

WAKE COUNTY, NC 18
TAMMY L. BRUNNER
REGISTER OF DEEDS
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Prepared by and return to: Lori P. Jones, P.O. Box 10669, Raleigh, NC 27605

NORTH CAROLINA

DECLARATION OF CONDOMINIUM
FOR MY WAY AT BENGAL TOWNE
CENTRE CONDOMINIUM

COUNTY OF WAKE

**THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF
POLITICAL SIGNS, AND THE FLAG OF THE UNITED STATES OF AMERICA
OR THE STATE OF NORTH CAROLINA PER SECTION 7.2(f)**

THIS DECLARATION OF CONDOMINIUM FOR MY WAY AT BENGAL TOWNE
CENTRE CONDOMINIUM (the "Declaration") is made this 1st day of December, 2023,
by FV 4 Bengal LLC, a North Carolina limited liability company ("Declarant").

WITNESSETH

WHEREAS, Declarant is the owner of certain real property located in Wake County,
North Carolina, more particularly described on Exhibit A attached hereto and made a part hereof
and as further shown upon the Plans as defined herein (the "Property"); and

WHEREAS, Declarant desires to create a mixed-use condominium known as My Way at
Bengal Towne Centre, which project may include, but is not limited to, commercial and retail
facilities including restaurants, and residential dwellings including condominiums; and

WHEREAS, Declarant executes this Declaration for the purpose of submitting the
Property to the Act and the provisions of this Declaration; and

WHEREAS, the Property has been developed as a part of that development known as Bengal Towne Centre and is also subject to that Master Declaration of Covenants, Conditions and Restrictions for Bengal Towne Centre recorded in Book 17597, Page 2227 of the Register of Deeds of Wake County, which was thereafter amended and supplemented, including in Book 18990, Page 752 and Book 18990, Page 916 of the Register of Deeds of Wake County;

NOW, THEREFORE, Declarant hereby declares that all of the Property shall be held, sold, and conveyed subject to the terms of the Act as modified and supplemented by the easements, restrictions, covenants, uses, limitations, and obligations set forth below, which shall run with the land and be binding on all parties having any rights, title, or interest in the land or any part thereof, their heirs, successors and assigns, and further that the Property is hereby subjected to the terms of the Master Declaration except to the extent modified herein.

ARTICLE I ESTABLISHMENT OF CONDOMINIUM OWNERSHIP

1.1 Submission. Declarant submits the Property, the improvements and appurtenances thereto to condominium ownership pursuant to the provisions of the Act, and declares that the Property shall be subject to the uses, restrictions, covenants, easements, limitations, obligations, and governing authority set forth in this Declaration as it may be amended, and in the Master Declaration, as it may be amended, except to the extent modified herein.

1.2 Name. The Property and improvements thereon shall be known as the My Way at Bengal Towne Centre Condominium.

1.3 Association. The name of the Association shall be the My Way at Bengal Towne Centre Owners Association, Inc.

1.4 Division of Property into Separately Owned Units. Declarant intends to divide the Property into seventy-eight (78) Residential Units and up to (10) Commercial Units as described herein and shown on the Plans and does hereby designate such Units for separate ownership in accordance with the Act and this Declaration.

ARTICLE II DEFINITIONS

The following definitions shall be applicable to this Declaration:

2.1 "Allocated Interest" means the undivided interest in the Common Elements, the Common Expense Liability and the Votes in the Association allocated to each Unit.

2.2 "Association" means that non-profit corporation, the name of which shall be the My Way at Bengal Towne Centre Owners Association, Inc., which shall manage the Condominium as specified in this Declaration and its corporate Bylaws and the Act.

2.3 “Board of Directors” or “Board” means those persons elected or appointed and acting collectively as the directors of the Association, and on behalf of the Association, as prescribed in the Declaration and the Bylaws.

2.4 “Building” means the mixed-use building situation on the Property, as described in the Plans, including all Common Areas and Limited Common Areas.

2.5 “Bylaws” means the Bylaws of the Association as they now or hereafter exist.

2.6 “Commercial Limited Common Elements” shall mean and refer to the Common Elements that are reserved for the exclusive use of the Commercial Master Unit or the Commercial Units. The Commercial Limited Common Elements shall include, without limitation, all ground floor terraces and any mechanical or electrical rooms or systems serving only the Commercial Master Unit or Commercial Units. The Commercial Limited Common Elements may be further allocated for the exclusive use of a particular Commercial Unit as shown on the Plans or described herein.

2.7 “Commercial Master Unit” shall mean and refer to the one (1) Unit that is identified as such on the Plans, and that is more particularly described in this Declaration, which is restricted to commercial use. The Commercial Master Unit may be subdivided by Declarant into a maximum of ten (10) Commercial Units.

2.8 “Commercial Units” shall mean and refer to the commercial condominium units into which the Commercial Master Unit may be subdivided. Until such time as the Commercial Master Unit is subdivided into individual Commercial Units, the term “Commercial Unit” will refer to the Commercial Master Unit.

2.9 “Commercial Unit Owner” shall mean the record titleholder of a Commercial Unit, but the term does not include a Person holding an interest in a Commercial Unit solely as security for an obligation. Until such time as the Commercial Master Unit is subdivided into individual Commercial Units, the term “Commercial Unit Owner” will refer to the record titleholder of the Commercial Master Unit.

2.10 “Common Elements” shall mean and refer to all parts of the Condominium, other than the Commercial Units and Residential Units, as depicted on the Plans, and as further defined in this Declaration.

2.11 “Common Expenses” means expenditures made by or financial liabilities of the Association, together with any allocations to reserves. Common Expenses include, without limitation: all sums lawfully assessed against the Owners by the Association; expenses of administration, maintenance, repair, or replacement of the Common Elements including the cost of any management company engaged by the Association; expenses agreed upon as Common Expenses by the Association; expenses declared to be Common Expenses by the provisions of the Act, the Declaration or by the Bylaws; hazard, and such other insurance premiums as the Act, the Declaration and/or Bylaws may require or allow the Association to purchase; taxes and

public assessments levied against the Common Elements not otherwise assessed against the Units; and any utilities which serve the Common Elements.

2.12 “Common Expense Liability” means the liability for Common Expenses allocated to each Unit.

2.13 “Condominium” shall mean all Condominium Units, the Common Elements and any Limited Common Elements and all appurtenances to the Property.

2.14 “Condominium Unit” or “Unit” shall mean and refer to that physical portion of the Condominium designated for separate ownership or occupancy, the boundaries of which are more particularly described herein. The term “Unit” refers collectively to Commercial Units and Residential Units unless otherwise stated. Mechanical equipment, stairways and appurtenances located within any Unit and designed to serve only that Unit, such as appliances, cabinets, fixtures and the like shall be part of the Unit. Heating and air conditioning systems serving a single Unit shall also be deemed to be part of the Unit, wherever located.

2.15 “Declarant” means shall mean and refer to FV 4 Bengal LLC, a North Carolina limited liability company, and any successor or assign to whom Declarant assigns its interest as Declarant hereunder in whole or in part by instrument recorded in the Wake County Registry, including any person or entity which succeeds to any Special Declarant Rights as set forth herein.

2.16 “Declarant Control Period” means the period commencing on the date of the recording of this Declaration and continuing until the earliest of (i) two (2) years after the Declarant has ceased to offer all Units for sale in the ordinary course of business, (ii) the date one hundred twenty (120) days after the Declarant has conveyed seventy-five percent (75%) of the Units to Owners other than the Declarant, or (iii) two (2) years after any Special Declarant Rights to add new Units was last exercised.

2.17 “Declaration” or “Declaration of Condominium” means this instrument including all exhibits attached hereto, as it or they may be amended or supplemented.

2.18 “Development Period” means that period commencing upon the recording of this Declaration and continuing until Declarant no longer owns a Condominium Unit.

2.19 “Development Rights” means those rights reserved by Declarant herein to create Units, Common Elements, Limited Common Elements within the Condominium, or other rights as may be provided in this Declaration or the Act.

2.20 “Lessee” means any person entitled to present possession of a leased Unit, whether Lessee, sublessee or assignee.

2.21 “Life Safety Systems” means those systems designed to protect the Building and its occupants from emergencies, including but not limited to, pumps, control valves, smoke

alarms, horns, strobes, emergency lighting, smoke evacuation or exhaust systems, sprinklers (including stand pipes, fire pumps and control valves, foremen's control and enunciator panels and related facilities), call boxes, emergency generators and other related improvements, devices and equipment, and all ducts, conduits, pipes, lines, wiring and all similar components and other utilities, wiring sensors or service lines connected.

2.22 "Limited Common Elements" means those Common Elements allocated for the exclusive use of less than all of the Units by this Declaration including, but not limited to, the following:

(a) Any chute, flue, duct, wire, conduit, bearing wall, bearing column, or any other fixture lying partially within and partially outside of the designated boundaries of a Unit and serving only that Unit. Subject to the preceding sentence, all spaces, interior partitions, and other fixtures and improvements within the boundaries of a Unit are a part of the Unit.

(b) Any shutters, awnings, window boxes, doorsteps, stoops, decks, porches, balconies, patios, and all exterior doors and windows or other fixtures designed to serve a single Unit but located outside the Unit's boundaries.

(c) Any other area designated on the Plans as Limited Common Elements.

2.23 "Master Association" means the Bengal Towne Centre Master Owners Association, Inc., a North Carolina non-profit corporation, its successors and assigns.

2.24 "Master Declaration" means Master Declaration of Covenants, Conditions and Restrictions for Bengal Towne Centre recorded in Book 17597, Page 2227 of the Register of Deeds of Wake County, which was thereafter amended and supplemented, including in Book 18990, Page 752 and Book 18990, Page 916 of the Register of Deeds of Wake County as the same may be supplemented or amended from time to time.

2.25 "Mortgagee" shall mean and refer to the owner and holder of the indebtedness secured by a first mortgage or deed of trust constituting a lien on a Unit that has notified the Association in writing of its name and address, that it holds a mortgage or deed of trust on a Unit, and that it desires to be given the notices and other rights described in this Declaration.

2.26 "Member" shall mean and refer to every person or entity who holds membership in the Association.

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

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

2.29 "Plans" means collectively the plats and plans of the Property recorded in Condominium File 203, Pages 216-238 in the Wake County Registry, and any additional plans related to the Condominium recorded by Declarant.

2.30 "Property" means the real estate described on Exhibit A, together with all buildings and improvements now or hereafter constructed or located thereon, and all rights, privileges, easements and appurtenances belonging to or in any way pertaining to said real estate.

2.31 "Residential Limited Common Elements" shall mean and refer to the Common Elements that are reserved for the exclusive use of the Residential Units or exclusively serve the Residential Units. The Residential Common Elements shall include, without limitation, the elevator lobby, elevators, stairwells, corridors, and hallways shown on the Plans.

2.32 "Residential Units" shall mean and refer to the seventy-eight (78) residential condominium units as shown on the Plans.

2.33 "Residential Unit Owner" shall mean and refer to the record titleholder of a Residential Unit, but the term does not include a Person holding an interest in a Residential Unit solely as security for an obligation.

2.34 "Special Declarant Rights" means those rights, including Development Rights, permitted by the Act or reserved in this Declaration.

2.35 "Unit Boundaries" means the walls, floors or ceilings that form the boundaries of each Unit, both as to vertical and horizontal planes, as shown on the Plans.

(a) The boundaries of the Commercial Unit shall be the unfinished interior surfaces of its perimeter walls (e.g., drywall, brick, glass or concrete board), the unfinished interior surfaces of the floors, and the unfinished interior surface of the fire-rated ceiling. All lath, flooring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished flooring, and any other materials constituting any part of the finished surfaces thereof are a part of the Unit. Also included within and forming a part of the Commercial Master Unit are the following: all signs and lighting attached to the exterior of the Commercial Unit and any exterior canopies, or their replacements, located above the Commercial Units.

(b) The boundaries of each Residential Unit shall be the horizontal plane of the topmost surface of the wallboard in the originally constructed ceilings within the Unit; the horizontal plane of the top surface of the subflooring beneath the Unit; and the vertical planes which include the back surface of the wallboard of all walls bounding the Unit, extended to intersections with each other, and with the upper and lower boundaries. All lath, flooring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the

finished flooring, and any other materials constituting any part of the finished surfaces thereof are a part of the Unit. Any heating or air conditioning system serving a single Unit shall be deemed a part of the Unit whether located inside or outside the Unit Boundaries.

2.36 “Unit Designation” means the identifying number, letter, symbol or combination thereof designating a Unit and set forth in this Declaration and the Plans.

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

ARTICLE III DESCRIPTION OF PROPERTY AND IMPROVEMENTS

3.1 Property. The legal description of the Property upon which the existing building and improvements are located is set forth in Exhibit A to this Declaration, which is incorporated herein by reference.

3.2 Unit Designation. The Unit Designations are shown on the Plans.

3.3 Other Information. The Building location, Unit Boundaries, Common Elements, Limited Common Elements, utility lines, easements, ground elevations, building elevations, and other land and construction information are shown on the Plans or described in this Declaration.

3.4 Maximum Units. The maximum number of Units in the Condominium shall be seventy-eight (78) Residential Units and ten (10) Commercial Units. All Units are located within one building.

ARTICLE IV OWNERSHIP OF UNITS AND APPURTENANT ALLOCATED INTEREST IN COMMON ELEMENTS

4.1 Allocated Interest. Each Unit shall be held, conveyed and treated as an individual property capable of independent use and fee simple ownership, and the Owner of each Unit shall also own an appurtenant undivided interest in the Common Elements. The Allocated Interest appurtenant to each Unit is provided in Exhibit B. At all times the Residential Units shall be allocated, as a whole, eighty-five percent (85%) of the undivided interest in the Common Elements, to be broken down among Units on an equal basis. The Commercial Unit(s) shall be allocated, as a whole, fifteen percent (15%) of the undivided interest in the Common Elements, to be broken down among Units based on the percentage the square footage of each Commercial Unit bears to the square footage of all Commercial Units.

4.2 Change in Allocated Interests. Changes in the Allocated Interest shall be made in the event of condemnation; as may result from a casualty loss; as may occur because of exercise of Development and Special Declarant Rights reserved by Declarant herein; or as otherwise

permitted by this Declaration or the Act. Upon any creation of additional Commercial Units, the Allocated Interest shall be reduced so that each Commercial Unit then subjected to this Declaration shall have the Allocated Interest in the Common Elements which is calculated as set forth herein, and a new Exhibit B shall be recorded.

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

ARTICLE V SPECIAL DECLARANT RIGHTS RESERVED

During the Development Period, the Declarant reserves the following Special Declarant Rights with respect to the Condominium:

5.1 The right to complete the Condominium in accordance with the Plans filed, Plans as may hereafter be filed and other plans which may be approved by Wake County for the development.

5.2 The right to maintain models, management offices, and sales offices for management of the Condominium or sales of Units as follows: (a) one or more Units may be used as models and/or management or sales offices; (b) Declarant shall have the right to relocate, discontinue and reestablish any one or more of such offices or models; (c) Declarant shall have the right to change the use or combination of uses of such offices or models; and (d) Declarant may maintain signs on the Common Elements advertising the Condominium and the Units for so long as Declarant owns a Unit or any of the Annexation Property.

5.3 Declarant reserves the right of access, ingress and egress through the Common Elements for the purpose of discharging Declarant's obligations or exercising Special Declarant Rights. Without limiting the foregoing, Declarant specifically reserves the right and an alienable easement for itself, its successors and assigns, to go upon the Common Elements for the purpose of constructing improvements upon the Annexation Property.

5.4 Declarant reserves an easement over the Common Elements for the installation, repair and maintenance of any and all utilities including electrical, telephone, cable, water, sewer, gas, and stormwater facilities.

5.5 Subject to the provisions of the Act and this Declaration, Declarant shall appoint and elect members of the Board; name and appoint officers of the Association; and otherwise control the activities of the Board and Association as set forth in the Act.

5.6 Subject to the provisions of the Act, Declarant shall have the right to unilaterally alter Unit Boundaries, combine Units, allocate and reallocate ownership interests in the Common Elements and the Limited Common Elements and the Common Expense Liability and change Unit

Designations; provided, however, any and all such alterations and changes shall be applicable only to Units owned by the Declarant and shall not change the Unit Boundaries, Allocated Interest, Common Expense Liability or Unit Designations of Units theretofore conveyed by Declarant.

5.7 Notwithstanding any other provisions of this Declaration and the Bylaws and in addition to the Special Declarant Rights, the Association may maintain an office in the Condominium for management of the Condominium both before and after the sale of all Units to someone other than the Declarant, and both during and after the Development Period.

5.8 Declarant has the right to unilaterally amend the Declaration during the Development Period, except where expressly prohibited by the Act.

ARTICLE VI
SUBDIVIDING AND RELOCATING BOUNDARIES
OF ADJOINING UNITS; SEPARATE CONVEYANCE OF
APPURTENANT COMMON ELEMENTS PROHIBITED

6.1 Recombination of Units and Relocation of Unit Boundaries. Units may be recombined and/or Unit Boundaries may be relocated if allowed by all relevant codes, ordinances, and regulations of all regulatory and governmental bodies having jurisdiction over the Condominium. Any such change must have the written approval of the Declarant during the Development Period, and thereafter the Board. The Association, at the expense of the Owners requesting a recombination or relocation, shall prepare, execute and record revised Plans depicting the recombined Units and an amendment to the Declaration reflecting and approving the recombination or relocation. The amendment to the Declaration must be executed by the Owners of the Units to be recombined or relocated and the Association, assign identifying numbers to each of the Units created, reallocate the Allocated Interest formerly allocated to the altered Units to the new Units in the same manner as set forth on Exhibit B and must be recorded in the Wake County Registry.

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

6.3 Instrument of Conveyance. Any conveyance, mortgage or other instrument which purports to grant any title, right, interest or lien in, to or upon a Unit, shall be null, void and of no effect to the extent it attempts or purports to separate the Unit from the Allocated Interest, it being the intention of this Declaration that ownership cannot be separated.

6.4 Joint Ownership Not Prohibited. Nothing herein contained shall be construed as limiting or preventing ownership of any Unit and its appurtenant Allocated Interest in the

Common Elements by more than one person as tenants in common, joint tenants, or as tenants by the entirety.

ARTICLE VII RESTRICTIONS ON USE AND OCCUPANCY

The Units, Common Elements and Limited Common Elements are subject to the restrictions, easements, conditions and covenants contained herein governing their use and the obligations and responsibilities incident to ownership of each Unit and its appurtenant Allocated Interest in the Common Elements. Units, Common Elements and Limited Common Elements are further declared to be subject to the Master Declaration. The Association shall have the exclusive right to establish rules and regulations related to the use of the Common Elements, Limited Common Elements, and Units.

7.1 Zoning.

(a) Residential Units: Each Residential Unit is hereby restricted to use by the Owner, and the Owner's employees, servants, guests, invitees and Lessees, for those residential uses and purposes permitted in the zoning district in which the Condominium is located and as limited by this Declaration and excluding those uses permitted therein only upon obtaining a special use permit or variance.

(b) Commercial Units: Each Commercial Unit is hereby restricted to use by the Owner, and the Owner's employees, servants, guests, invitees and Lessees, for those commercial or retail uses and purposes permitted in the zoning district in which the Condominium is located and as limited by this Declaration and excluding those uses permitted therein only upon obtaining a special use permit or variance. Provided, however, with the prior written consent of the Declarant during the Development Period, and thereafter the Board, an Owner may seek a variance or special use permit and upon obtaining the same may engage in those uses of the Unit permitted by such variance or special use permit subject to the further restrictions of this Article. Upon obtaining a special use permit or variance, the Owner shall file a copy thereof with the Board.

A Commercial Unit owned by Declarant may be utilized for any use permitted under applicable zoning ordinances. If the Commercial Unit is owned by anyone other than Declarant, the following uses shall not be permitted, even if otherwise permitted by local zoning ordinance:

- (i) residential lodging, including, but not limited to, living quarters, apartments, sleeping areas, hotel, motel, hostel, or other type of residential lodging;
- (ii) tattoo or piercing shop;
- (iii) an establishment where the primary business is the offering of pornographic or "adult" materials or paraphernalia, including, but not limited to, movies, videos, devices, novelties, books,

- magazines, and other items, or for the offering of adult entertainment;
- (iv) “head shops” or other facilities used for the sale, display or advertisement of any paraphernalia used in the preparation or consumption of controlled substances; vape shops; smoke shops; or similar enterprises;
 - (v) pool hall, video game room, sweepstakes parlor, arcade, betting or gaming facility, or similar business or enterprise;
 - (vi) automotive supplies and parts shop, automotive repair shop, or gas station;
 - (vii) mortuary or funeral home;
 - (viii) warehouse, but excluding storage incidental to the operation of a permissible business;
 - (ix) manufacturing or industrial operation;
 - (x) laundry or dry-cleaning business;
 - (xi) thrift store, pawn shop, liquidation outlet, flea market or similar establishment;
 - (xii) auditorium, meeting hall, music venue, theater, or dance club, provided that this provision shall not prohibit a retail establishment from having piped in or live music ancillary to its primary business.

No Commercial Unit shall remain open for business after 2:00 a.m. Except as otherwise specifically provided in this Declaration, no Owner or occupant of a Commercial Unit shall have any right of access to any portion of the Residential Limited Common Elements or Residential Units except for ingress and egress through the elevator lobby, corridor to the mail center, the mail center and adjacent lobby located on the ground floor of the Building as shown on the Plans.

7.2 Additional Use Restrictions. In addition to the restrictions set forth above, the following restrictions shall also apply to the Condominium:

(a) **Residential Use.** Except as otherwise set forth herein, no Residential Unit may be used for any purpose other than residential use and other purposes ancillary to such use. No Residential Unit may be used for business or trade or commercial purposes, except that any

Residential Unit may be used for home office purposes by the resident(s) of said Unit, provided that the primary use is residential, no business customers of the resident(s) visit the Unit, and the resident(s) does not advertise the address of the Unit as a business address.

(b) Residential Leases. All lease agreements between an Owner and a Lessee for the lease of a Residential Unit shall be in writing and shall provide that the terms of the lease shall be subject in all respects to this Declaration and to any rules and regulations promulgated by the Association. The lease agreement shall state that any failure by the Lessee to comply with the terms thereof shall be a default under the terms of the lease. The Association may enact additional reasonable rules and regulations governing the leasing of Residential Units, including a requirement that copies of leases be provided to the Association, that Lessee's contact information be provided to the Association, and that Lessee's vehicle information be provided to the Association.

(c) Commercial Leases. So long as Declarant owns any Unit within the Condominium, no commercial space may be leased unless and until Declarant has approved in writing the business or enterprise to be conducted by the Lessee. Declarant may, in its sole discretion, deny approval of any business or other enterprise that Declarant believes is not in harmony with existing businesses, is not desirable in the opinion of the Declarant, or that otherwise is deemed to be unsuitable in the sole opinion of Declarant.

(d) Timeshare. No interest in any Unit may be subjected to a timeshare program, as that term is defined in N.C. Gen. Stat. § 93A-41(10).

(e) Pets and Animals. No pets are permitted in Units that are being leased for less than a six (6) month term. In owner-occupied Units or Units that are leased for six (6) months or longer, no animals, livestock, or poultry of any kind shall be kept or maintained in any Unit except that a maximum of two (2) common household pets not to exceed one hundred pounds collectively in weight may be kept or maintained in each Unit, provided they are not kept or maintained for commercial purposes. No pet shall be permitted upon the Common Elements unless carried or leashed by a person that can control the pet, and in no event may any savage or dangerous pet be kept within any Unit or Common Elements. All pets shall be controlled so as not to create a nuisance or unreasonable disturbance (including loud and excessive barking) whether inside or outside the Condominium. Pets shall not at any time be left unattended nor tied or chained in the Common Elements or any deck or balcony. Pet owners are responsible for the immediate removal and proper disposal of any pet waste. All pets shall be licensed and inoculated as required by law and shall be registered with the Association. Each Owner shall hold the Association harmless from any claim resulting from any action of such Owner's pet or the pet of any occupant of such Owner's Unit or portion thereof, and shall repair at the Owner's expense any damage to the Common Elements caused by such pet. The Association shall have the right to promulgate additional rules and regulations governing pet ownership that may further limit the number, size, type and conduct of the pets. In the event of any violation of these covenants or any additional rules and regulations regarding pet ownership promulgated by the Association, and in addition to any fines or other enforcement measures provided for herein or

by law, the Association shall have the right to require the immediate removal of the pet permanently from the Condominium.

(f) Signs.

(i) Residential Units. No signs, banners, flags or other advertising devices, including without limitation "For Sale" and "For Rent" signs and political signs shall be displayed on or about the exterior of any Residential Unit including windows or balconies, Limited Common Elements, or Common Elements; provided, however, during the Development Period Declarant shall have the right to erect and maintain signs within the Common Elements or any Unit owned or leased by Declarant for the purpose of advertising and promoting the sale of Units within the Condominium.

(ii) Commercial Units. Owners of Commercial Units shall have the right to install one or more exterior identification signs or awnings in conformance with applicable sign ordinances and the Master Sign Plan for Bengal Towne Centre on file with the Town of Fuquay-Varina. However, no signs, banners, flags or other advertising devices or awnings shall be displayed on or about the exterior of any Commercial Unit unless approved by Declarant during the Development Period, and thereafter by the Board of Directors of the Association, which approval shall not be unreasonably withheld. The care, maintenance and repair of each sign permitted by this section shall be the sole responsibility of the Owner whose Unit is benefited by such sign and all such signs shall be kept in good order, repair and appearance. Such Owner shall solely be responsible to the Association for any damage or waste to the Common Elements upon which such sign is attached. Additionally, such Owner shall hold harmless and indemnify the Association from any and all claims, damages, expenses, reasonable attorneys' fees, costs and/or causes of action filed against or incurred by the Association as a result of or arising out of the installation, maintenance, and use and/or removal of any such sign. Notwithstanding the foregoing, the Board may prohibit any sign which is not related to the business being conducted at the Unit. No political signs are permitted.

(g) Electrical Usage. Total electrical usage in any Unit shall not exceed the capacity of the circuits for that Unit as labeled on the circuit breaker boxes, and no electrical device causing overloading of the standard circuits may be used in any Unit without permission of the Association. All clothes dryers will have lint filters, and all range hoods will have grease screens, and such screens and filters shall be used at all times and kept clean and in good order and repair by the Owner of the Unit in which they are located.

(h) Garage Sales. No Owner may utilize a Unit or the surrounding area, including the Common Elements and any Limited Common Elements, for any form of garage or yard sale.

(i) Dishes and Antennae. Satellite dishes greater than one meter in diameter are prohibited. Satellite dishes one meter in diameter or less may only be placed in areas under the exclusive control of the Owner and may not extend into or be placed on the Common Elements (including the roof and Building exterior). Installation is not permitted on any

Common Elements. Dishes and accompanying equipment should be painted to the extent possible to match the exterior of the Building or to blend in with the surrounding area where located. Owners are solely responsible for maintaining satellite dishes and all related equipment. No other exterior radio antennae, television antennae, or other electronic signal-receiving or transmitting equipment shall be placed, allowed, or maintained upon any portion of the Property, including any Unit, without approval of the Board, except that the following may be installed if located wholly within the Unit or wholly within an area under the exclusive control of the Owner: (i) an antenna that is one meter or less in diameter or diagonal measurement and is designed to receive video programming services via broadband radio service (wireless cable) or to receive or transmit fixed wireless signals other than via satellite, or (ii) an antenna that is designed to receive local television broadcast signals.

(j) Parking. The underground garage in the Condominium contains thirty-nine (39) parking spaces ("Residential Parking Spaces") which shall be reserved for the use of Residential Unit Owners. Declarant reserves the right to allocate some or all of the Residential Parking Spaces as Limited Common Elements intended for the exclusive use of specific Residential Units. Upon assignment of such Parking Spaces, Declarant shall record specific plats or a supplement to this Declaration setting forth said allocation by Unit. Each allocated parking space may be used only by the Owner of the Unit to which the parking space is allocated, and the Owner's guests, agents, family members, and invitees. Residential Parking Spaces that are not allocated to a specific Unit by Declarant (if any) shall be part of the Residential Common Elements, but the Association shall have the right to lease the same to individual Residential Unit Owners upon terms and conditions acceptable to the Board of Directors. The Association shall maintain, repair and replace all components of the Residential Parking Spaces as deemed necessary in the opinion of the Board; however, the cost of the same shall be assessed against those Owners to whom specific parking spaces have been allocated.

The surface parking area located on the Property is reserved for the non-exclusive use of Residential Unit Owners and Commercial Unit Owners and their guests, agents and invitees. The surface parking area shall be a Common Element of the Association and maintenance and repair thereof shall be a Common Expense.

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

7.4 Offensive Uses Prohibited. 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 Owner shall permit or suffer anything to be done or kept in the Owner's Unit, or in the Common Elements, which is a hazardous waste or material or which will increase the rate of insurance on the Condominium or cause cancellation of a policy of insurance therein, or which will obstruct or interfere with the rights of other occupants of the

Condominium or annoy them by unreasonable noises, nor shall any Owner undertake any use or practice which shall create and constitute a nuisance to any other Owner of a Unit, or which interferes with the peaceful possession and proper use of any other Unit or the Common Elements.

ARTICLE VIII
RIGHT OF OWNERS TO ALTER AND MODIFY CONDOMINIUM
UNITS; NO RIGHT TO ALTER COMMON ELEMENTS

8.1 Interior Alterations. Except as otherwise provided in this Declaration, an Owner may make any interior improvements or interior alterations to a Unit that do not impair the structural integrity or mechanical systems or lessen the support of any portion of the Condominium without permission of the Association or any other person.

8.2 Window Coverings and Lighting: In Residential Units, (a) all interior window coverings which are visible from the exterior of any Unit must be approved by Declarant during the Development Period and thereafter by the Board and (b) all interior light bulbs or fixtures shall be restricted to only being of a white or frosted white coloring and shall emit lighting only in said color(s).

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

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

8.5 Common Elements Changes. No Owner or occupant, except Declarant during the Development Period, shall cause any object to be fixed to the Common Elements or to any Limited Common Element or in any manner change the appearance of the Common Elements or Limited Common Elements without the written permission of the Association being first had and obtained.

8.6 Permission of Board. The permission required of the Association in this Article shall be by written approval of a majority of the Board. The Board is authorized to appoint a committee for the purpose of reviewing the alterations, removals and proposed construction and making recommendations to the Board. Notwithstanding anything herein to the contrary, during the Development Period the Declarant shall approve all exterior changes to the Commercial Unit and the approval of the Board shall not be required.

ARTICLE IX

PERPETUAL NON-EXCLUSIVE EASEMENT IN COMMON EASEMENTS

9.1 Common Elements. The Common Elements are subjected to a perpetual, non exclusive easement in favor of all of the Owners for the use of the Owners, their servants, guests, invitees and Lessees, for all proper and normal purposes, including, but not limited to the right of access, ingress and egress to and from all public streets, and public walkways and over walkways and parking areas within the Common Elements, and for the furnishing of services and facilities for which the same are reasonably intended.

9.2 Rules and Regulations Related to Common Elements. The Association by and through the Board shall have the exclusive right to establish rules and regulations related to the use of the Common Elements; provided, however, that any rule or regulation impacting the Commercial Units must first have approval of Declarant during the Development Period, and thereafter the approval of a majority of Commercial Unit Owners.

9.3 Utilities. Each Owner shall have an easement in common with the Owners of all other Units to use all chutes, flues, pipes, wires, ducts, cables, conduits, and public utilities serving the Owner's Unit. Each Unit shall be subject to an easement in favor of the Owners of all other Units to use the chutes, flues, pipes, ducts, cables, wires, conduits, public utility lines, and other Common Elements serving such other Units and located in such Unit which shall specifically include installations which are part of or associated with the heating and air conditioning system serving a Unit.

9.4 Access. Subject to the provisions of this Declaration, the Association or its agents shall have a right of access to each Unit from time to time as may be necessary to inspect the Common Elements; to maintain, repair, or replace the Common Elements; and to make emergency repairs necessary to prevent damage to the Common Elements or to Units. Each Owner shall have an easement of access through all other Units and Limited Common Elements as may be reasonably necessary to maintain, repair and replace all components of mechanical systems serving the Owner's Unit and to maintain, repair, and replace portions of the Owner's Unit or Limited Common Elements.

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

ARTICLE X

EASEMENT FOR UNINTENTIONAL AND NON-NEGLIGENT ENCROACHMENTS

10.1 Present Encroachment. If any Unit encroaches upon any Common Element, or any other Unit or Units, for any reason not caused by the purposeful act of the Owner, an easement is granted to the extent and for the continuance of such encroachment for so long as such encroachment shall naturally exist. In the event any portion of the Common Elements shall

encroach upon any Unit, an easement appurtenant to such Common Elements for the continuance of such encroachment upon a Unit shall exist for so long as such encroachment shall naturally exist.

10.2 Encroachments upon Reconstruction. If any Unit or Common Element shall be partially or totally destroyed as a result of fire or other casualty, or as a result of condemnation or eminent domain proceedings, and if upon reconstruction of such Unit or Common Element, Common Element encroaches upon any Unit or of any Unit encroaches upon a Common Element or upon any other Unit, such encroachments shall be permitted and a valid easement for the maintenance thereof shall exist so long as such encroachments shall naturally remain.

ARTICLE XI RESTRAINT UPON PARTITION OF COMMON ELEMENTS

No Owner shall have the right to bring any action for partition or division of Common Elements and no Owner may bring an action for partition or division of a Unit unless the result of such action is that the Unit is sold or conveyed in its entirety and is not divided in kind.

ARTICLE XII CONVEYANCE OR ENCUMBRANCE OF COMMON ELEMENTS BY ASSOCIATION

Portions of the Common Elements may be conveyed or subjected to a security interest by the Association upon consent by Owners entitled to cast at least eighty percent (80%) of the votes in the Association at a meeting of the Association called therefore or as evidenced by the written consent of such Owners. The Association may contract to convey Common Elements, or subject them to a security interest, but the contract is not enforceable against the Association until approved by the requisite number of Owners. Thereafter the Association has the powers necessary and appropriate to effectuate the conveyance or encumbrance, including the power to execute deeds or other instruments. Any purported conveyance, encumbrance, judicial sale or other voluntary transfer of Common Elements, unless made pursuant to this Section, is void. A conveyance or encumbrance of Common Elements pursuant to this Section shall not deprive any Unit of its rights of access and support.

ARTICLE XIII ADMINISTRATION OF THE CONDOMINIUM

13.1 Association. The Association has been organized as a non-profit North Carolina corporation to administer the operation and management of the Condominium and undertake and perform all acts and duties incident thereto in accordance with the terms of its Articles of Incorporation and Bylaws.

13.2 Members. The Owner of each Unit shall automatically become a Member of the Association upon acquisition of an ownership interest to any Unit and its appurtenant Allocated Interest in the Common Elements. The membership shall terminate automatically upon the Owner being divested of such ownership interest to the Unit, regardless of the means by which

such ownership may be divested. No person 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 Association or to any of the rights or privileges of such membership.

13.3 Authority. Subject to the provisions of the Act, this Declaration and the Bylaws, the Association shall have, and is hereby granted, the authority and power to enforce the provisions of this Declaration of Condominium; to levy and collect assessments in the manner hereinafter provided; to adopt, amend, promulgate and enforce such rules and regulations governing the use of the Units and Common Elements as the Board may deem to be in the best interest of the Association; and to perform all other acts as may be authorized by this Declaration, the Articles of Incorporation, the Bylaws, the Act or Chapter 55A of the North Carolina General Statutes, commonly known as the Non-Profit Corporation Act.

13.4 Records Inspection. The Association shall make available at its office, or through its managing officer, during normal business hours, and upon reasonable notice and request, copies of the Declaration, Bylaws, and rules and regulations of the Association to Owners, mortgage lenders, or any Unit insurers, guarantors of such mortgage loans and holders of such mortgage loans, and shall, to the extent required by law, make available during such time books, records and financial statements for inspection by those persons. The Association may make a reasonable charge for providing access and for any copies requested or required.

ARTICLE XIV ASSESSMENTS; LIABILITY, LIEN AND ENFORCEMENT

14.1 Authority to Assess Owners. The Association is given the authority to administer the operation and management of the Condominium, it being recognized that the delegation of such duties to one entity is in the best interest of the Owners. To properly administer the operation and management of the Condominium, the Association will incur for the mutual benefit of all of the Owners, certain Common Expenses. To provide the funds necessary for such proper operation, management and capital improvement, the Association is granted the right to make, levy, and collect assessments against the 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 the Owners of all Units. Until the Association makes a Common Expense assessment, the Declarant shall pay all Common Expenses.

14.2 Basis of Assessments. Except for those assessments under Sections 14.14(a) through 14.14(i) or as otherwise provided in this Declaration, each Owner shall contribute as its share of the Common Expenses an amount equal to the Owner's Allocated Interest multiplied by the Common Expenses. Common Expenses for Limited Common Elements shall be assessed against only those Units to which the applicable Common Expenses are allocated; Common Expenses for Residential Limited Common Elements shall be assessed only against the

Residential Units; and Common Expenses for Commercial Limited Common Elements shall be assessed only against the Commercial Units.

14.3 Manner of Payment. Assessments provided for herein shall be payable in annual, quarterly or monthly installments, or in such other installments and at such times, as may be determined by the Board.

14.4 Commencement. In accordance with the Act, until the Association makes a Common Expense assessment, the Declaration shall pay all Common Expenses. After any assessment has been made by the Association, assessments thereafter must be made at least annually by the Association.

14.5 Annual Budget. The Board shall establish an annual budget in advance of each fiscal year which 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. Within thirty (30) days after adoption of any proposed budget for the Condominium, the Board shall provide a summary of the budget to all the Owners and shall set a date for a meeting of the Owners to consider ratification of the budget not less than fourteen (14) nor more than thirty (30) days after mailing of the summary. There shall be no requirement that a quorum be present at the meeting. The budget is ratified unless at that meeting ninety percent (90%) or more of all the Owners reject the budget. In the event the proposed budget is rejected, the periodic budget last ratified shall be continued until such time as the Owners ratify a subsequent budget proposed by the Board. The assessment for said year shall be established based upon such budget. The failure of an Owner to receive a copy of said budget shall not affect the liability of any Owner for such assessment.

14.6 Modification of Assessment. Should the Board at any time determine, in its sole discretion, that the assessments levied are, or may prove to be, insufficient to pay the costs of operation and management of the Condominium, or in the event of emergencies, the Board shall have the authority to levy such additional assessment or assessments it may deem to be necessary.

14.7 Accountability. All monies collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by the Association to the payment of any expense of operating and managing the Condominium, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration of Condominium, the Articles of Incorporation, the Bylaws of the Association or by applicable law. As monies for the assessment are paid into the Association by any Owner of a Unit, the same may be commingled with monies paid to the Association by the other Owners of Units. 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 the Unit. When the Owner shall cease to be a member of the Association

by reason of this divestment of ownership of such Unit, by whatever means, the Association shall not be required to account to such Owner for any share of the fund or assets of the Association, or which may have been paid to the Association by such Owner, as all monies which any Owner has paid to the Association shall be and constitute an asset of the Association which may be used in the operation and management of the Condominium.

14.8 Default Interest. 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 established by the Association for such payment. When in default, the delinquent assessment or delinquent installment thereof due to the Association shall bear interest at the rate established by the Association not to exceed eighteen percent (18%) per annum, commencing on the date of default and continuing until such delinquent assessment or installment thereof, and all interest due thereon, has been paid in full to the Association.

14.9 Late Payment Penalty. In addition to the accrual of default interest, the Association may impose a penalty for nonpayment of any assessment by the due date. Such penalty shall not exceed the greater of twenty dollars (\$20.00) per month or ten percent (10%) of any assessment installment unpaid and shall otherwise be subject to the provisions of the Act.

14.10 Liability of Owners for Assessments and Other Charges. The Owner 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 Owner or Owners of a Unit. In the event that any Owner is in default in payment of any assessment or installment thereof owed to the Association, such Owner shall be personally liable, jointly and severally, for interest and penalty on such delinquent assessment or installment thereof as above provided, and for all costs of collecting such assessment or installment thereof and interest thereon, including a reasonable attorney's fee, whether suit be brought or not.

14.11 No Exemption. No Owner may exempt himself from liability from any assessment levied against the Owner or the Owner's 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.

14.12 Assessments Against Specific Owners. Notwithstanding the requirement of Section 14.2 that assessments be levied against each Owner according to the Allocated Interest of each Owner, the Association shall assess:

(a) any Common Expense associated with the maintenance, repair, or replacement of a Limited Common Element against the Unit or Units to which that Limited Common Element is assigned; and,

(b) any Common Expense associated with the maintenance, repair, or replacement of a Commercial Limited Common Element against the Commercial Unit or Units to which that Commercial Common Element is assigned; and,

(c) any Common Expense associated with the maintenance, repair, or replacement of a Residential Limited Common Element against the Residential Unit or Units to which that Residential Common Element is assigned; and,

(d) any Common Expense, or portion thereof, benefiting fewer than all of the Units exclusively against the Units benefited; and,

(e) the cost of insurance against the Units in proportion to the risk if any Unit or Units can be reasonably determined to create a greater risk than any other; and,

(f) the cost of utilities, if not separately metered to each Unit, in proportion to usage if it can be reasonably determined that any Unit or Units use an unusually disproportionate share of any utility; and,

(g) the cost of any judgment against the Association against only the Units in the Condominium at the time the judgment was entered in proportion to their Common Expense Liabilities; and,

(h) any Common Expense caused by the misconduct of any Owner exclusively against the Owner; and,

(i) any fine or penalty or interest for any delinquent assessment installment exclusively against the Unit so charged.

IT IS THE EXPRESS INTENT OF THIS SECTION 14.14 THAT ALL EXPENSES BENEFITTING SOLELY THE RESIDENTIAL UNITS OR BENEFITTING SOLELY THE COMMERCIAL UNITS SHALL BE ASSESSED AGAINST THE UNIT(S) SO BENEFITTED.

14.13 Reallocation. If the Common Expense Liabilities are reallocated, the Common Expense assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated Common Expense Liabilities.

14.14 Assessment Lien Granted. Recognizing the proper operation and management of the Condominium requires the continuing payment of costs and expense thereof, and that such proper operation and maintenance results in benefit to all of the 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 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 Owner of each such Unit, which lien shall also secure penalties and interest, if any, which may be due on the amount of any delinquent assessments owing to the Association, and which lien shall also secure all costs and expenses, including a reasonable attorneys' fee, which may be incurred by the Association in enforcing this lien upon said Unit and its appurtenant Allocated Interest.

The lien granted to the Association may be foreclosed pursuant to the Act and in the same manner that real estate deeds of trust and mortgages may be foreclosed in the State of North Carolina, pursuant to Article 2A of Chapter 45 of the General Statutes and in any suit for the foreclosure of said lien, the Association shall be entitled to a reasonable rental from the 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 highest rate allowed by law on any such advances made for such purpose. All persons 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 thereof, 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.

14.15 Enforcement of Lien. The lien herein as granted unto the Association shall be enforceable pursuant to Article 2A of Chapter 45 of the General Statutes from and after the time of recording a Claim of Lien in the Office of the Clerk of the Superior Court in all counties in which the Condominium is located in the manner provided therefore by Article 8 of Chapter 44 of the North Carolina General Statutes, which claim shall state the description of the Unit encumbered hereby, the name of the record Owner, the amount due and 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.

14.16 Other Remedies. This Section does not prohibit the Association from bringing an action to recover sums due it as an assessment independent of any lien filed or claimed, nor does it prohibit the Association from taking a deed in lieu of foreclosure.

14.17 Judgments. Any judgment brought hereunder to enforce the lien or the collection of any assessment must include the costs and reasonable attorneys' fees for the prevailing party.

14.18 Lien Subordinate to Mortgage. The lien provided for herein shall be superior to all liens and encumbrances on a Unit except (i) liens and encumbrances, specifically including, but not limited to, a mortgage or deed of trust on the Unit, recorded before the filing of the claim of lien in the office of the clerk of superior court and (ii) liens for real estate taxes and other governmental assessments and charges against the Unit.

14.19 Statement of Assessments Due. Whenever any Unit may be leased, sold or mortgaged by the Owner thereof, the Association, upon written request of the Owner, shall furnish to the proposed Lessee, purchaser or mortgagee, a statement verifying the status of payment of any assessment which shall be due and payable to the Association by such Unit. Such statement shall be executed by any officer of the Association, and any Lessee, purchaser or mortgagee may rely upon such statement in concluding the proposed lease, purchase or mortgage

transaction, and the Association shall be bound by such statement. The Association may charge reasonable fees for the provision of such statements.

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

14.21 Remedies. 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 owed 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 the Association. All of the rights accruing to the Association shall be deemed cumulative.

14.22 Working Capital Contribution. So that the Association will have sufficient monies available to meet unforeseen expenditures, at the time of the closing of the first sale of each Residential Unit to a purchaser (other than Declarant or a successor declarant), the purchaser thereof shall pay to the Association a working capital contribution of Two Thousand Dollars (\$2,000.00). In addition, Declarant shall contribute a total working capital of Twenty-Two Thousand Eight Hundred Dollars (\$22,800.00) on behalf of the Commercial Unit, which payment shall be made at the end of each fiscal year on a pro rata basis as compared to the capital contributions for Residential Units during that year, until paid in full. As an example only, if as of December 31, 2023, 67% of the total Residential Units have been sold and working capital contributions made for those units, then Declarant shall owe 67% of the total working capital contribution promised herein ($67\% * \$22,800 = \$15,276$). No capital contribution payments shall be considered an advance or current payment of other assessments. The working capital contribution shall not be available for use by Declarant to defray any of its expenses or constructions costs or to make up any budget deficits while Declarant is in control of the Association. All working capital contributions shall be held and administered by the Association.

ARTICLE XV RIGHT OF ENTRY INTO UNITS

15.1 Emergencies. In case of an emergency originating in, or threatening, any Unit, regardless of whether the Owner is present at the time of such emergency, the Board, or any other person authorized by it, or any authorized 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.

15.2 To Repair Common Elements. Whenever it may be necessary to enter any Unit for the purpose of performing any maintenance, alteration, replacement or repair to any portion

of the Common Elements, including the Limited Common Elements, the Owner shall permit other Owners or their representative, or the duly constituted and authorized agent of the Association, to enter such Unit for such purpose, provided that the entry shall be made only at reasonable times and with reasonable advance notice and that any damage shall be repaired by the party making entry.

15.3 Inspection. The Association shall have the right, but not the obligation, to enter upon any Unit or Common Element or Limited Common Element to perform maintenance pursuant to this Declaration and to inspect for the purpose of ensuring compliance with this Declaration and rules and regulations, which right may be exercised by the Association, its officers, agents, employees, contractors and managers in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and only after notice at least 24-hours in advance to the applicable Unit Owner as provided herein, and commercially reasonable efforts shall be made to minimize interference with the Unit Owner's possession and enjoyment of its Unit.

ARTICLE XVI

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 which do not prejudice the rights of the Owner in the use and enjoyment of the Owner's Unit, provided the making of such alterations and improvements are approved by the Board, and the cost of such alterations or improvement shall be Common Expenses to be assessed and collected from all of the Owners. However, where any alterations and improvements to the Common Elements are exclusively or substantially for the benefit of the Owner or Owners of a certain Unit or Units requesting the same, then the cost of such alterations or improvements shall be assessed against and collected solely from the Owner or Owner of the Unit or Units exclusively or substantially benefited, the assessment to be levied in such proportion as may be determined by the Board.

ARTICLE XVII

REALLOCATION OF LIMITED COMMON ELEMENTS

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

ARTICLE XVIII
MAINTENANCE AND REPAIR BY OWNERS OF UNITS

18.1 General. Every Owner shall perform promptly all maintenance and repair work within the Owner's Unit, which, if omitted, would affect the Condominium, either in its entirety or in a part belonging to other Owners, every Owner being expressly responsible for the damages and liability which the failure to do so may cause. The Owner shall be liable and responsible for the maintenance, repair, and replacement, as the case may be, of all electrical, plumbing and sewer systems within the Unit together with the heating and air conditioning systems serving only the Owner's Unit (whether located within or adjacent to such Unit) including any fixtures and/or their connections required to provide heat, air conditioning, water, light, power, telephone, sewage and sanitary service to the Owner's Unit. Such Owner shall further be responsible and liable for the maintenance, repair and replacement of all walls, all ceilings, and floors within the Owner's Unit, including all lath, flooring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished flooring, and any other materials constituting any part of the finished surfaces thereof, and all other accessories which such Owner may desire to place or maintain in his Unit. This description of the maintenance area shall in no way limit the definition of "Unit", and each Owner is expressly responsible for all maintenance within his defined Unit.

The Association shall be responsible for the maintenance and repair of Limited Common Elements, but the cost thereof shall be the responsibility of and assessed against the Owner, or if more than one, Owners of the Unit or Units to which it is allocated on an equal basis.

18.2 Insured Loss. Whenever the maintenance, repair and replacement of any item for which the Owner is obligated to maintain, replace or repair at the Owner's own expense is occasioned by any loss or damage which may be covered by any insurance maintained 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; provided, however, the Owner shall be required to pay the cost of repairs to the Owner's Unit that are not covered by insurance due to the applicability of any deductible provision, and if more than one Unit is damaged, the affected Unit Owners shall pay the cost of the deductible in proportion to the damages sustained. If not promptly paid, the Association may assess the Owner therefore and the same shall become an assessment and lien against the Unit of the Owner as provided herein.

ARTICLE XIX
MAINTENANCE AND REPAIR OF COMMON ELEMENTS
BY THE ASSOCIATION

19.1 General. The Association, at its expense, shall be responsible for the maintenance, repair and replacement of all of the Common Elements, including, but not limited to, the following:

- (i) The land upon which the Condominium is located.

(ii) All improvements located on the Property except for the Units, including without limitation the Limited Common Elements;

(iii) The foundations, roofs, columns, girders, beams, supports, exterior and interior load-bearing walls, floors between Units, and all other structural elements of the Building.

(iv) Any public connections and facilities for utility services serving the Building and located within the Property that are not owned by the public utility or municipal agency providing such services, until owned or maintained by the public utility or municipal agency providing such service.

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

(vi) All walks, streets and landscaping.

(vii) All Life-Safety Systems and riser rooms.

(viii) The mail center and mail center lobby.

(ix) Trash enclosures.

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 responsible for the maintenance and repair of Limited Common Elements, but the cost thereof shall be the responsibility of and assessed against the Owner, or if more than one, Owners of the Unit or Units to which it is allocated on an equal basis.

19.2 Insured Loss. Whenever the maintenance, repair and replacement of any item which the Association is obligated to maintain, replace or repair at its expense is occasioned by any act of an Owner or the Owner's immediate servants, guests, invitees or Lessees, and such loss or damage may be covered by any insurance maintained in force by the Association, the proceeds of the insurance received by the Association shall be used for the purpose of making such maintenance, repair or replacement, except that the Owner who is responsible for the act causing the damage (whether done by himself or by his employees, servants, guests, invitees or Lessees) shall be required to pay such portion of the cost of such maintenance, repair and replacement as shall, by reason of the applicability of any deductible provision of such insurance, exceed the amount of the insurance proceeds applicable to such maintenance, repair or replacement but only in the event the damage is caused by the negligence or willful misconduct of the Owner, its employees, servants, guests, invitees or Lessees. If not promptly paid, the Association may assess the Owner thereof and the same shall become a lien against the Unit of the Owner as provided herein.

19.3 Uninsured Loss. Whenever the maintenance, repair and replacement of any item which the Association is obligated to maintain, replace or repair at its expense is occasioned by any act of an Owner of the Owner's immediate employees, servants, guests, invitees or Lessees, and such loss or damage is not covered by any insurance maintained by the Association, then the Owner shall pay the cost thereof; and, if not promptly paid upon request, the Association may assess the Owner thereof.

ARTICLE XX
INSURANCE COVERAGE TO BE MAINTAINED,
USE AND DISTRIBUTION OF INSURANCE PROCEEDS

20.1 Property Insurance Required. The Association shall obtain and maintain at all times a policy of property insurance on the Building, including all Units contained therein, which insurance shall satisfy the following requirements: The Association shall obtain and maintain at all times a policy of property insurance on the Building and Common Elements (ISO special form or its equivalent) in an amount not less than one hundred percent (100%) of the replacement cost of the Building and as well as all Common Elements located outside of the Building at the time such insurance is purchased and at the time of each renewal thereof (excluding the cost of foundations and footings, and the cost of any personal property supplied or installed by Owners), with a commercially reasonable deductible. The policy shall be issued by an insurance company properly licensed to do business in the State of North Carolina. The policy shall provide that the Association is a named insured and that each Owner is an insured person with respect to his Unit and his allocated interest in the Common Elements. The policy shall contain a standard extended coverage endorsement and a standard "all risk" endorsement (unless the policy contains "broad form" covered causes of loss), and an inflation guard endorsement, if available, an earthquake endorsement, if available, and a building ordinance or law endorsement, if available, as well as a special condominium endorsement providing as follows: for waiver of subrogation against any Owner, and any Owner's employees and agents; that it may not be canceled or substantially modified without at least thirty (30) days' prior written notice to the Association and all insureds, including all Owners and Mortgagees named in the mortgage clause; that no act or omission by any Owner will preclude recovery upon such policy; and that if, at the time of a loss under the policy, there is other insurance in the name of an Owner covering the same risk covered by the policy, the Association's policy provides primary insurance. Each property insurance policy shall provide that adjustment of loss shall be made by the Association as insurance trustee. Each property insurance policy shall provide for the issuance of certificates or mortgagee endorsements to each Mortgagee.

20.2 Liability and Other Insurance. The Association shall obtain and maintain one or more policies of commercial general liability insurance in such limits as the Board may, from time to time, determine, covering each member of the Board, the managing agent, if any, and each Owner with respect to liability arising out of the use, ownership, maintenance, or repair of the Common Elements. The liability insurance policies shall include endorsements covering cross liability claims of one insured against another, including the liability of the Board or the Owners as a group to one or more Owners, and shall provide that it may not be canceled or

substantially modified without at least thirty (30) days' prior written notice to the Board and to all insureds, including all Owners and Mortgagees. The Board shall review such limits annually.

The Association shall obtain and maintain director and officer liability coverage insuring directors and officers of the Association against liability; such coverage to list officers and directors and the Association as named insureds, and in an amount as determined by the Board.

The Association shall have the right, in the Association's discretion, to obtain other insurance coverage as it may deem appropriate, including fidelity coverage against dishonest acts on the part of all persons handling, or responsible for handling, funds belonging to or administered by the Board.

20.3 Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association as common expenses to be assessed and collected from all of the Owners.

20.4 Insurance Proceeds. All insurance policies procured by the Association shall provide that all losses shall be adjusted with and all proceeds shall be payable to the Association as insurance trustee. The sole duty of the Association as insurance trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes set forth herein and for the benefit of the Owners in the following shares:

(a) Proceeds on account of damage to the Common Elements shall be held in undivided shares for each Owner and its Mortgagee, if any, with each Owner's share to be the same as such Owner's allocated Common Elements Interest.

(b) Proceeds on account of damage to Units shall be held in the following undivided shares:

(i) When the damage is to be restored, for the Owners of damaged Units in proportion to the cost of repairing the damage to each such Owner's Unit, which cost shall be determined by the Association,

(ii) When the damage is not to be restored, an undivided share for each Owner, such share being the same as each such Owner's allocated Common Elements Interest.

(c) In the event a mortgagee endorsement or certificate has been issued with respect to a Unit, the share of the Owner shall be held in trust for the Mortgagee and the Owner as their respective interests may appear.

(d) Proceeds of insurance policies received by the Association as insurance trustee shall be distributed to or for the benefit of the Owners in the following manner:

(i) If it is determined, as provided below, that the damaged property with respect to which the proceeds are paid shall not be reconstructed or repaired, (i) the

proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition compatible with the rest of the Condominium; (ii) the insurance proceeds attributable to Units and Limited Common Elements which are not rebuilt shall be distributed to the Owners of those Units to which those Limited Common Elements were allocated or to their Mortgagees, in proportion to their respective Common Elements Interests; and (iii) the remainder of the proceeds shall be distributed to all Owners or Mortgagees, as their interests may appear, in proportion to their respective Common Elements Interests. No Owner shall have priority over any rights of the first mortgagee of the Owner's Unit in the case of payment of proceeds for an insured loss.

(ii) If the damage for which the proceeds were paid is to be repaired or reconstructed, the proceeds shall be paid to defray the costs thereof. Any proceeds remaining after payment of such repair costs shall be distributed to the beneficial Owners.

20.5 Non availability. If for any reason the Association is unable to obtain the insurance coverage required in this Section, written notice of such unavailability shall be hand delivered or mailed to all Owners.

20.6 Restoration. Any portion of the Condominium which is damaged or destroyed, and for which insurance proceeds have been paid to the Association shall be repaired, replaced or restored promptly by the Association, and the insurance proceeds held by it used to defray the cost thereof, unless:

- (a) the Condominium is terminated as by law provided; or
- (b) repair, replacement or restoration would be illegal under any state or local health or safety statute, code or ordinance; or
- (c) Owners decide not to rebuild by an eighty percent (80%) vote, including one hundred percent (100%) of Owners of Units not to be rebuilt and one hundred percent (100%) of Owners of Units to which are assigned Limited Common Elements not to be rebuilt.

20.7 Excess Cost. The cost of repair, replacement or restoration in excess of the insurance proceeds and reserves is a Common Expense.

20.8 Proceeds Distribution on Unreconstructed Units or Elements. If the entire Condominium is not repaired or replaced, (1) the insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged area compatible with the remainder of the Condominium, (2) the insurance proceeds attributable to Units and Limited Common Elements which are not rebuilt shall be distributed to the Owners of those Units and the Owners of the Units to which those Limited Common Elements were allocated or to lienholders, as their interest may appear, and (3) the remainder of the proceeds shall be distributed to all the Owners or lienholders, as their interest may appear, in proportion to their respective Allocated Interest.

20.9 Allocated Interest Reallocation on Nonreconstruction. If the Owners vote not to rebuild any Unit, the Unit's Allocated Interest is automatically reallocated upon the vote not to reconstruct as if the Unit had been condemned. In such case the Association promptly shall prepare, execute, and record an amendment to the Declaration reflecting the reallocations.

ARTICLE XXI TERMINATION

The Condominium may only be terminated in accordance with Section 47C-2-118 of the Act.

ARTICLE XXII AMENDMENT OF DECLARATION OF CONDOMINIUM

Except as set forth herein or in the Act, this Declaration may be amended by the vote of or by written agreement signed by not less than sixty-seven percent (67%) of the votes in the Association. Except to the extent expressly permitted by the Act or other provisions of this Declaration, any amendment which amends or alters the percentage of allocated interests of any Unit in the Common Elements, increases the number of Units, changes the boundaries of any Unit, or changes the use to which any Unit is restricted shall require the written approval of all Owners. During the Development Period, no amendment to this Declaration shall be effective without the written consent of Declarant. Further, during the Development Period, Declarant may unilaterally without the consent of any Persons, including, without limitation, any Owner, the Association or any Mortgagee, amend the Declaration as necessary in its sole and absolute discretion in order to comply with financing requirements of the Department of Veterans Affairs or the Department of Housing and Urban Development, or the rules or guidelines (including "Selling Guidelines") of Fannie Mae or Freddie Mac, and may execute and record such amendment in the Public Registry. Declarant also has the right to unilaterally amend the Declaration during the Development Period, except where expressly prohibited by the Act.

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, and no alteration, amendment or modification of the rights and privileges granted and reserved hereunder in favor of Commercial Unit Owners shall be made without the written consent of 67% of the Commercial Unit Owners.

Any amendment of a material adverse nature to Mortgagees must be agreed to by Mortgagees that represent at least fifty-one percent (51%) of the votes allocated to Units that are subject to mortgages. Approval may be assumed if a Mortgagee fails to submit a response to any written proposal for amendment within sixty (60) days after receiving proper notice of the proposed amendment, provide that notice was delivered by certified or registered mail, with a return receipt requested.

No amendment to the Declaration shall be effective until recorded in the Public Registry.

ARTICLE XXIII REMEDIES IN EVENT OF DEFAULT

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

23.1 Actions at Law and Equity. Failure to comply with any of the terms of this Declaration of Condominium or other restrictions and regulations contained in the Articles of Incorporation or Bylaws of the Association or any rules and regulations issued pursuant thereto, or which may be adopted pursuant thereto, shall be grounds for relief including without limitation an action to recover sums due to damages, injunctive relief, foreclosure of lien, or any combination thereof. Such relief may be sought by the Association or, if appropriate, by an aggrieved Owner.

23.2 Liabilities of Owners. Each 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 his guests, servants, agents, invitees 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 of insurance companies or rights or subrogation.

23.3 Collection or Enforcement Costs and Expense. In any proceeding arising because of alleged default by an 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.

23.4 No Waiver. The failure of the Association or any Owner to enforce any right, provision, covenant or condition which may be granted by this Declaration of Condominium or the other above mentioned documents shall not constitute a waiver of the right of the Association or of the Owner to enforce such right, provision, covenant or condition in the future.

23.5 Cumulative Remedies. All rights, remedies and privileges granted to the Association or the Owner or Owners of a Unit pursuant to any terms, provisions, covenants or conditions of the Declaration, 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.

23.6 No Waiver By Declarant. The failure of Declarant 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.

23.7 Fines and Penalties. Notwithstanding the foregoing, and in addition thereto, any Owner may be fined by the Association for failure to comply with the terms of this Declaration, the Bylaws, Articles of Incorporation or published rules and regulations in an amount not to exceed One Hundred Dollars (\$100.00) per violation per day or any higher amount allowed by the Act. Any fine shall be assessed against the Owner and his Unit as a Common Expense and, if unpaid, shall be a lien on the Unit as provided herein.

ARTICLE XXIV RIGHTS RESERVED UNTO MORTGAGEES

24.1 Rights of Mortgagees to Examine Books and Records. Any Mortgagee, and any insurer or guarantor of a loan secured by a Mortgage, shall have the right to examine, during normal business hours and upon reasonable notice, the books and records of the Association, including copies of the Condominium Documents, as amended, and the financial statements of the Association, and to be furnished, upon written request, at least one copy of the annual financial statement and report of the Association, such annual statement and report to be furnished within one hundred twenty (120) days following the end of each fiscal year. If any Mortgagee requests, and agrees to pay the cost of the audit, the financial statement shall be audited by an independent certified public accountant.

24.2 Mortgagee's Rights to Notice. Any Mortgagee or insurer or guarantor of a loan secured by a Mortgage that has notified the Board in writing of its name and address, the address and Unit number of the Unit encumbered by the Mortgage, or that it holds, insures or guarantees a Mortgage on, shall have the right to receive from the Association prompt written notice of the following:

(a) Default under any of the terms and provisions of the Condominium Documents by any Owner owning a Unit encumbered by a Mortgage held, insured, or guaranteed by such party, which default remains uncured for a period of sixty (60) days.

(b) Any loss or damage to or condemnation or taking of the Common Elements or any loss or damage to or condemnation or taking of a Unit encumbered by a Mortgage held, insured or guaranteed by such Mortgagee.

(c) Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.

(d) Any proposed action by the Association, the Board, or the Owners, which under the terms of the Condominium Documents requires the consent of all or any portion of the Mortgagees.

**ARTICLE XXV
SEVERABILITY**

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

**ARTICLE XXVI
LIBERAL CONSTRUCTION**

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

**ARTICLE XXVII
DECLARATION OF CONDOMINIUM BINDING ON ASSIGNS
AND SUBSEQUENT OWNERS**

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

**ARTICLE XXVIII
EASEMENTS**

28.1 Utilities. The Board may hereafter grant easements in the name of the Association for utility purposes for the benefit of the Condominium and for the benefit of any Unit, including the right to install, lay, maintain, repair and replace, waterlines, pipes, sewer lines, storm drainage facilities, telephone wires, cable telephone wires, and electrical conduits, wires over, under and along any portion of the property, and the Owners of any Unit hereby grant to the Association an irrevocable power of attorney to execute, acknowledge and record for and in the name of each Owner such instruments as may be necessary to effectuate the foregoing.

28.2 Public Service Access. An easement is hereby established over the Common Elements for the benefit of applicable governmental agencies, public utility companies and public service agencies as necessary for setting, removing and reading of meters, replacing and maintaining water, sewer and drainage facilities, electrical, telephone, gas and cable antenna

lines, fire fighting, garbage collection, postal delivery, emergency and rescue activities and law enforcement activities.

28.3 Other Easements, Restrictions, and Liens of Record. The Property is subject to those easements, restrictions, and liens of record listed on Exhibit C, and all easements depicted on the Plans.

ARTICLE XXIX
MEMBERSHIP IN MASTER ASSOCIATION

Declarant hereby subjects the Property to the Master Declaration, and all Owners shall be deemed an Owner as defined in the Master Declaration and Member of the Master Association and shall be entitled to the benefits of Owners and Members including all easements set forth in the Master Declaration. All Owners of Units shall also pay all assessments required under the terms of the Master Declaration. It is expressly understood that the covenants, conditions and restrictions contained in this Declaration may be more restrictive than those contained in the Master Declaration, and in that case, the provisions of this Declaration shall control.

IN WITNESS WHEREOF, the undersigned, as Declarant, hereby executes this instrument by and through its duly authorized representative this 17 day of October, 2023.

Declarant: FV 4 Bengal LLC


David W. Ball, Manager

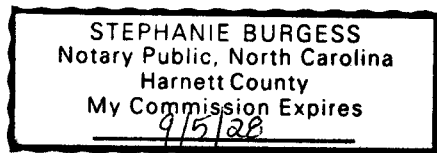
STATE OF NORTH CAROLINA

ACKNOWLEDGEMENT

COUNTY OF WAKE

I, Stephanie Burgess, a Notary Public of the County and State aforesaid, certify that David W. Ball of whose identity I have personal knowledge, personally appeared before me and acknowledged that the signature on the record presented is his signature and that he voluntarily executed the foregoing instrument for the purpose stated therein and in the capacity indicated and with full authority to do so.

Witness my hand and official stamp or seal, this 17 day of October, 2023.



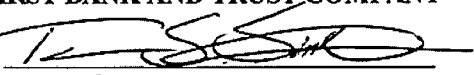
Stephanie Burgess
Notary Public

Stephanie Burgess
Printed Name

My Commission Expires: 9/5/2028

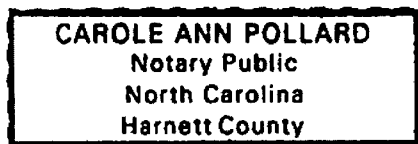
CONSENT OF MORTGAGEE

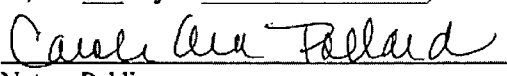
The First Bank and Trust Company, being the Beneficiary under that certain Deed of Trust recorded in Book 19015, Page 1859 of the Wake County Registry, conveying to J. Keith Phillips and Trevor S. Smith as Trustees, the property described on Exhibit A attached to this Declaration, and being the Secured Party under the Assignment of Rents and Leases recorded in Book 19025, Page 612 of the Wake County Registry, consents to the recordation of this Declaration and the imposition of the provisions hereof and the provisions of the North Carolina Condominium Act to the real property described on Exhibit A. The execution of this Consent of Mortgagee by the Beneficiary shall not be deemed or construed to have the effect of creating between the Beneficiary and the Declarant the relationship of partnership or of joint venture, nor shall it be deemed to impose upon the Beneficiary any of the liabilities, duties or obligations of Declarant under the Declaration. Beneficiary executes this Consent of Mortgagee solely for the purposes set forth above. The Trustees also join in and executes this Consent for the purposes set forth above.

BENEFICIARY:**THE FIRST BANK AND TRUST COMPANY**By: Name: TREVOR S. SMITHTitle: SVPSTATE OF NC
COUNTY OF Harnett**ACKNOWLEDGEMENT**

I, Carole Ann Pollard, a Notary Public of the County and State aforesaid, certify that Trevor S. Smith of whose identity I have personal knowledge, personally appeared before me and acknowledged that the signature on the record presented is his signature and that he voluntarily executed the foregoing instrument for the purpose stated therein and in the capacity indicated and with full authority to do so.

Witness my hand and official stamp or seal, this 14 day of November, 2023.




Notary Public

Carole Ann Pollard
Printed Name

My Commission Expires: 2-8-2025

TRUSTEE:

By:

J. Keith Phillips
J. Keith Phillips

STATE OF Virginia
COUNTY OF Rockingham

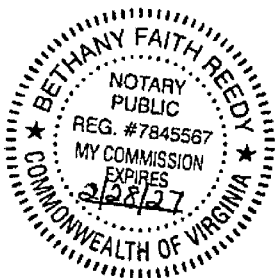
ACKNOWLEDGEMENT

I, Bethany Faith Reedy, a Notary Public of the County and State aforesaid, certify that J. Keith Phillips of whose identity I have personal knowledge, personally appeared before me and acknowledged that the signature on the record presented is his signature and that he voluntarily executed the foregoing instrument for the purpose stated therein and in the capacity indicated and with full authority to do so.

Witness my hand and official stamp or seal, this 14th day of November, 2023.

Bethany Faith Reedy
Notary Public

Bethany Faith Reedy
Printed Name



My Commission Expires: 2/28/27

TRUSTEE:

By: 
Trevor S. Smith

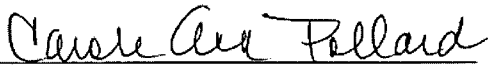
STATE OF NC

COUNTY OF Harnett

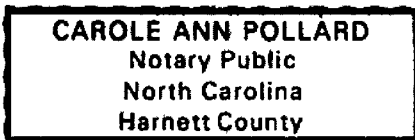
ACKNOWLEDGEMENT

I, Carole Ann Pollard, a Notary Public of the County and State aforesaid, certify that Trevor S. Smith of whose identity I have personal knowledge, personally appeared before me and acknowledged that the signature on the record presented is his signature and that he voluntarily executed the foregoing instrument for the purpose stated therein and in the capacity indicated and with full authority to do so.

Witness my hand and official stamp or seal, this 14 day of November, 2023.


Notary Public

Carole ANN Pollard
Printed Name



My Commission Expires: 2-8-2025

EXHIBIT A

Property

Being all of Lot 4 as shown on that map entitled "Final Subdivision Plat of Bengal Towne Centre Phases 11 & 13" recorded in Book of Maps 2020, Page 1865 in the Office of the Register of Deeds of Wake County, North Carolina.

EXHIBIT B**INITIAL ALLOCATED INTEREST**

At all times the Residential Units shall be allocated, as a whole, eighty-five percent (85%) of the undivided interest in the Common Elements, to be broken down among Units on an equal basis. The Commercial Unit(s) shall be allocated, as a whole, fifteen percent (15%) of the undivided interest in the Common Elements, to be broken down among Commercial Units based on the percentage the area of each Commercial Unit bears to the area of all Commercial Units, which for purposes of this calculation shall be 21,467 square feet.

GROUND FLOOR COMMERCIAL UNIT			
Unit Number	Square Footage	Common Element Interest (%)	Votes in the Association
*GF	21,467	15	15
SECOND FLOOR RESIDENTIAL UNITS			
Unit Number	Address	Common Element Interest	Votes in the Association
2200	2200 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2201	2201 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2202	2202 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2203	2203 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2204	2204 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2205	2205 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2206	2206 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2207	2207 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2208	2208 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2210	2210 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2212	2212 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2213	2213 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2214	2214 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2216	2216 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2217	2217 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2218	2218 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2219	2219 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2220	2220 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2221	2221 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2222	2222 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2223	2223 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09

2224	2224 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2225	2225 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2226	2226 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2227	2227 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2228	2228 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
THIRD FLOOR RESIDENTIAL UNITS			
Unit Number	Address	Common Element Interest	
2300	2300 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2301	2301 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2302	2302 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2303	2303 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2304	2304 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2305	2305 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2306	2306 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2307	2307 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2308	2308 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2310	2310 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2312	2312 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2313	2313 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2314	2314 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2316	2316 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2317	2317 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2318	2318 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2319	2319 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2320	2320 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2321	2321 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2322	2322 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2323	2323 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2324	2324 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2325	2325 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2326	2326 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2327	2327 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2328	2328 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
FOURTH FLOOR RESIDENTIAL UNITS			
Unit Number	Address	Common Element Interest	
2400	2400 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2401	2401 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2402	2402 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2403	2403 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09

2404	2404 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2405	2405 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2406	2406 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2407	2407 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2408	2408 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2410	2410 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2412	2412 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2413	2413 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2414	2414 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2416	2416 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2417	2417 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2418	2418 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2419	2419 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2420	2420 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2421	2421 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2422	2422 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2423	2423 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2424	2424 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2425	2425 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2426	2426 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2427	2427 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
2428	2428 Gathering Square Ct., Fuquay Varina, NC 27526	1.09	1.09
TOTALS		100.02	100.02

***The Commercial Unit will initially include the ground floor (“GF”) of the Condominium, excluding the stairs, riser room, elevators, elevator lobby, residential mail center and mail center lobby. The Commercial Unit may be divided into separate tenant spaces. If the Commercial Unit is subdivided into additional Units, the subdivided Units will be assigned specific unit numbers and a specific Common Element Interest.**

EXHIBIT C
EASEMENTS AND ENCUMBRANCES OF RECORD

1. Easements of record, including those depicted on the Plans recorded in the Wake County Registry and on BM 2022, Page 874.
2. Rights of way of public streets, including those depicted on the Plans.
3. All general utility and service easements affecting the land.
4. The Deed of Trust recorded in Book 19015, Page 1859 of the Wake County Registry.
5. Assignment of Rents and Leases recorded in Book 19025, Page 612
6. Cross-Access and Easement Agreement recorded in Book 19024, Page 1263 of the Wake County Registry.
7. Master Declaration of Covenants, Conditions and Restrictions for Bengal Towne Centre recorded in Book 17597, Page 2227 of the Register of Deeds of Wake County, as amended and supplemented in Book 18990, Page 752 and Book 18990, Page 916 of the Register of Deeds of Wake County.
8. All other restrictions and liens of record, now or hereinafter recorded during the development of the Condominium, including amendments to any of the foregoing documents, additional plats and plans recorded by Declarant with respect to the Condominium, and additional utility easements.



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Please retain yellow trailer page

It is part of the recorded document and must be submitted with the original for re-recording.

Tammy L. Brunner
Register of Deeds

Wake County Justice Center
300 South Salisbury Street, Suite 1700
Raleigh, NC 27601

☐ New Time Stamp

☐ \$25 Non-Standard Fee

☐ Additional Document Fee

☐ Additional Reference Fee

This Customer Group

_____ # of Excessive Entities

_____ # of Time Stamps Needed

This Document

44 # of Pages

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