixtures, installations or additions, or equal replacements thereof, comprising a part of the building within each individual Unit (as that term is defined in Article III hereof) and shall include fixtures, equipment and other property within the Units which are customarily financed by a first lien mortgage on the Unit. In determining the total amount of insurance coverage for such fixtures, installations or additions to be obtained (and not for the purpose of in any way limiting the liability of any insurance provider), the Executive Board of the Association shall annually set the standard allowance for such items as carpeting, bathroom and kitchen cabinets, wall covering, vinyl floor covering, ceramic tile, kitchen appliances, bookshelves, etc., which are customarily financed by a first lien mortgage on the Unit. By 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 Unit Owner (whether located within or without the Unit). 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; and (c) such other risks, if any, as are commonly required to be covered by prudent institutional mortgage investors in the area in which the Condominium is located.

2. A comprehensive policy of public liability insurance covering all of the Common Elements and public ways of the Condominium in amounts generally required by private institutional mortgage investors for condominiums similar in construction, location and age, but in no event less than One Million Dollars ($1,000,000.00), for claims for personal injury and/or property damage arising out of a single occurrence, such coverage to include protection against legal liability of the insureds against property damage (including water damage, if available), bodily injuries and deaths of persons in connection with the operation, maintenance or use of the common elements, liability for non-owned and hired automobiles, liability arising out of lawsuits related to employment contracts of the Association and such other risks customarily covered with respect to condominiums similar in construction, location and age.

3. The Executive Board 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.

Any such fidelity bonds shall name the Association as an obligee; shall be written in an amount not less than the estimated maximum of funds, including reserve funds, in the custody of the Association or the management agent, as the case may be, at any given time during the term of each bond (but in no event shall the aggregate amount of such bonds be less than a sum equal to three (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 canceled or substantially modified (including cancellation for non-payment of premium) without at least thirty (30) days prior written notice to the Association and to any Institutional Lender who has given the notice required under Article XXXI of this Declaration.

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

5. Any other insurance coverage required by law.

B. Insurance policies carried pursuant to subsections A(1) and A(2) of this Article must provide that:

1. Each Unit Owner is an insured person under the policy with respect to liability arising out of his interest in the Common Elements or membership in the Association.

2. The insurer waives its right to subrogation under the policy against any Unit Owner or members of his household.

3. No act or omission by any Unit Owner, unless acting within the scope of his authority on behalf of the Association, will preclude recovery under the policy.

4. If, at the time of a loss under the policy, there is other insurance in the name of a Unit Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

5. The insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or non-renewal has been mailed to the Association, to each Unit Owner and to each mortgagee or beneficiary under a deed of trust to whom certificates or memoranda of insurance have been issued at their respective last known addresses.

C. Premiums upon insurance policies purchased by the Association shall be paid by the Association as Common Expenses to be assessed and collected from all of the Unit Owners.

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

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

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

G. Notwithstanding any of the foregoing provisions and requirements relating to property or liability insurance, there may be named as an insured, on behalf of the Association, the Association's authorized representative, including any trustee with whom the Association may enter into any insurance trust agreement or any successor to such trustee, who shall have exclusive authority to negotiate losses under any policy providing such property or liability insurance and to perform such other functions as are necessary to accomplish this purpose.

XXIII.

RECONSTRUCTION OR REPAIR OF CASUALTY DAMAGE

A. If any part of the Condominium for which the Association is required to maintain insurance pursuant to North Carolina General Statutes § 47C-3-113 shall be damaged by casualty, the damaged area shall be reconstructed or repaired by the Association unless:

(1) The Condominium is terminated as provided in Article XXVIII hereof; or

(2) Repair or replacement would violate any state or local health or safety statute or ordinance; or

(3) The Unit Owners, by a vote of the Unit Owners to which are allocated at least eighty percent (80%) of the Allocated Interests in the Common Elements (including the Unit Owners to which are allocated at least eighty percent (80%) of the Allocated Interest in the Common Elements not allocated to a declarant and one hundred percent (100%) of the Owners of Units which shall not be rebuilt or whose Limited Common Elements shall not be restored) and the holders of first mortgage or deed of trust liens on the Units, by a vote of at least two-thirds (2/3rds) of such holders (based on one (1) vote for each first mortgage or deed of trust lien held), determine not to rebuild or restore all or any portion of the damaged area.

B. In the event the Condominium is terminated, insurance proceeds shall be distributed to the Unit Owners and their mortgagees as their interests may appear, in proportion to the respective interests of the Unit Owners and their mortgagees as set forth in Paragraph D of Article XXVIII of this Declaration.

C. Any reconstruction or repair shall be performed substantially in accordance with the plans and specifications contained herein and on file with and approved by the City of Raleigh or other appropriate local governmental authority.

D. If the damage is only to those parts of one or more Units for which the responsibility for maintenance and repair is that of such Unit Owner(s), then such Unit Owner(s) shall be responsible for reconstruction and repair after casualty. In all other instances, the responsibility of reconstruction and repair after casualty shall be that of the Association.

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

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

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

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

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

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

H. Each Unit Owner shall be deemed to have delegated to the Executive Board of the Association his right to adjust with insurance companies all losses under policies purchased by the Association and to have appointed the Association as his or her representative in any related proceedings, negotiations, settlements, or agreements. Each Unit Owner shall be deemed to have appointed the Association his or her attorney-in-fact for such purposes.

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

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

XXIV.

CONDEMNATION OF COMMON ELEMENTS OR UNITS

The provisions of Section 47C-1-107 of the North Carolina Condominium Act, as the same is in effect from time to time, shall control the distribution of any condemnation award arising from the acquisition by eminent domain of any portion of the Condominium and any reallocation of a Unit's Allocated Interest necessitated by such acquisition. To the extent any award arising from the condemnation of any portion of the Condominium is paid to the Association and such award is to be distributed to one or more of the Unit Owners by the

Association, the Association shall distribute such award to the Unit Owners and their mortgagees as their interests may appear, in proportion to the respective interests of the Unit Owners and their mortgagees as set forth in Paragraph D of Article XXVIII of this Declaration; provided, however, any portion of the award attributable to the condemnation of a limited common element must be apportioned among the Unit Owners of the Units to which that Limited Common Element is attached and their mortgagees. If any portion of a condemnation award is payable to the Association under subsection (c) of Section 47C-1-107 of the North Carolina Condominium Act, each Unit Owner shall be deemed to have delegated to the Executive Board of the Association his right to adjust with the condemning authority all awards arising from such condemnation and to have appointed the Association as his or her representative in any related proceedings, negotiations, settlements, or agreements. Each Unit Owner shall be deemed to have appointed the Association his or her attorney-in-fact for such purposes.

XXV.

ASSOCIATION TO MAINTAIN REGISTER OF UNIT OWNERS AND MORTGAGEES

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

XXVI.

ASSESSMENTS: LIABILITY, LIEN AND ENFORCEMENT

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

A. Unless specifically otherwise provided for in this Declaration, all assessments levied by the Association shall be in such an amount that any assessment levied against a Unit

Owner and his Unit shall bear the same ratio to the total assessment made against all Unit Owners and their Units as the Allocated Interest in the Common Elements appurtenant to each Unit bears to the total Allocated Interest in the Common Elements appurtenant to all Units (rounded off as deemed appropriate by the Executive Board and as necessary to allow the Two Bedroom Units to be assessed equally); provided, however, that any portion of the Common Expense which, in the opinion of the Executive Board, was incurred on behalf of or benefited fewer than all Unit Owners may be assessed solely against the Unit Owners so benefited, in such proportions as the Executive Board, in its sole discretion, shall determine.

The foregoing notwithstanding, until sixty (60) days after the first Unit is conveyed by Declarant, the annual assessments allocated to unsold Units owned by Declarant that are not occupied shall be twenty-five percent (25%) of the annual assessments which otherwise would be allocated to such Units.

In the event utility services which are provided to Unit Owners are charged to and paid for by the Association, the cost of such utilities shall be a part of the Common Expenses and levied against each Unit Owner in proportion to his Unit's share of the Allocated Interest, or in such other proportions as the Executive Board, in its sole discretion, shall determine.

B. Assessments provided for herein shall be payable in monthly installments, paid in advance, as determined by the Executive Board of the Association. Such assessments shall commence for each Unit on the first day of the first month following the recordation of this Declaration in the Wake County Registry.

C. In addition to the annual assessment authorized above, the Executive Board may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of the Common Elements, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of Unit Owners of Units to which two-thirds (2/3rds) of the Allocated Interest in the Common Elements are assigned, voting in person or by proxy at a meeting duly called for such purpose.

D. The Executive Board of the Association shall establish an annual budget in advance for each fiscal year (which shall correspond to the calendar year, except that in the initial year of operation of the Condominium, the fiscal year shall commence with the closing of the sale of the first Unit). Such budget shall project all expenses for the forthcoming year which may be required for the proper operation, management and maintenance of the Condominium, including a reasonable allowance for contingencies and reserves, and the budget shall take into account projected anticipated income which is to be applied in reduction of the amounts required to be collected as an assessment each year. The Executive Board shall keep separate, in accordance with paragraph "F" of this Article XXVI, items relating to operation and maintenance from items relating to capital improvements. Within thirty (30) days after adoption of the budget by the Executive Board, the Executive Board shall provide a copy of said budget or a summary thereof to each Unit Owner and shall set a date for a meeting of the Unit Owners to consider ratification of the budget not less than 14 nor more than 30 days after mailing of the budget or summary to the Unit Owners. There shall be no requirement that a quorum be present at the meeting. The budget is deemed ratified unless at the meeting the Unit Owners entitled to cast seventy-five (75%) of the votes of the Association rejects the budget. In the event the

Executive Board fails to propose a budget or the proposed budget is rejected the annual budget last ratified shall be continued until such time as the Unit Owners ratify a subsequent budget proposed by the Executive Board.

E. Until December 31st of the year in which the first Unit is conveyed to an Owner other than Declarant, the maximum amount of the annual assessment that may be levied against each Two Bedroom Unit shall be Ninety-Five and No/100 Dollars ($95.00) and the maximum amount of the annual assessment that may be levied against each Three Bedroom Unit shall be One Hundred Ten and No/100 Dollars ($110.00). From and after January 1 of the year immediately following the conveyance of the first Unit to a Unit Owner other than Declarant, unless otherwise provided by a majority vote of the Executive Board of the Association, the maximum amount of the annual assessment that may be levied against each Unit shall automatically increase each year by ten percent (10%) above the maximum amount for the previous year without a vote of the membership of the Association. From and after January 1 of the year immediately following the conveyance of the first Unit to a Unit Owner other than Declarant, the maximum amount of the annual assessment that may be levied against each Unit may be increased above ten percent (10%) by a vote of the Unit Owners to whom sixty-seven percent (67%) or more of the Allocated Interest in the Common Elements have been assigned who are voting in person or by proxy, at a meeting duly called for such purpose.

F. The Executive Board of the Association, in establishing the annual budget for operation, management and maintenance of the Condominium, shall designate therein a sum to be collected and maintained as a reserve fund for replacement of and improvements to the Common Elements which the Association is obligated to maintain (the "Reserve 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 Elements, as well as the replacement of portions of the Common Elements. The amount to be allocated to the Reserve Fund shall be established by the Executive Board so as to collect and maintain a sum reasonably necessary to anticipate the need for replacement of Common Elements. The amount collected for the Reserve Fund may be maintained in a separate account by the Association and such monies shall be used only to make capital improvements to Common Elements. Any interest earned on monies in the Reserve Fund may, in the discretion of the Executive Board of the Association, be expended for current operation and maintenance. Each Unit Owner shall be deemed to own a portion of the Reserve Fund equal to his Units Allocated Interest in the Common Elements and the Association shall annually notify each Unit Owner of the amount of his balance in the Reserve Fund. However, such funds shall be expended only as directed by the Executive Board of the Association and shall not be subject to withdrawal by a Unit Owner and no Unit Owner shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his Unit.

G. 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 the Condominium Documents. As monies for any assessment are paid to the Association by any Unit Owner, the same may be commingled with monies paid to the Association by the other Unit Owners. Although all funds and common surplus, including other assets of the Association, and any increments thereto or profits derived therefrom or from the leasing or use of Common Elements, shall be held for the benefit of the members of the Association, no member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his Unit. When a Unit Owner shall cease to be a member of the Association by reason of his divestment of ownership of such Unit, by whatever means, the Association shall not be required to account to such Unit Owner for any share of the funds or assets of the Association, or which may have been paid to the Association by such Unit Owner, as all monies which any Unit Owner has paid to the Association shall be and constitute an asset of the Association which may be used in the operation and management of the Condominium.

H. The payment of any assessment or installment thereof shall be in default if such assessment or installment is not paid to the Association within thirty (30) days of the due date for such payment. When in default, the delinquent assessment or delinquent installment thereof due to the Association shall bear interest at the rate of twelve percent (12%) per annum until such delinquent assessment or installment thereof, and all interest due thereon, has been paid in full to Association. Any assessment levied pursuant to this Declaration, or any installment thereof, which is not paid within ten (10) days after it is due, shall be subject to such reasonable late charge per month for each monthly assessment in arrears as the Executive Board may from time to time fix. All monies owing to the Association shall be due and payable at the main office of Association in the State of North Carolina.

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

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

K. Recognizing that proper operation and management of the Condominium requires the continuing payment of costs and expenses therefor, and that such proper operation and management results in benefit to all of the Unit Owners, and that the payment of such Common Expenses represented by the assessments levied and collected by the Association is necessary in order to preserve and protect the investment of each Unit Owner, the Association is hereby granted a lien upon each Unit and its appurtenant Allocated Interest, which lien shall secure and does secure the monies due for all assessments now or hereafter levied against the Unit Owner of each such 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 late charges, fines and all costs and expenses, including reasonable attorneys' fees, which may be incurred by the Association in enforcing this lien upon said Unit and its appurtenant Allocated Interest in the Common Elements. The lien granted to the Association may be foreclosed in the same manner that real estate deeds of trust and mortgages may be foreclosed under power of sale under the laws of the State of North Carolina, and in any suit for the foreclosure of said lien, the

Association shall be entitled to a reasonable rental from the Unit Owner of any Unit from the date on which the payment of any assessment or installment thereof became delinquent, and shall be entitled to the appointment of a receiver for said Unit. The lien granted to the Association shall further secure such advances for taxes, and payments on account of superior mortgages, liens or encumbrances which may be required to be advanced by the Association in order to preserve and protect its lien, and the Association shall further be entitled to interest at the rate of twelve percent (12%) per annum on any such advances made for such purpose. All persons, firms or corporations who shall acquire, by whatever means, any interest in the ownership of any Unit, or who may be given or acquire a mortgage, lien or other encumbrance thereon, are hereby placed on notice of the lien rights granted to the Association, and shall acquire such interest in any Unit expressly subject to such lien rights.

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

The lien provided for herein shall be subordinate to: (i) any liens and encumbrances recorded before the docketing of the lien (including any mortgage or deed of trust); and (ii) liens for real estate taxes and other governmental assessments or charges against the Unit. In addition, the lien provided for herein shall be subordinate to the lien of any first mortgage or deed of trust. Any person, firm or corporation acquiring title to any Unit and its appurtenant Allocated Interest in the Common Elements by virtue of any foreclosure of a first deed of trust, deed in lieu of foreclosure of a first deed of trust or judicial sale relating to a first deed of trust, shall be liable and obligated only for assessments as shall accrue and become due and payable for said Unit and its Allocated Interest in the Common Elements subsequent to the date of acquisition of such title, and it shall not be liable for the payment of any assessments which were in default and delinquent at the time it acquired such title. In the event of the acquisition of title to a Unit by foreclosure, deed in lieu of foreclosure or judicial sale, any assessment or assessments as to which the party so acquiring title shall not be liable shall be absorbed and paid by all Unit Owners as a part of the Common Expense, including such purchaser, its heirs, successors and assigns, although nothing herein contained shall be construed as releasing the party liable for such delinquent assessment from the payment thereof or the enforcement of collection of such payment by means other than foreclosure.

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

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

N. 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.

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

P. In order to help insure that the Association will have sufficient monies available to meet unforeseen expenditures, to purchase any additional equipment or services or for long-term capital improvements and repairs to the Condominium, the Association has established a working capital fund. At the time of the closing of the first sale of each Unit to a purchaser other than Declarant, the purchaser thereof shall pay into such fund an amount equal to two-twelfths (2/12ths) 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. The working capital fund shall be maintained by the Association as a segregated fund. The working capital fund shall not be available for use by Declarant to defray any of its expenses, reserve contributions, or construction costs or to make up any budget deficits while Declarant is in control of the Association. 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.

XXVII.

COMMON SURPLUS

"Common Surplus," meaning all funds and other assets of the Association (including excess of receipts of the Association, including but not limited to assessments, rents, profits and revenues from whatever source) over amount of the Common Expenses, shall be owned by the Unit Owners in the same proportion that the Allocated Interest in Common Elements appurtenant to each Unit Owner's Unit bears to the total of all Allocated Interest in Common Elements appurtenant to all Units. The Common Surplus shall be held by the Association in the manner prescribed in, and subject to, the terms, provisions and conditions of this Declaration; provided, however, that the Association shall have the sole discretion as to whether any distribution of

Common Surplus should be made to Unit Owners and, if so, when. Nothing in this Article shall require periodic distributions of Common Surplus. Except for distribution of any insurance proceeds as 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 current Unit Owners in accordance with their Allocated Interest.

XXVIII.

TERMINATION

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

A. Except in the case of a taking of all of the Units by eminent domain, the termination of the Condominium may be effected only by the agreement of the Unit Owners to which are allocated at least eighty percent (80%) of the Allocated Interests in the Common Elements (including the Unit Owners to which are allocated at least eighty percent (80%) of the Allocated Interest in the Common Elements not allocated to a declarant), expressed in a termination agreement to that effect executed in the same manner as a deed; and, provided, that the holders of at least two-thirds (2/3rds) of all first mortgage or deed of trust liens affecting the Units (based on one (1) vote for each first mortgage or deed of trust lien held) consent thereunto, or agree, in either case by instrument duly recorded, that their liens be transferred to the percentage of the Allocated Interest of the Unit Owner in the Condominium as provided in subparagraph "C" below, and provided further that so long as a declarant retains the right to designate and select a majority of the persons who shall serve as members of each Executive Board of the Association, Declarant consents thereto in writing by instrument duly recorded. The termination agreement shall become effective when it has been recorded in the public records of Wake County, North Carolina, and shall specify a date after which it will be void unless then recorded.

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

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

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

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

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

XXIX.

AMENDMENT OF DECLARATION OF CONDOMINIUM

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

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

B. Except to the extent expressly permitted or required by the North Carolina Condominium Act or by other provisions of this Declaration, no amendment to this Declaration may create or increase special Declarant rights, increase the number of Units, or change the boundaries of any Unit, the Allocated Interest appurtenant to a Unit, or the uses to which any Unit is restricted, without the unanimous consent of all of the Owners of all Units and the consent of Institutional Lenders holding first mortgages or deeds of trust on the Units required pursuant to Article XXXI hereof.

C. No material alteration, amendment or modification of this Declaration, the Articles of Incorporation or Bylaws of the Association shall become effective without the consent of the Institutional Lenders (as hereinafter defined) who represent at least fifty-one percent (51%) of the votes of the Units that are subject to mortgages held by Institutional Lenders. Any change to the provisions of this Declaration, the Articles of Incorporation or Bylaws that affects any of the following shall be deemed material: voting rights; increases in assessments that raise the previously assessed amount by more than 25%, assessment liens, or the priority of assessment liens; reductions in reserves for maintenance, repair, and replacement of Common Elements; responsibility for maintenance and repairs; reallocation of interests in the Common Elements or Limited Common Elements, or rights to their use; redefinition of any Unit boundaries; convertibility of Units into Common Elements or vice versa; expansion or contraction of the Condominium, or the addition, annexation or withdrawal of property to or from the Condominium; hazard or fidelity insurance requirements; imposition of any restrictions on leasing of Units; imposition of any restrictions on a Unit Owner's right to sell or transfer his or her Unit; a decision by the Association to establish self management if professional management had been required previously by this Declaration, the Articles or the Bylaws of the Association or by an Institutional Lender; restoration or repair of the Condominium (after damage or partial condemnation) in a manner other than that specified herein; or any provisions that expressly benefit Institutional Lenders. Notwithstanding the foregoing, however, if an Institutional Lender fails to submit a response to any written proposal for an amendment within thirty (30) days after it receives proper notice of the proposal, delivered by certified or registered mail, with a "return receipt" requested, the consent and approval of such Institutional Lender shall be implied.

D. No alteration, amendment or modification of the rights and privileges granted and reserved hereunder in favor of Declarant shall be made without the written consent of Declarant being first had and obtained.

XXX.

REMEDIES IN EVENT OF DEFAULT

The Unit Owner(s) of each Unit shall be governed by and shall comply with the provisions of Condominium Documents. A default by any Unit Owner shall entitle the Association or the Unit Owner of any other Units to the following relief:

A. Failure to comply with any of the terms of the Condominium Documents shall be grounds for relief including without limitation an action to recover sums due for damages, injunctive relief, foreclosure of lien, or any combination thereof. Such relief may be sought by the Association, in the sole discretion of its Board of Directors, or, if appropriate, by an aggrieved Unit Owner.

B. As provided herein and in the Bylaws of the Association, each Unit Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness, or by that of any member of his family, or his or their guests, employees, agents or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy or abandonment of a Unit or its appurtenances. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation.

C. The Bylaws of the Association provide that the Association may fine a Unit Owner in an amount not to exceed One Hundred Fifty Dollars ($150.00) for each violation of the Condominium Documents, or may assess liability against a Unit Owner in an amount not to exceed Five Hundred Dollars ($500.00) for any occurrence of damage to Common Elements caused by a Unit Owner which is not covered by the Association's insurance. As set forth in the Bylaws, a hearing for the accused Unit Owner must be held before an adjudicatory panel appointed by the Association, which panel shall accord to the party charged with the violation: (i) notice of the charge; (ii) opportunity to be heard and to present evidence; and (iii) a notice of the decision. Any such fine or liability assessment shall be both the personal obligation of the Unit Owner against whom the fine is assessed and a lien upon the Unit of such Unit Owner and its appurtenant Allocated Interest, to the same extent as the assessments described in Article XXVI hereof.

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

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

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

G. All rights, remedies and privileges granted to the Association or the Unit Owners, pursuant to any terms, provisions, covenants or conditions of the Declaration or other above mentioned documents, shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be available to such party at law or in equity.

H. The failure of Declarant to enforce any right, privilege, covenant or condition which may be granted to it by this Declaration or other above mentioned document shall not constitute a waiver of the right of Declarant to thereafter enforce such right, provision, covenant or condition in the future.

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

XXXI.

RIGHTS RESERVED UNTO INSTITUTIONAL LENDERS; RIGHTS RESERVED UNTO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND THE DEPARTMENT OF VETERANS AFFAIRS.

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 Department of Veterans Affairs, the Federal Housing Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and other eligible insurers and governmental guarantors having given notice to the Association as hereinafter provided. 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 Unit or Units, or shall be the owner of any Unit or Units, such Institutional Lender or Institutional Lenders shall have the following rights:

1. To be given notice by the Association of any change in the company or companies with whom casualty insurance is placed and notice of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association and to be furnished copies of all such policies.

2. To examine, at reasonable times and upon reasonable notice, the books and records of the Association and to be furnished at least one copy of the annual financial statement and report of the Association, prepared by an independent accountant designated by the Association, such financial statement and report to be furnished by May 15 of each calendar year.

3. To be given notice by the Association of the call of any meeting of the membership to be held for the purpose of considering any action which requires the consent or approval of a specified percentage of eligible mortgage holders, including, without limitation: (1) any proposed Amendment to this Declaration, or the Articles of Incorporation and Bylaws of the Association which requires the consent or approval of a specified percentage of eligible mortgage holders; (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 action being proposed.

4. To be given notice of any delinquency in the payment of any assessment or charge (which delinquency remains uncured for a period of sixty (60) days) by any Unit Owner owning a Unit encumbered by a mortgage or deed of trust held by such Institutional Lender, such notice to be given in writing and to be sent to the principal office of such Institutional Lender, or to the place which it may designate in writing.

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

Whenever any Institutional Lender or Institutional Lenders desire the provisions of this Declaration 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 Unit or Units upon which any such Institutional Lender holds any mortgage or mortgages, or identifying any Units owned by it, together with sufficient pertinent facts to identify any mortgage or mortgages which may be held by it, and which notice shall designate the place to which notices are to be given by the Association to such Institutional Lender.

B. So long as Declarant retains the right to appoint a majority of the members of the Executive Board of the Association as set forth in Article XXXII hereof and provided loans insured by the Department of Housing and Urban Development and/or the Department of Veterans Affairs encumber one or more Units within the Condominium, the prior approval of the Department of Housing and Urban Development and/or the Department of Veterans Affairs, as the case may be, must be obtained before taking any of the following actions: material amendment of the Articles of Incorporation or the Bylaws of the Association or of this Declaration; annexation of properties not described in this Declaration; dedication of any

Common Elements; merger or consolidation of the Association or of the Condominium; encumbrance of any of the Common Elements; and dissolution of the Association.

XXXII.

RIGHT OF DECLARANT TO REPRESENTATION ON EXECUTIVE BOARD OF THE ASSOCIATION

Declarant shall have the right to designate and select all of the persons who shall serve as members of each Executive Board of the Association for the period commencing on the date the Association is formed and ending on the earlier of: (i) one hundred twenty (120) days after the conveyance of seventy-five percent (75%) of the units [i.e., seventy-five percent (75%) of one hundred eighty-eight (188) Units] to Unit Owners other than a declarant; (ii) two (2) years after Declarant has ceased to offer Units for sale in the ordinary course of business; (iii) five (5) years from the date of recording of this Declaration; or (iv) such earlier time as may be required under the North Carolina Condominium Act; provided, however:

A. Not later than 60 days after conveyance of twenty-five percent (25%) of the units (i.e., twenty-five percent (25%) of one hundred eighty-eight (188) Units) to Unit Owners other than a declarant, at least one member and not less than twenty-five percent (25%) of the members of the Executive Board shall be elected by Unit Owners other than the Declarant; and

B. Not later than 60 days after conveyance of fifty percent (50%) of the units (i.e., fifty percent (50%) of one hundred eighty-eight (188) Units) to Unit Owners other than a declarant, not less than thirty-three percent (33%) of the members of the Executive Board shall be elected by Unit Owners other than the declarant.

In the event of dissolution of Declarant at a time when it is the Unit Owner of a Unit, then the rights of the Declarant under this Article shall pass to and may be exercised by its successors receiving ownership of any such Unit in dissolution. Declarant may voluntarily surrender the right to appoint and remove members of the Executive Board before termination of the period hereinabove provided, but in that event Declarant may require, for the duration of the period of Declarant control, that specified actions of the Association or Executive Board, as described in a recorded instrument executed by the Declarant, be approved by Declarant before they become effective.

Whenever Declarant shall be entitled to designate and select any person or persons to serve on any Executive Board of the Association, the manner in which such person or persons shall be designated shall be as provided in the Articles of Incorporation and/or Bylaws of the Association, and Declarant shall have the right to remove any person or persons selected by it to act and serve on said Executive Board and to replace such person or persons with another person or other persons to act and serve in the place of any member or members of the Executive Board so removed for the remainder of the unexpired term of any member or members of the Executive Board so removed. Any Executive Board Member designated and selected by Declarant need not be a resident in the Condominium. However, Declarant shall be responsible for the payment of any assessments which may be levied by the Association against any Unit or Units owned by Declarant in accordance with the term of this Declaration, and for complying with the remaining terms and provisions hereof applicable to the Declarant in the same manner as any other Unit Owner.

XXXIII.

SEVERABILITY

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

XXXIV.

LIBERAL CONSTRUCTION

The provisions of this Declaration 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.

XXXV.

DECLARATION OF CONDOMINIUM BINDING
ON ASSIGNS AND SUBSEQUENT UNIT OWNERS

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

XXXVI.

AGENT FOR SERVICE OF PROCESS

Daniel Mid-Atlantic Properties II, LLC, whose address is 8601 Six Forks Road, Suite 270, Raleigh, Wake County, North Carolina 27615 will serve as the initial Registered Agent of the Association.

XXXVII.

CONTRACT RIGHTS OF ASSOCIATION

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

IN WITNESS WHEREOF, **DANIEL MID-ATLANTIC PROPERTIES II, LLC** has caused this Declaration of Condominium for Cottages of Stonehenge to be executed this 8th day of July, 2003.

DANIEL MID-ATLANTIC PROPERTIES II, LLC, a North Carolina limited liability company

By: DANIEL REALTY COMPANY, an Alabama general partnership
Its sole Member

By: DANIEL EQUITY COMPANY, LLC, an Alabama limited liability company
Its Managing Partner

By: DANIEL REALTY CORPORATION, an Alabama corporation
Its Manager

By: Christopher A. Brown
Name: Christopher A. Brown
Title: Sr. Vice President

STATE OF ALABAMA

COUNTY OF JEFFERSON

I, Sheila D. Ellis, Notary Public, certify that Christopher A. Brown (Name) personally came before me this day and acknowledged that he/she is Sr. Vice President of Daniel Realty Corporation, an Alabama corporation, said entity being the Manager of Daniel Equity Company, LLC, an Alabama limited liability company, said entity being the Managing Partner of Daniel Realty Company, an Alabama general partnership, said entity being the Sole Member of Daniel Mid-Atlantic Properties II, LLC, a North Carolina limited liability company, and that he/she, as Sr. Vice President being authorized to do so, executed the foregoing on behalf of the corporation, as Manager of Daniel Equity Company, LLC, the Managing Partner of Daniel Realty Company, the Sole Member of Daniel Mid-Atlantic Properties II, LLC.

Witness my hand and official seal, this the 8th day of July, 2003.

My commission expires: 3/30/2006

Sheila D. Ellis
Notary Public

SHEILA D. ELLIS NOTARY PUBLIC

EXHIBIT "A"

All that real property located in Wake County, North Carolina and more particularly described on Exhibit A to that certain Special Warranty Deed from Sterling Apartments, LLC, as grantor, to Daniel Mid-Atlantic Properties II, LLC, recorded in Book 9505, Page 0045, in the Office of the Register of Deeds, Wake County, North Carolina.

CONSENT AND SUBORDINATION

WACHOVIA BANK, NATIONAL ASSOCIATION, a national banking association ("Lender"), as holder of the indebtedness secured by a Deed of Trust on the property described in this Declaration of Condominium, said Deed of Trust being recorded in Book 9505, Page 052 of the Wake County Registry, and **TRSTE, INC.,** as Trustee under said Deed of Trust, join in the execution hereof for the purpose of subjecting the aforesaid Deed of Trust to the terms and provisions of this Declaration of Condominium.

WACHOVIA BANK, NATIONAL ASSOCIATION,
a national banking association

By: L Andrew Holland
L. Andrew Holland, SV President

TRSTE, INC., a Virginia corporation

By: [signature]
VP, President

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, the undersigned, a Notary Public of said County and State, do hereby certify that L. ANDREW HOLLAND personally appeared before me this day and acknowledged that he is the S. V. President of **WACHOVIA BANK, NATIONAL ASSOCIATION**, a national banking association, and that by authority duly given, and as the act of the corporation, the foregoing instrument was signed in its name by him/her on behalf of said corporation and acknowledged said writing to be the act and deed of said corporation.

WITNESS my hand and official seal or stamp, this the 9th day of JULY, 2003.

Carol E. Alley
Notary Public

My Commission Expires:
3-6-07

[SEAL or STAMP]

CAROL E. ALLEY NOTARY PUBLIC WAKE COUNTY, N.C.

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, the undersigned, a Notary Public of said County and State, do hereby certify that ROBERT SONNHALTER personally appeared before me this day and acknowledged that he is the VICE President of **TRSTE, INC.**, a Virginia corporation, and that by authority duly given, and as the act of the corporation, the foregoing instrument was signed in its name by him/her on behalf of said corporation and acknowledged said writing to be the act and deed of said corporation.

WITNESS my hand and official seal or stamp, this the 9th day of JULY, 2003.

Carol E. Alley
Notary Public

My Commission Expires:
3-6-07

[SEAL or STAMP]

CAROL E. ALLEY NOTARY PUBLIC WAKE COUNTY, N.C.

EXHIBIT "B"

UNITS' ALLOCATED INTEREST IN COMMON ELEMENTS

Unit Designation	Unit Style	Allocated Interest
Building 1		
7601	2 bedroom	0.509%
7603	2 bedroom	0.509%
7605	3 bedroom	0.597%
7607	2 bedroom	0.509%
7609	2 bedroom	0.509%
Building 2		
7612	2 bedroom	0.509%
7614	2 bedroom	0.509%
7616	3 bedroom	0.597%
7618	2 bedroom	0.509%
7620	2 bedroom	0.509%
Building 3		
7613	2 bedroom	0.509%
7615	2 bedroom	0.509%
7617	3 bedroom	0.597%
7619	2 bedroom	0.509%
7621	2 bedroom	0.509%
Building 4		
7624	3 bedroom	0.597%
7626	2 bedroom	0.509%
7628	2 bedroom	0.509%
7630	2 bedroom	0.509%
7632	3 bedroom	0.597%
7634	2 bedroom	0.509%
Building 5		
7625	2 bedroom	0.509%
7627	3 bedroom	0.597%
7629	2 bedroom	0.509%
7631	3 bedroom	0.597%

Unit Designation	Unit Style	Allocated Interest
7633	2 bedroom	0.509%
7635	2 bedroom	0.509%
Building 6		
7639	2 bedroom	0.509%
7641	2 bedroom	0.509%
7643	3 bedroom	0.597%
7645	2 bedroom	0.509%
7647	2 bedroom	0.509%
7649	2 bedroom	0.509%
Building 7		
7925	2 bedroom	0.509%
7927	2 bedroom	0.509%
7929	2 bedroom	0.509%
7931	2 bedroom	0.509%
7933	3 bedroom	0.597%
Building 8		
7913	2 bedroom	0.509%
7915	2 bedroom	0.509%
7917	3 bedroom	0.597%
7919	2 bedroom	0.509%
7921	2 bedroom	0.509%
Building 9		
7912	2 bedroom	0.509%
7914	3 bedroom	0.597%
7916	2 bedroom	0.509%
7918	2 bedroom	0.509%
7920	2 bedroom	0.509%
7922	3 bedroom	0.597%
Building 10		
7900	3 bedroom	0.597%
7902	2 bedroom	0.509%
7904	2 bedroom	0.509%
7906	2 bedroom	0.509%
7908	2 bedroom	0.509%

Unit Designation	Unit Style	Allocated Interest
Building 11		
2400	2 bedroom	0.509%
2402	3 bedroom	0.597%
2404	2 bedroom	0.509%
2406	2 bedroom	0.509%
2408	2 bedroom	0.509%
Building 12		
2412	3 bedroom	0.597%
2414	2 bedroom	0.509%
2416	2 bedroom	0.509%
2418	2 bedroom	0.509%
2420	2 bedroom	0.509%
Building 13		
2424	2 bedroom	0.509%
2426	3 bedroom	0.597%
2428	2 bedroom	0.509%
2430	3 bedroom	0.597%
2432	2 bedroom	0.509%
2434	2 bedroom	0.509%
Building 14		
2447	2 bedroom	0.509%
2449	2 bedroom	0.509%
2451	3 bedroom	0.597%
2453	2 bedroom	0.509%
Building 15		
2435	2 bedroom	0.509%
2437	2 bedroom	0.509%
2439	3 bedroom	0.597%
2441	2 bedroom	0.509%
2443	2 bedroom	0.509%
Building 16		
2423	2 bedroom	0.509%
2425	2 bedroom	0.509%
2427	3 bedroom	0.597%

Unit Designation	Unit Style	Allocated Interest
2429	2 bedroom	0.509%
2431	3 bedroom	0.597%
Building 17		
2411	2 bedroom	0.509%
2413	2 bedroom	0.509%
2415	2 bedroom	0.509%
2417	2 bedroom	0.509%
2419	3 bedroom	0.597%
Building 18		
2401	2 bedroom	0.509%
2403	2 bedroom	0.509%
2405	3 bedroom	0.597%
2407	2 bedroom	0.509%
Building 19		
7823	2 bedroom	0.509%
7825	3 bedroom	0.597%
7827	2 bedroom	0.509%
7829	2 bedroom	0.509%
7831	2 bedroom	0.509%
7833	3 bedroom	0.597%
Building 20		
7812	2 bedroom	0.509%
7814	2 bedroom	0.509%
7816	2 bedroom	0.509%
7818	2 bedroom	0.509%
7820	3 bedroom	0.597%
Building 21		
7800	3 bedroom	0.597%
7802	2 bedroom	0.509%
7804	3 bedroom	0.597%
7806	2 bedroom	0.509%
7808	2 bedroom	0.509%

Unit Designation	Unit Style	Allocated Interest
Building 22		
7811	2 bedroom	0.509%
7813	2 bedroom	0.509%
7815	3 bedroom	0.597%
7817	2 bedroom	0.509%
7819	2 bedroom	0.509%
Building 23		
7801	2 bedroom	0.509%
7803	2 bedroom	0.509%
7805	3 bedroom	0.597%
7807	2 bedroom	0.509%
Building 24		
7783	2 bedroom	0.509%
7785	2 bedroom	0.509%
7787	3 bedroom	0.597%
7789	2 bedroom	0.509%
7791	3 bedroom	0.597%
7793	2 bedroom	0.509%
Building 25		
7771	2 bedroom	0.509%
7773	2 bedroom	0.509%
7775	3 bedroom	0.597%
7777	2 bedroom	0.509%
7779	2 bedroom	0.509%
Building 26		
7757	2 bedroom	0.509%
7759	2 bedroom	0.509%
7761	3 bedroom	0.597%
7763	2 bedroom	0.509%
7765	3 bedroom	0.597%
7767	2 bedroom	0.509%
Building 27		
7756	3 bedroom	0.597%
7758	2 bedroom	0.509%

Unit Designation	Unit Style	Allocated Interest
7760	2 bedroom	0.509%
7762	2 bedroom	0.509%
7764	3 bedroom	0.597%
7766	2 bedroom	0.509%
Building 28		
7744	2 bedroom	0.509%
7746	2 bedroom	0.509%
7748	3 bedroom	0.597%
7750	2 bedroom	0.509%
7752	2 bedroom	0.509%
Building 29		
7734	2 bedroom	0.509%
7736	3 bedroom	0.597%
7738	2 bedroom	0.509%
7740	2 bedroom	0.509%
Building 30		
7722	2 bedroom	0.509%
7724	2 bedroom	0.509%
7726	2 bedroom	0.509%
7728	2 bedroom	0.509%
7730	3 bedroom	0.597%
Building 31		
7712	2 bedroom	0.509%
7714	3 bedroom	0.597%
7716	2 bedroom	0.509%
7718	2 bedroom	0.509%
Building 32		
7700	2 bedroom	0.509%
7702	2 bedroom	0.509%
7704	3 bedroom	0.597%
7706	2 bedroom	0.509%
7708	2 bedroom	0.509%

Unit Designation	Unit Style	Allocated Interest
Building 33		
7743	2 bedroom	0.509%
7745	2 bedroom	0.509%
7747	3 bedroom	0.597%
7749	2 bedroom	0.509%
7751	3 bedroom	0.597%
7753	2 bedroom	0.509%
Building 34		
7729	2 bedroom	0.509%
7731	2 bedroom	0.509%
7733	3 bedroom	0.597%
7735	2 bedroom	0.509%
7737	2 bedroom	0.509%
7739	2 bedroom	0.509%
Building 35		
7715	2 bedroom	0.509%
7717	2 bedroom	0.509%
7719	3 bedroom	0.597%
7721	2 bedroom	0.509%
7723	3 bedroom	0.597%
7725	2 bedroom	0.509%
Building 36		
7701	2 bedroom	0.508%
7703	2 bedroom	0.508%
7705	3 bedroom	0.597%
7707	2 bedroom	0.508%
7709	3 bedroom	0.597%
7711	2 bedroom	0.508%

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

WAKE COUNTY NORTH CAROLINA

North Carolina - Wake County

The foregoing certificates of Sheila D. Ellis
Carol E. Alley

________ Notary(ies) Public is (are) certified to be correct. This instrument and this certificate are duly registered at the date and time and in the book and page shown on the first page hereof.

Laura M. Riddick, Register of Deeds

By: Veronica S Pearson
~~Assistant/D~~eputy Register of Deeds Deputy

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WAKE COUNTY
NORTH CAROLINA

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

North Carolina - Wake County

The foregoing certificate___ of ______________________________

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_________ Notary(ies) Public is (are) certified to be correct. This instrument and this certificate are duly registered at the date and time and in the book and page shown on the first page hereof.

Laura M. Riddick, Register of Deeds

By: ______________________
Assistant/Deputy Register of Deeds

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