

After recording, return to: Brian S. Edlin, P.O. Box 10669, Raleigh, NC 27605

STATE OF NORTH CAROLINA
COUNTY OF WAKE

AMENDMENT TO DECLARATION
FOR 625 NEW BERN CONDOMINIUM

THIS AMENDMENT TO THE DECLARATION FOR 625 NEW BERN CONDOMINIUM ("Amendment") is made and entered into this 31st day of November 2022 by the **625 NEW BERN CONDOMINIUM ASSOCIATION, INC.**, a North Carolina non-profit corporation (hereinafter referred to as the ("Association").

RECITALS:

A. The Association is the homeowner's association for 625 New Bern Condominium (the "Condominium") in Wake County, North Carolina, and, as such, is responsible for administering the affairs of the Association pursuant to that certain Declaration for 625 New Bern Condominium recorded in Book 18444, Page 241, Wake County Registry, as amended and supplemented (the "Declaration").

B. The Declaration may be amended by a vote of not less than sixty-seven percent (67%) or more of the total number of votes of the Association.

C. The Owners desire to amend the Declaration to change the minimum lease term of (12) months to three (3) months.

D. The Owners further desire to amend the Declaration to change the definition of Mortgagee in the Declaration;

NOW, THEREFORE, the undersigned does hereby declare that the Declaration for 625 NEW BERN CONDOMINIUM shall be amended as follows:

1. Incorporation of Recitals. The foregoing Recitals are incorporated by this reference as if fully set forth herein.

2. Article VIII, Section 8.3 of the Declaration is deleted in its entirety and replaced with the following:

8.3 Leasing. No Unit or portion thereof shall be leased for boarding house, bed and breakfast, hotel, or other transient residential purposes, which for purposes of this Declaration shall be defined as a rental for any period less than three (3) months. An Owner may nevertheless lease the entire Unit; provided that each lease must be in writing, must be for a period of not less than three (3) months, and must provide that it is subject to this Declaration and the Bylaws and that any failure by a tenant to comply with such shall be a default under the lease. The Owner shall

promptly provide the Association with copies of any and all leases entered into by the Owner. In no event, however, shall a portion of a Unit (as opposed to the entire Unit) be sold, conveyed, leased, or subleased. Leasing of a Unit shall not, under any circumstances release the Owner from its obligations under this Declaration (including payment of all applicable Assessments). The Association shall nevertheless be deemed a third-party beneficiary of any lease provision whereby the lessee has assumed the liability for payment of the Assessments applicable to the Unit being leased.

2. Article I, Section 1.20 of the Declaration is deleted in its entirety and replaced with the following:

1.20 "Mortgagee" shall mean and refer to the owner and holder of a Mortgage on a Unit. Such Person shall have the right to receive timely written notices and other rights described in Article XVIII.

3. Article XVII of the Declaration is deleted in its entirety and replaced with the following:

ARTICLE XVII TERMINATION

The Condominium may be terminated, and the Property removed from the provisions of the North Carolina Condominium Act only by the vote of not less than eighty percent (80%) of the votes in the Association, cast in person or by proxy at a meeting duly held in accordance with the provisions of the Bylaws, and as evidenced by execution of a termination agreement, or ratification thereof, by the requisite number of Owners and Mortgagees. The Condominium may be terminated after substantial destruction or condemnation proceedings, or for other reasons, which may be agreed to by Mortgagees that represent at least fifty-one percent (51%) of the votes of the Units that are subject to mortgages. The termination shall comply with the requirements of N.C. Gen. Stat. §47C-2-118 and must be recorded in the Wake Registry before it becomes effective. Following the recordation of the termination agreement, the interests of the Owners and Mortgagees in the Property shall be as provided in N.C. Gen. Stat. §47C-2-118.

4. Article XVIII, Section 18.3 of the Declaration is deleted in its entirety and replaced with the following:

18.3 Mortgagee's Rights to Notice. Any Mortgagee (including, for purposes of this Section 18.3, any insurer or guarantor of a loan secured by a Mortgage) shall have the right to receive from the Association timely written notice of the following:

(a) Default under any of the terms and provisions of the Condominium Documents, including but not limited to, a delinquency in the payment of assessments or charges owed, by any Owner owning a Unit encumbered by a

Mortgage held, insured, or guaranteed by such Mortgage, 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 casualty 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 maintained by the Association.

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

Every Owner of a Unit that is encumbered by a Mortgage shall be required to provide to the Association the name, address, and relevant contact information of the lender, Mortgagee, or guarantor within thirty (30) days of purchasing a Unit or the filing of this Amendment.

5. This amendment shall be effective upon recordation in the Office of the Wake County Register of Deeds.

6. Except as amended hereinabove and heretofore, the remaining portions of the Declaration as originally recorded are hereby restated and reacknowledged.

IN TESTIMONY WHEREOF, the Association has caused this instrument to be executed in their individual and corporate names as of the day and year first above written.

[Signature Page Follows]

CERTIFICATION OF VALIDITY
OF AMENDMENT TO DECLARATION OF CONDOMINIUM FOR 625 NEW BERN
CONDOMINIUM

By authority of its Board of Directors, the undersigned officers of the 625 New Bern Condominium Association, Inc., hereby certify that the foregoing instrument has been duly adopted and approved by the requisite percentage of Owners of Lots in 625 New Bern Condominium and is, therefore, a valid amendment to the existing Declaration for 625 New Bern Condominium.

625 NEW BERN CONDOMINIUM ASSOCIATION, INC.

By:

President

Jonathan Hill

ATTEST:

Secretary

Chuyi (Jerry) Zhang

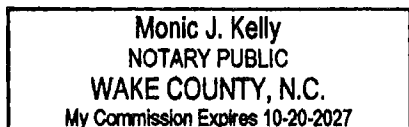
STATE OF NORTH CAROLINA
COUNTY OF WAKE

ACKNOWLEDGMENT

I, Monic J. Kelly, a Notary Public of the County and State aforesaid, certify that Chuyi Zhang personally came before me this day and acknowledged that he/she is Secretary/Assistant Secretary of in 625 New Bern Condominium Association, Inc., a North Carolina non-profit corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President and attested by as its Secretary/Assistant Secretary.

Witness my hand and official stamp or seal, this 4 day of November, 2022.

(Stamp or Seal)



Monic J. Kelly

Notary Public

Printed Name:

My commission expires: 10/20/2027

WAKE COUNTY, NC 119
TAMMY L. BRUNNER
REGISTER OF DEEDS
PRESENTED & RECORDED ON
02/14/2022 11:44:40

BOOK:018917 PAGE:01569 - 01574

PREPARED BY & MAIL TO:
MIDTOWN PROPERTY LAW (TMC)
4800 Six Forks Road, Suite 120
Raleigh, NC 27609

NORTH CAROLINA
WAKE COUNTY

SECOND SUPPLEMENT TO
DECLARATION OF CONDOMINIUM FOR
625 NEW BERN CONDOMINIUM

THIS SECOND SUPPLEMENT TO DECLARATION OF CONDOMINIUM FOR 625 NEW BERN CONDOMINIUM is made and entered into the 28th day of January, 2022, (hereinafter referred to as the "Supplemental Declaration") by 904 Oberlin Partners, LLC, a North Carolina limited liability company (the "Declarant");

WHEREAS, Declarant previously recorded that certain Declaration of Condominium for 625 New Bern Condominium recorded in Book 18444, Page 241, Wake County Registry, as amended and supplemented by that First Supplement to Declaration of Condominium for 625 New Bern Condominium recorded in Book 18656, Page 2716, Wake County Registry (hereinafter collectively referred to as the "Declaration"), creating the 625 New Bern Condominium, which is shown and described on those condominium plats and plans recorded in Condominium Map Book 2021, Pages 42 through 49, and Condominium Map Book 2021, Pages 103 through 110, Wake County Registry (hereinafter collectively referred to as "Plans"); and,

WHEREAS, said Declaration provides in Article VI that the Declarant reserves the right to construct New Buildings within Land Units and to create within such New Buildings additional Units, Common Elements and Limited Common Elements allocated to those Units, and to convert Land Units into Units and/or Common Elements, without the consent or approval of the Association or any other Owner or Mortgagee, by executing and recording a Supplementary Declaration together with a supplement to the Plans; and,

WHEREAS, the Declarant has constructed new Building 3 within Land Unit 3, and now desires to convert Land Unit 3 to create new Units, Common Elements and Limited Common

Elements located within Building 3, and to adjust and reallocate the Allocated Interest appurtenant to all Units in the Condominium;

NOW, THEREFORE, the Declarant does hereby file this Supplemental Declaration to the Declaration to convert Land Unit 3 to create six (6) new Units 101, 102, 103, 104, 105, and 106 in Building 3, and reallocate the Allocated Interest of the Units as follows:

1. For purposes of this Supplemental Declaration, capitalized terms as used herein shall have the same meanings as the defined terms in the Declaration as the context may require.

2. Land Unit 3 is hereby converted to create new Units 101, 102, 103, 104, 105, and 106 in Building 3. Upon recording of this Supplemental Declaration, Land Unit 3 shall terminate.

3. The Plans shall be and hereby are supplemented by the following plans showing new Units 101, 102, 103, 104, 105, and 106 in Building 3 and the revised Common Elements:

Those certain plats and plans for 625 New Bern Condominium recorded in Condominium Map Book 2022, Pages 6 through 13 in the office of the Wake County Registry (hereinafter referred to as "Revised Plans") as such Revised Plans amend the existing Plans.

Accordingly, by way of this Supplemental Declaration, the Revised Plans shall be and they are hereby made a part of the 625 New Bern Condominium; all references to the Plans in the Declaration shall be deemed to refer to and include the Revised Plans.

4. Exhibit "B" to the Declaration is hereby deleted in its entirety and Amended Exhibit "B" attached hereto is substituted in its place and stead, and incorporated herein by reference. Amended Exhibit "B" sets forth (a) the identifying Unit numbers for the new Units; (b) the adjusted and reallocated Allocated Interest appurtenant to each Unit; and (c) the street address for each Unit in 625 New Bern Condominium. As a result of this Supplemental Declaration, the Allocated Interests appurtenant to Units within the 625 New Bern Condominium shall be and they hereby are revised, adjusted and reallocated as stated in Amended Exhibit "B" attached hereto.

5. The Common Elements and Limited Common Elements hereby created in Building 3 are shown and described on the Revised Plans, and are defined in Section 5.2 of the Declaration.

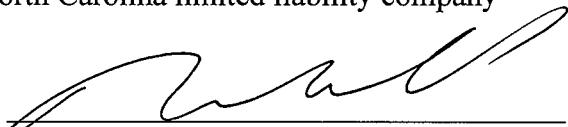
6. Attached hereto as Exhibit "D" is that certain Architect's Certificate of Completion as to the structural components and mechanical systems for new Units 101, 102, 103, 104, 105, and 106 and Building 3, which is hereby incorporated into and made a part of the Declaration as if originally attached thereto and a part thereof, and is in satisfaction of N.C.G.S. 47C-2-101.

7. Except as amended and supplemented by this Supplemental Declaration, the Declaration shall be and remain unaltered, unchanged and in full force and effect.

(Signatures on following page)

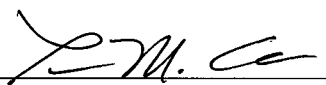
IN WITNESS WHEREOF, Declarant has executed this Supplemental Declaration the day and year first above written.

DECLARANT:
904 Oberlin Partners, LLC,
a North Carolina limited liability company

By: 
Name: Daniel W. Russell, Manager

WAKE COUNTY, NORTH CAROLINA

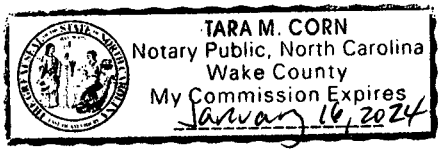
I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Daniel W. Russell, Manager of 904 Oberlin Partners, LLC.

Date: January 28, 2022 
Signature of Notary Public

Notary Name: TARA M. CORN
Printed or Typed Name

My Commission expires: January 16, 2024

(Official Seal)



AMENDED EXHIBIT B
SCHEDULE OF UNITS AND ALLOCATED INTEREST

	Unit Number	Allocated Interest	Street Address
Building 1	101	5.555%	712 E. Edenton Street, Unit 101 Raleigh, NC 27601
	102	5.555%	712 E. Edenton Street, Unit 102 Raleigh, NC 27601
	103	5.555%	712 E. Edenton Street, Unit 103 Raleigh, NC 27601
	104	5.555%	712 E. Edenton Street, Unit 104 Raleigh, NC 27601
	105	5.555%	712 E. Edenton Street, Unit 105 Raleigh, NC 27601
	106	5.555%	712 E. Edenton Street, Unit 106 Raleigh, NC 27601
Building 2	101	5.555%	5 Seawell Avenue, Unit 101 Raleigh, NC 27601
	102	5.555%	5 Seawell Avenue, Unit 102 Raleigh, NC 27601
	103	5.555%	5 Seawell Avenue, Unit 103 Raleigh, NC 27601
	104	5.555%	5 Seawell Avenue, Unit 104 Raleigh, NC 27601
	105	5.555%	5 Seawell Avenue, Unit 105 Raleigh, NC 27601
	106	5.555%	5 Seawell Avenue, Unit 106 Raleigh, NC 27601
Building 3	101	5.555%	625 New Bern Avenue, Unit 101 Raleigh, NC 27601
	102	5.555%	625 New Bern Avenue, Unit 102 Raleigh, NC 27601
	103	5.555%	625 New Bern Avenue, Unit 103 Raleigh, NC 27601
	104	5.555%	625 New Bern Avenue, Unit 104 Raleigh, NC 27601
	105	5.555%	625 New Bern Avenue, Unit 105 Raleigh, NC 27601
	106	5.555%	625 New Bern Avenue, Unit 106 Raleigh, NC 27601
Total	18	100.00%	

EXHIBIT D

ARCHITECT'S CERTIFICATE OF COMPLETION
FOR
625 NEW BERN CONDOMINIUM

The undersigned, being a Professional Architect licensed under the provisions of Chapter 83A of the North Carolina General Statutes, hereby certifies that the plans recorded with the Second Supplement to Declaration of Condominium for 625 New Bern Condominium to which this Architect's Certificate of Completion is attached, fully and accurately depict the structural components and mechanical systems of Building 3, containing Units 101, 102, 103, 104, 105, and 106.

This Architect's Certificate of Completion is issued in accordance with and in satisfaction of the requirements of N.C.G.S. 47C-2-101.

This the 8th day of FEBRUARY, 2022.

By: 
Russell H. Long, Professional Architect
License No. 11939

STATE OF NORTH CAROLINA

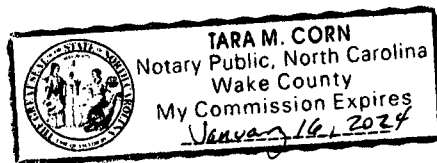
COUNTY OF WAKE

I, TARA M. CORN a Notary Public of the County and State aforesaid, do hereby certify that RUSSELL H. LONG, Professional Architect, personally appeared before me this day and acknowledged the due execution of the following instrument.

Witness my hand and official seal, this the 8th day of FEBRUARY, 2022.


Notary Public
TARA M. CORN
Printed Name

My Commission Expires: January 16, 2024





BOOK:018917 PAGE:01569 - 01574



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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

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WAKE COUNTY, NC 101
TAMMY L. BRUNNER
REGISTER OF DEEDS
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BOOK:018656 PAGE:02716 - 02721

PREPARED BY & MAIL TO:
MIDTOWN PROPERTY LAW (TMC)
4800 Six Forks Road, Suite 120
Raleigh, NC 27609

NORTH CAROLINA
WAKE COUNTY

FIRST SUPPLEMENT TO DECLARATION
OF CONDOMINIUM FOR 625 NEW BERN
CONDOMINIUM

THIS FIRST SUPPLEMENT TO DECLARATION OF CONDOMINIUM FOR 625 NEW BERN CONDOMINIUM is made and entered into the 20th day of August, 2021, (hereinafter referred to as the "Supplemental Declaration") by 904 Oberlin Partners, LLC, a North Carolina limited liability company (the "Declarant");

WHEREAS, Declarant previously recorded that certain Declaration of Condominium for 625 New Bern Condominium recorded in Book 18444, Page 241, Wake County Registry (hereinafter referred to as the "Declaration"), creating the 625 New Bern Condominium, which is shown and described on those condominium plats and plans recorded in Condominium Map Book 2021, Pages 42 through 49, Wake County Registry (hereinafter referred to as "Plans"); and,

WHEREAS, said Declaration provides in Article VI that the Declarant reserves the right to construct New Buildings within Land Units and to create within such New Buildings additional Units, Common Elements and Limited Common Elements allocated to those Units, and to convert Land Units into Units and/or Common Elements, without the consent or approval of the Association or any other Owner or Mortgagee, by executing and recording a Supplementary Declaration together with a supplement to the Plans; and,

WHEREAS, the Declarant has constructed new Building 2 within Land Unit 2, and now desires to convert Land Unit 2 to create new Units, Common Elements and Limited Common Elements located within Building 2, and to adjust and reallocate the Allocated Interest appurtenant to all Units in the Condominium;

NOW, THEREFORE, the Declarant does hereby file this Supplemental Declaration to the Declaration to convert Land Unit 2 to create six (6) new Units 101, 102, 103, 104, 105, and 106 in Building 2, and reallocate the Allocated Interest of the Units as follows:

1. For purposes of this Supplemental Declaration, capitalized terms as used herein shall have the same meanings as the defined terms in the Declaration as the context may require.

2. Land Unit 2 is hereby converted to create new Units 101, 102, 103, 104, 105, and 106 in Building 2. Upon recording of this Supplemental Declaration, Land Unit 2 shall terminate.

3. The Plans shall be and hereby are supplemented by the following plans showing new Units 101, 102, 103, 104, 105, and 106 in Building 2 and the revised Common Elements:

Those certain plats and plans for 625 New Bern Condominium recorded in Condominium Map Book 2021, Pages 103 through 110 in the office of the Wake County Registry (hereinafter referred to as "Revised Plans") as such Revised Plans amend the existing Plans.

Accordingly, by way of this Supplemental Declaration, the Revised Plans shall be and they are hereby made a part of the 625 New Bern Condominium; all references to the Plans in the Declaration shall be deemed to refer to and include the Revised Plans.

4. Exhibit "B" to the Declaration is hereby deleted in its entirety and Amended Exhibit "B" attached hereto is substituted in its place and stead, and incorporated herein by reference. Amended Exhibit "B" sets forth (a) the identifying Unit numbers for the new Units; (b) the adjusted and reallocated Allocated Interest appurtenant to each Unit; and (c) the street address for each Unit in 625 New Bern Condominium. As a result of this Supplemental Declaration, the Allocated Interests appurtenant to Units within the 625 New Bern Condominium shall be and they hereby are revised, adjusted and reallocated as stated in Amended Exhibit "B" attached hereto.

5. The Common Elements and Limited Common Elements hereby created in Building 2 are shown and described on the Revised Plans, and are defined in Section 5.2 of the Declaration.

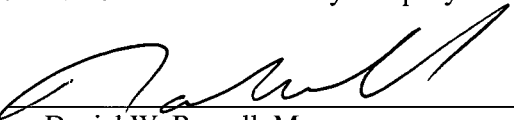
6. Attached hereto as Exhibit "D" is that certain Architect's Certificate of Completion as to the structural components and mechanical systems for new Units 101, 102, 103, 104, 105, and 106 and Building 2, which is hereby incorporated into and made a part of the Declaration as if originally attached thereto and a part thereof, and is in satisfaction of N.C.G.S. 47C-2-101.

7. Except as amended and supplemented by this Supplemental Declaration, the Declaration shall be and remain unaltered, unchanged and in full force and effect.

(Signatures on following page)

IN WITNESS WHEREOF, Declarant has executed this Supplemental Declaration the day and year first above written.

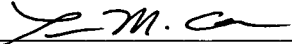
DECLARANT:
904 Oberlin Partners, LLC,
a North Carolina limited liability company

By: 
Name: Daniel W. Russell, Manager

WAKE COUNTY, NORTH CAROLINA

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Daniel W. Russell, Manager of 904 Oberlin Partners, LLC.

Date: AUGUST 20, 2021


Signature of Notary Public
Notary Name: TARA M. CORN
Printed or Typed Name

My Commission expires: January 16, 2024

(Official Seal)



AMENDED EXHIBIT B
SCHEDULE OF UNITS AND ALLOCATED INTEREST

	Unit Number	Allocated Interest	Street Address
Building 1	101	8.333%	712 E. Edenton Street, Unit 101 Raleigh, NC 27601
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	104	8.333%	712 E. Edenton Street, Unit 104 Raleigh, NC 27601
	105	8.333%	712 E. Edenton Street, Unit 105 Raleigh, NC 27601
	106	8.333%	712 E. Edenton Street, Unit 106 Raleigh, NC 27601
Building 2	101	8.333%	5 Seawell Avenue, Unit 101 Raleigh, NC 27601
	102	8.333%	5 Seawell Avenue, Unit 102 Raleigh, NC 27601
	103	8.333%	5 Seawell Avenue, Unit 103 Raleigh, NC 27601
	104	8.333%	5 Seawell Avenue, Unit 104 Raleigh, NC 27601
	105	8.333%	5 Seawell Avenue, Unit 105 Raleigh, NC 27601
	106	8.333%	5 Seawell Avenue, Unit 106 Raleigh, NC 27601
Land Unit	3	0.00%	
Total	13	100.00%	

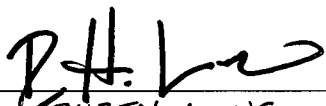
EXHIBIT D

ARCHITECT'S CERTIFICATE OF COMPLETION
FOR
625 NEW BERN CONDOMINIUM

The undersigned, being a Professional Architect licensed under the provisions of Chapter 83A of the North Carolina General Statutes, hereby certifies that the plans recorded with the First Supplement to Declaration of Condominium for 625 New Bern Condominium to which this Architect's Certificate of Completion is attached, fully and accurately depict the structural components and mechanical systems of Building 2, containing Units 101, 102, 103, 104, 105, and 106.

This Architect's Certificate of Completion is issued in accordance with and in satisfaction of the requirements of N.C.G.S. 47C-2-101.

This the 20th day of AUGUST, 2021.

By: 
RUSTY LONG, Professional Architect
License No. 11939

STATE OF NORTH CAROLINA

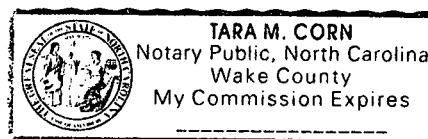
COUNTY OF WAKE

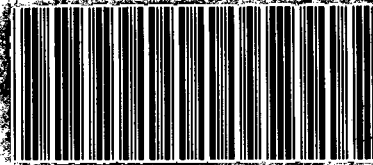
I, TARA M. CORN a Notary Public of the County and State aforesaid, do hereby certify that RUSTY LONG, Professional Architect, personally appeared before me this day and acknowledged the due execution of the following instrument.

Witness my hand and official seal, this the 20th day of AUGUST, 2021.


Notary Public
TARA M. CORN
Printed Name

My Commission Expires: January 16, 2024





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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

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PSB

WAKE COUNTY, NC 83
TAMMY L. BRUNNER
REGISTER OF DEEDS
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04/08/2021 15:37:25

BOOK:018444 PAGE:00241 - 00287

Prepared by and
Return after recording to:

Tara M. Corn
Midtown Property Law
4800 Six Forks Road, Suite 120
Raleigh, NC 27609

DECLARATION OF CONDOMINIUM

FOR

625 NEW BERN CONDOMINIUM

WAKE COUNTY, NORTH CAROLINA

Date: April 5, 2021

THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF THE FLAG OF THE UNITED STATES OF AMERICA OR STATE OF NORTH CAROLINA. (See Section 8.11)

THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF POLITICAL SIGNS. (See Section 8.11)

NOTE:

The Plans, including a plat and architectural drawings, are recorded in Condominium Map Book 2021, Pages 042-049, in the Office of the Register of Deeds of Wake County, North Carolina.

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DECLARATION OF CONDOMINIUM
FOR 625 NEW BERN CONDOMINIUM
WAKE COUNTY, NORTH CAROLINA

THIS DECLARATION OF CONDOMINIUM FOR 625 NEW BERN CONDOMINIUM (the "Declaration") is made by 904 Oberlin Partners, LLC, a North Carolina limited liability company (the "Declarant"), pursuant to the provisions of Chapter 47C of the North Carolina General Statutes, as the same may be amended from time to time, being referred to herein as, the "North Carolina Condominium Act."

W I T N E S S E T H:

WHEREAS, Declarant is the owner of a certain tract or parcel of land lying and being in Wake County, North Carolina, as described in the legal description attached hereto as Exhibit A, incorporated herein (the "Property"); and

WHEREAS, Declarant desires to and intends by this instrument to create a condominium in the Property pursuant to and in conformity with Chapter 47C of the North Carolina General Statutes (the "Condominium Act") and to impose mutually beneficial restrictions under a general plan of improvement for the benefit of the owners of each portion of the Property and to establish a procedure for the overall development, administration, maintenance and preservation of the Property; and

WHEREAS, concurrently with the recording of this Declaration, the Declarant is recording plats and plans for the Condominium consistent with the terms and conditions of this Declaration;

NOW THEREFORE, Declarant does hereby submit the Property to the provisions of this Declaration and the provisions of the North Carolina Condominium Act, N.C. Gen. Stat. §§ 47C-1-101, et seq.

**ARTICLE I
DEFINITIONS**

Unless it is plainly evident from the context that a different meaning is intended, the following terms, words, and phrases shall have the following meanings when used in this Declaration:

- 1.1 "Allocated Interest" shall mean and refer to the undivided percentage interest in the Common Elements allocated to each Unit, as set forth on Exhibit B attached hereto. In the event that the Declarant elects to exercise its Development Rights under Article VI of this Declaration to create additional Units, this Declaration shall be revised by a Supplementary Declaration as set forth under Article VI to provide for a new allocation of Allocated Interests pursuant to the formula stated in Section 5.3, which shall substitute and replace Exhibit B attached hereto. The Allocated Interests shall be used to allocate the division of proceeds, if any, resulting from any casualty loss or eminent domain

proceedings and shall also be used to determine voting rights in the Association as well as each Unit's share of Common Expenses.

- 1.2 "Association" shall mean and refer to 625 New Bern Condominium Association, Inc., a corporation organized and existing under the North Carolina Non-Profit Corporation Act pursuant to and in accordance with this Declaration, the Bylaws, and the North Carolina Condominium Act.
- 1.3 "Building" or "Buildings" shall mean and refer to, collectively or individually, the three (3) buildings that have been or will be constructed on the Land. Currently, one (1) Building has been completed containing six (6) Units.
- 1.4 "Bylaws" shall mean and refer to the bylaws of the Association and all amendments to such bylaws which may from time to time be adopted.
- 1.5 "Common Elements" shall mean and refer to all portions of the Condominium other than the Units, as depicted on the Plans, and as more particularly described in Section 5.1 of this Declaration.
- 1.6 "Common Expenses" shall mean and refer to any and all expenditures made by or financial liabilities of the Association, together with any allocations to reserves, pursuant to and in accordance with this Declaration, the Bylaws, and the North Carolina Condominium Act.
- 1.7 "Condominium" shall mean and refer to 625 New Bern Condominium, as established by the submission of the Property to the terms of the North Carolina Condominium Act by this Declaration.
- 1.8 "Condominium Documents" shall mean and refer to this Declaration, the Articles of Incorporation of the Association, the Bylaws and the rules and regulations governing the use of the Property, as the foregoing may be amended and supplemented from time to time, and all attachments and exhibits thereto.
- 1.9 "Declarant" shall mean and refer to 904 Oberlin Partners, LLC, a North Carolina limited liability company. Following recordation of a document transferring to another Person all or some of the Special Declarant Rights, pursuant to Section 7.2 of this Declaration, the term "Declarant" shall mean and refer to that transferee, with respect to the Special Declarant Rights so transferred.
- 1.10 "Declarant Control Period" shall mean and refer to the period as more particularly described in Sections 9.3 and 9.4 herein below, of Declarant control of the Association, during which period the Declarant, or persons designated by it, may appoint and remove the officers and members of the Executive Board.
- 1.11 "Declaration" shall mean and refer to this Declaration of Condominium for 625 New Bern Condominium, as it may be amended and/or supplemented in the future.

- 1.12 "Development Right" or "Development Rights" shall mean and refer to the rights reserved by Declarant in Article VI and Article VII of this Declaration.
- 1.13 "Executive Board" or "Board" shall mean and refer to the governing body from time to time of the Association as constituted in accordance with the Articles of Incorporation of the Association, the Bylaws and the North Carolina Condominium Act.
- 1.14 "Family Members" shall mean and refer to the spouse, parents, parents-in-law, brothers, sisters, children and grandchildren of a natural person.
- 1.15 "Land" shall mean and refer to the real property subject to this Declaration, exclusive of any improvements located thereon or incorporated therein, which is more particularly described on Exhibit A attached hereto.
- 1.16 "Land Unit" or "Land Units" shall mean and refer to such portions of the Land as depicted on the Plats with boundaries as described below that consist of ground and air rights above unimproved portions of the Land and which are the subject of individual ownership by an Owner; one or more Buildings may be constructed in a Land Unit; after completion of construction, marketing and sales activities, Land Units shall be restricted to residential use. The boundaries of a Land Unit are as stated in Section 4.7 herein below.
- 1.17 "Limited Common Elements" shall mean and refer to those portions of the Common Elements allocated by this Declaration, or the terms of N.C. Gen. Stat. §47C-2-102(2) or (4), for the exclusive use and benefit of one or more, but fewer than all, of the Units, to the exclusion of all other Units, as more fully described in Section 5.2 of this Declaration, and as depicted on the Plans.
- 1.18 "Manager" shall mean any Person appointed or employed by the Association to operate, maintain and manage the Condominium.
- 1.19 "Mortgage" shall mean and refer to a mortgage or deed of trust constituting a first lien on a Unit.
- 1.20 "Mortgagee" shall mean and refer to the owner and holder of a Mortgage that has notified the Association in writing delivered to the Association as set forth in the Bylaws of such owner and holder's name and address, and that it holds a Mortgage on a Unit. Such notice will be deemed to include a request that the Mortgagee be given the notices and other rights described in Article XVIII.
- 1.21 "North Carolina Condominium Act" shall mean and refer to Chapter 47C of the North Carolina General Statutes, as it may be amended from time to time.
- 1.22 "Occupants" shall mean any natural person(s) in possession of a Unit, including Owners, Family Members, lessees, guests and invitees of such natural person(s).
- 1.23 "Owner" shall mean and refer to the record owner, whether one or more Persons or entities, of fee simple title to any Unit or Land Unit, but shall exclude those Persons or entities

having an interest in any Unit or Land Unit as merely security for the payment or performance of an obligation.

- 1.24 “Permittees” shall mean and refer to tenants, subtenants, occupants, contractors, subcontractors, agents, employees, licensees and invitees, and their respective officers, directors, contractors, subcontractors, agents, employees, licensees, invitees and visitors; provided, however, nothing contained herein shall imply that Owners may rent or lease their Units to any such Permittee.
- 1.25 “Person” shall mean a natural person, corporation, municipal corporation, partnership, limited liability company, association, firm, business trust, estate, trust, joint venture, government, governmental subdivision or agency, or other legal or commercial entity.
- 1.26 “Plans” and/or “Plats” shall mean and refer to the surveys, plats, plans and specifications of the Buildings and Property recorded in the Wake County Register of Deeds (the “Wake Registry”), and any amendments or supplements to those Plans. The Plans are hereby incorporated herein by reference as if the same were attached to this Declaration.
- 1.27 “Private Street(s)” shall mean any paved street or roadway on the Land intended for vehicular ingress and egress, and not being designated on the Plans as either parking area or public right-of-way.
- 1.28 “Property” shall mean and refer to the Land together with the improvements thereon, and such future improvements as may be constructed thereon consistent with this Declaration.
- 1.29 “Special Declarant Rights” shall mean and refer to the rights reserved for the benefit of Declarant in the Condominium Documents, as more particularly described in Article VII of this Declaration.
- 1.30 “Unit” shall mean and refer to a portion of the Property, as more particularly described in Article IV of this Declaration, that is the subject of individual ownership by an Owner, and which is restricted to residential use.

In addition, the definitions set forth in N.C. Gen. Stat. §47C-1-103 are incorporated in this Declaration by reference, and the terms defined therein shall have the meanings set forth therein when used in this Declaration or the Condominium Documents, unless those terms are expressly defined otherwise in this Declaration or unless it is plainly evident from the context that a different meaning is intended.

ARTICLE II DESIGNATION OF CONDOMINIUM

- 2.1 Location and Designation. The Land on which the Buildings and other improvements are located or will be located is in Wake County, North Carolina and is more particularly described on **Exhibit A** attached hereto and incorporated herein by reference. The Land is subjected to the terms of the North Carolina Condominium Act by this Declaration.
- 2.2 Name. The name of the Condominium is 625 New Bern Condominium.

ARTICLE III DESCRIPTION OF BUILDINGS

- 3.1 Existing Buildings. The Condominium contains one (1) existing Building with six (6) Units. The Building consists of three floors and rooftop terraces, as more particularly shown and depicted on the Plans. Attached hereto as **Exhibit D** is the certificate executed by a North Carolina Licensed Architect, in compliance with Section 47C-2-101(b) of the Condominium Act, regarding the structural components and mechanical systems of the existing Building.
- 3.2 Potential New Buildings. As provided in Article VI, Declarant reserves Development Rights to construct two (2) additional Buildings (the "New Buildings") within the Land Units, each containing up to six (6) additional Units for a total of twelve (12) additional Units. The New Buildings shall be designated on the Plat(s) as either "MUST BE BUILT" or "NEED NOT BE BUILT" and Declarant shall not be obligated to construct a New Building unless it is designated as "MUST BE BUILT" on a recorded Plat, nor shall Declarant have any obligation to construct the New Buildings in any particular order. Declarant reserves the right to alter the number, size, and types of Buildings and Units to be constructed. If Declarant exercises its Development Rights to construct such additional New Buildings and Units on the Land Units, a Supplementary Declaration required by Section 6.5 of this Declaration shall contain a revised set of Plans which shall describe the New Buildings and Units therein and contain certifications require by N.C. Gen. Stat. §47C-2-109.

ARTICLE IV DESCRIPTION OF UNITS

- 4.1 Location of Buildings. The location and dimensions of the existing Building are shown on the Plans. If the Declarant exercises its Development Rights to construct New Buildings, the location and dimensions of the New Buildings must be shown on the Supplementary Declaration (including related Plans) required by Section 6.5 hereof and N.C. Gen. Stat. §47C-2-110.
- 4.2 Units. The location of Units within the existing Building and their dimensions are shown on the Plans. There are a total of six (6) Units in the existing Building. The identifying number for each Unit is set forth on **Exhibit B** and on the Plans.

4.3 Land Units. The location of the Land Units and their dimensions are shown on the Plat. There are a total of two (2) Land Units on the Property. The identifying number for each Land Unit is set forth on **Exhibit B** and on the Plat.

4.4 Creation of Additional Units. Pursuant to Article VI of this Declaration, Declarant reserves the Development Right to create up to an additional twelve (12) Units upon the Land Units. The maximum number of Units that may be created in the Condominium by Declarant is 18 Units. If Declarant exercises its Development Right, the Supplementary Declaration required by Section 6.5 of this Declaration shall contain a new **Exhibit B** and revised set of Plans, which shall contain new identifying numbers for the Units thereby created.

4.5 Unit Boundaries.

(a) The boundaries of each Unit are as follows:

(i) Lower Horizontal Boundary: the horizontal plane of the top surface of the subflooring or concrete slab, as applicable, within each Unit. In certain Units, as depicted on the Plans, the floors within different portions of the Unit may be at different elevations; in such cases, the lower boundary of a Unit shall not be a single plane, but shall vary with the differing finished floor elevations within different portions of the Unit. For each of the Units, the definitions of upper and lower boundaries set forth herein apply with respect to each level within the Unit, and the horizontal structural elements dividing the levels of a given Unit are part of the Common Elements.

(ii) Upper Horizontal Boundary: the horizontal plane of the top surface of the wallboard in the ceilings within each Unit. In certain Units, as depicted on the Plans, the ceilings within different portions of the Unit may be at different elevations; in such cases, the upper boundary of a Unit shall not be a single plane, but shall vary with the differing finished ceiling elevations within different portions of the Unit.

(iii) Vertical Boundaries: the vertical planes of the back surface of the wallboard of all the walls bounding the Unit, extended to intersections with each other, and with the upper and lower horizontal boundaries.

(b) As provided in N.C. Gen. Stat. §47C-2-102(1), each Unit includes all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished surfaces of the perimeter walls, floors, and ceilings located within the boundaries of the Unit. As provided in N.C. Gen. Stat. §47C-2-102(2), if any chute, flue, duct, wire, pipe for water or sewer, conduit, bearing wall, bearing column, or any other fixture lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving only that Unit shall be a Limited Common Element allocated to that Unit, as provided in Section 5.2 below, and any portion thereof

serving more than one Unit, or any portion of the Common Elements, shall be a Common Element.

- (c) Each Unit includes (i) the front entrance door and any other entrance doors and/or garage doors to the Unit; (ii) the interior walls (except load bearing walls), partitions, floors and floor coverings, and plastered ceilings affixed, attached or appurtenant to the Unit; (iii) all windows (including, without limitation, their panes, casements, frames, and screens) located within or opening from the Unit; (iv) the heating, ventilating, and air conditioning systems, and all fans, compressors, return air grills and thermostats, whether located inside or located outside the designated boundaries of a Unit; (v) all equipment, fixtures, appliances (including, without limitation, lighting and electrical fixtures, door bells, plumbing facilities, sinks, bathtubs, toilets, ovens, ranges, dishwashers and any other appliance) and other facilities affixed, attached, or appurtenant to that Unit and benefitting only that Unit, whether or not such is located within the space described above; and (vi) the rooftop terrace decking and membranes.

4.6 Boundaries of Additional Units. The boundaries of the additional Units created by Declarant under the Development Rights shall be set forth in the Plans and each Supplementary Declaration.

4.7 Boundaries of Land Units. The vertical boundaries of a Land Unit shall be the vertical planes extending from boundary lines depicted on the Plats, and the lower and upper horizontal boundaries shall be horizontal planes located directly below and above, respectively, the plane depicted on the Plats at an elevation of fifty feet (50') below the surface elevation of the Land at ground level (lower horizontal boundary) and extending up to an elevation two hundred fifty (250') above the surface elevation of the Land at ground level (upper horizontal boundary).

ARTICLE V COMMON ELEMENTS

5.1 Common Elements. The Common Elements include all portions of the Condominium that are not part of the Units or Land Units, including, without limitation:

- (a) The Land and the easement rights and other property rights appurtenant to the Land that are included within the Property and subjected to this Declaration.
- (b) All improvements located on the Land outside of the Buildings, including without limitation exterior walkways, landscaped areas, patios, and walkways, sidewalks and driveways, curb and gutter, fences, retaining walls, conduits, storm drains, utility lines, lighting, Private Streets, parking areas, and paving (unless such are designated as Limited Common Elements).

- (c) The foundations, roofs (except the roof terrace decking and membrane), columns, girders, beams, supports, exterior and interior load-bearing walls, floors within and between Units, and all other structural elements of the Buildings.
- (d) Any public connections and meters, vaults and manholes for utility services 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, if applicable.
- (e) All tangible personal property required for the operation and maintenance of the Condominium that may be owned by the Association, and all other elements of the Condominium rationally of common use or necessity for its existence, upkeep, and safety, such as fire protection, garbage disposal, electricity, data and communication, cable or satellite television, gas, water, sanitary and storm water.
- (f) The Limited Common Elements described in Section 5.2 below.

5.2 Limited Common Elements. The Limited Common Elements shall be composed of the following:

- (a) Those portions of any chute, flue, duct, wire, pipe for water or sewer, conduit, bearing wall, bearing column, or any other fixture lying partially within and partially outside the designated boundaries of a Unit, but serving exclusively that Unit, which shall be Limited Common Elements allocated exclusively to that Unit.
- (b) Any shutters, awnings, window boxes, balconies, and all other fixtures designed to serve a single Unit, but located outside that Unit's boundaries, which shall be Limited Common Elements allocated exclusively to that Unit.
- (c) Those areas indicated as Limited Common Elements on the Plans, which shall be allocated to the Unit to which such Limited Common Elements are serving, including but not limited to any exterior stairs, driveways, assigned or reserved parking spaces, if any, decks or porches allocated to a Unit on the Plans or conveyed as a limited common element in the Deed from Declarant together with the Unit.

5.3 Undivided Interests of Owners in Common Elements. The percentage interest in the Common Elements allocated to each Unit shall be the Allocated Interest for that Unit as set forth on **Exhibit B** attached hereto. The Allocated Interest allocated to each Unit shall not be changed except with the unanimous consent of all the Owners of all the Units and with the consent of all the Mortgagees, except as may be specifically authorized elsewhere in this Declaration. In particular, if Declarant exercises its Development Rights to create additional Units and Limited Common Elements, Declarant shall adjust the Allocated Interest for each Unit in accordance with the following formula: The Allocated Interest allocated to each Unit shall be calculated by dividing the number 100 by the total number of Units in the Condominium. For purposes of calculating the Allocated Interest, Land Units shall not be considered Units. The Supplementary Declaration required by Section 6.5 of this Declaration shall contain a new allocation of Allocated Interest calculated in

accordance with the foregoing formula which shall be substituted for **Exhibit B** attached to this Declaration in the event that Declarant exercises its Development Rights.

5.4 Maintenance of Common Elements.

- (a) The Association shall be responsible for the maintenance and repair of all Common Elements, except for: (i) routine maintenance of the Limited Common Elements, which shall be the responsibility of the Owner of the Unit to which they are allocated, (ii) any maintenance or repairs caused by the negligence or intentional misconduct of any Owner, his agents, invitees or family members, which shall be the responsibility of that Owner.
- (b) The cleanliness and orderliness of the Limited Common Elements shall be the responsibility of the individual Owner having the right to the use and enjoyment of such Limited Common Elements. References in this Declaration to "Common Elements" shall include Limited Common Elements unless the context clearly indicates otherwise. The allocation of use of Limited Common Elements to the Units as provided for in this Declaration shall not be altered without the unanimous consent of the Owners whose Units are affected.
- (c) Private Streets constitute Common Elements and the Association is responsible for their maintenance, except as provided in clause (ii) of subsection (a) above. In no case shall the City of Raleigh or State of North Carolina be liable for maintaining a Private Street.

ARTICLE VI DEVELOPMENT RIGHTS

- 6.1 Creation of New Units and Limited Common Elements. Declarant reserves an option, for a period of ten (10) years from the date this Declaration is recorded, to construct New Buildings within the Land Units and to create within such New Buildings additional Units, Common Elements and Limited Common Elements allocated to those Units in accordance with the provisions of this Article VI. The maximum number of Units within the Condominium that Declarant reserves the right to create, including Units in existence as of the date of recording this Declaration, is eighteen (18). Declarant may exercise the Development Rights without the consent or approval of the Association, or any other Owner or Mortgagee, by executing and recording a Supplementary Declaration in the manner provided in Section 6.5 below. Declarant reserves the right to exercise the Development Rights with respect to any portion or portions of the Property subject hereto as it deems appropriate or desirable, in its sole discretion, including, without limitation, exercising Development Rights with respect to different parcels or portions of such Property or Land Units at different times. No assurances are provided as to the exercise of any Development Rights or as to the order in which such Property or Land Units or portions thereof may be subjected to the exercise of any Development Rights. If a Development Right is exercised with respect to any portion of the Land Units subject to such right, it is not necessary that such right be exercised with respect to all of the Land

Units or any other portion of the Land Units. It is the intention of Declarant to create additional Units within New Buildings on the Land Units, or on portions thereof, at different times (in phases); however, no assurance is made by Declarant in regard to boundaries of the specific areas within the Common Elements or within the Land Units, or any portion thereof, on which new Units may be created, and no assurance is made by Declarant in regard to the order in which those portions of the Common Elements and the Land Units may be subjected to the exercise of Declarant's Development Rights.

- 6.2 Quality of Construction. Any New Building constructed by Declarant within the Land Units shall be substantially similar to the existing Building in terms of architectural appearance and quality of construction. Declarant reserves the right to substitute materials of similar durability, quality and strength in Declarant's sole discretion, so long as the foregoing standard is complied with. The Units within the New Building(s) created by the Declarant need not be of the same type and design of the existing Units, so long as the construction and appearance of each New Building satisfies the requirements set forth above. Declarant shall have the right to allocate Limited Common Elements to the new Units in the manner similar to the allocation of Limited Common Elements to the existing Units under Section 5.2 of this Declaration.
- 6.3 Pre-Sale Modification. Declarant reserves an option, prior to conveying a particular Unit to a purchaser other than Declarant, to: (a) relocate Units within the Condominium (provided all affected Units are owned by Declarant at such time), (b) alter the size of or subdivide such Unit, and (c) combine or merge two such Units (provided such are adjacent and are both owned by Declarant at such time).
- 6.4 Conversion of Land Units. Declarant reserves an option, for a period of ten (10) years from the date this Declaration is recorded, to convert Land Units or any part thereof (still owned by Declarant) into Units and/or Common Elements. If Declarant exercises its Development Right under Section 6.1 to construct a New Building within a Land Unit, the Land Unit shall be converted into Units and/or Common Elements, and such Land Unit shall terminate upon the recording of the Supplementary Declaration required by Section 6.5.
- 6.5 Supplementary Declaration. In order to exercise the Development Rights reserved under this Article VI, Declarant shall execute and record an amendment to this Declaration in accordance with N.C. Gen. Stat. §47C-2-110 (a "Supplementary Declaration"). Any Supplementary Declaration executed and recorded by Declarant to exercise the Development Rights described in Section 6.1, 6.2, 6.3, or 6.4 shall contain an amendment or supplement to the Plans identifying the changes and, if necessary, recording an amendment to **Exhibit B** attached to this Declaration, assigning and identifying numbers to any new Units and reallocating the Allocated Interests among all Units in accordance with the formula set forth in Section 5.3. Any such Supplementary Declaration also may contain such additions to the provisions of this Declaration as may be necessary to reflect the different character of the new Units created by Declarant, so long as such additions are not inconsistent with the overall scheme of the Declaration, and provided that such additions shall not apply to any Unit created prior to recordation of the Supplementary Declaration or to the Owner or Mortgagee of any such Unit. Declarant must comply with

all applicable laws, ordinances and regulations implicated in exercising its Development Rights.

ARTICLE VII SPECIAL DECLARANT RIGHTS

7.1 Special Declarant Rights. "Special Declarant Rights" are those rights reserved for the benefit of Declarant in the Condominium Documents, and shall include, without limitation, the following rights:

- (a) The right to add real estate to the Property.
- (b) The right to construction or complete construction of any improvements upon the Common Elements or Land Units including but not limited to the New Buildings.
- (c) An easement right over and through the Common Elements for the purpose of completing construction upon the Common Elements and/or Land Units.
- (d) Subject to Section 9.3 and 9.4, the right to appoint or remove officers of the Association or members of the Executive Board during the Declarant Control Period.
- (e) The right to maintain one (1) sales office, one (1) management office, and up to three (3) model Units in the Condominium. The offices, model Units and signs will be of sizes and styles determined by Declarant, and may be relocated by Declarant from time to time. At all times, the offices, model Units and signs will remain the property of Declarant and may be removed from the Property by Declarant.
- (f) The right to exercise any other rights granted to or reserved by Declarant in the Condominium Documents; expressly including, without limitation, the Development Rights set forth in Article VI above.
- (g) The right, at its sole discretion, to designate or allocate specific, reserved parking spaces for each Unit, or some of the Units, and the right to establish additional areas of parking within the Common Elements.
- (h) All rights described in N.C. Gen. Stat. §47C-1-103(11).
- (i) The right of Declarant to use (Declarant hereby reserving for itself and its successors and assigns) a non-exclusive easement upon, across, over, in, and under the Property as may be reasonably necessary for the purpose of discharging Declarant's obligations or exercising Special Declarant Rights, whether arising under the North Carolina Condominium Act or this Declaration, including, without limitation:

- (i) easements for ingress and egress and for installation, replacement, repair and maintenance of drainage ditches and facilities, all utilities, including but not limited to water, sewer, gas, telephone, and electrical, cable and other communications systems;
- (ii) easements to store materials on the Common Elements and to make such other use of the Common Elements as may be reasonably necessary or incidental to the construction of the Buildings and other improvements on the Property; and
- (iii) the location of these easements and rights-of-way may be made certain by Declarant and the Association by instruments recorded in the Wake Registry.

7.2 Transfer of Special Declarant Rights. Declarant may transfer any Special Declarant Rights created or reserved under the Condominium Documents to any Person or entity, by an instrument evidencing the transfer duly recorded in the Wake Registry. The instrument shall not be effective unless it is executed by the transferor and the transferee. Upon the transfer of any Special Declarant Rights, the liability of the transferor and the transferee shall be as set forth in N.C. Gen. Stat. §47C-3-104.

7.3 Application of Special Declarant Rights. Declarant reserves the Special Declarant Rights as to the Land Units and the Property, or any portion thereof it deems appropriate or desirable, in its sole discretion including, without limitation, applying any Special Declarant Right to different parcels or portions of the Land Units at different times. No assurances are provided as to exercise of Special Declarant Rights or the order in which those parcels or portions may be subjected to the exercise of any Special Declarant Rights. If a Special Declarant Right is exercised with respect to any portion of the Land Units subject to such right, it is not necessary that such right be exercised with respect to all of the Land Units or any other portion of the Land Units. Unless expressly stated to the contrary, the Special Declarant Rights shall expire as of the date ten (10) years from the date this Declaration is recorded.

ARTICLE VIII RESTRICTIONS ON USE

8.1 Residential Use. The Units shall be used for residential purposes only. No business activity of any kind shall be carried out on the Property. Notwithstanding the foregoing, Declarant (a) may maintain any Unit owned by Declarant as a sales office or model Unit, (b) may lease any unsold Units to third parties and (c) may conduct such sales and marketing activities as Declarant deems appropriate in connection with the development and sale of Units, including, without limitation, conducting tours of the Common Elements, model Units and unsold Units and holding sales promotions. Additionally, the Units are subject to such other restrictions, covenants, easements and limitations as may be of record at the time of the purchase, including, without limitation, restrictions on use, occupancy, or alienation of the Unit, such disclosure being designed to comply with N.C. Gen. Stat. §47C-2-105(a)(12).

8.2 Nuisance; Compliance with Laws. No obnoxious, offensive or unlawful activity shall be conducted within any Unit, or on or about the Common Elements, nor shall anything be

done thereon or therein which may be or which may become an annoyance or nuisance to the other Owners, or endanger the health and safety of any Owner. Nothing shall be done or kept in any Unit or in the Common Elements that will result in the termination of, or an increase in the premium for, the policy of property insurance for the Property. Owners shall, and shall cause their Occupants, guests and Permittees to, comply with all laws, ordinances, governmental codes, health regulations, zoning restrictions and the like, applicable to the Property. In the event of any conflict between any authority listed in the foregoing sentence and any of the Condominium Documents, the more restrictive provision shall prevail.

- 8.3 Leasing. No Unit or portion thereof shall be leased for boarding house, bed and breakfast, hotel, or other transient residential purposes, which for purposes of this Declaration shall be defined as a rental for any period less than twelve (12) months. An Owner may nevertheless lease the entire Unit; provided that each lease must be in writing, must be for a period of not less than twelve (12) months, and must provide that it is subject to this Declaration and the Bylaws and that any failure by a tenant to comply with such shall be a default under the lease. The Owner shall promptly provide the Association with copies of any and all leases entered into by the Owner. In no event, however, shall a portion of a Unit (as opposed to the entire Unit) be sold, conveyed, leased, or subleased. Leasing of a Unit shall not, under any circumstances release the Owner from its obligations under this Declaration (including payment of all applicable Assessments). The Association shall nevertheless be deemed a third party beneficiary of any lease provision whereby the lessee has assumed the liability for payment of the Assessments applicable to the Unit being leased.
- 8.4 Prohibitions on Use of Common Elements. The Common Elements (other than storage areas, if any, designated by the Association) shall not be used for the storage of personal property of any kind. Stairs, entrances, landscaped areas, hallways outside of Units, walkways, driveways, Private Streets and parking areas shall not be obstructed in any way, or used for other than their intended purposes. In general, no activity shall be carried on nor conditions maintained by any Owner either in his Unit or upon the Common Elements which detracts from the appearance of the Property.
- 8.5 Garbage. All garbage, trash, or rubbish shall be: (i) stored in the Unit's garage and/or other areas inside the Unit designed for such storage; and (ii) put into the trash containers provided by the company providing trash pickup service and regularly taken to the curbside for pickup on the designated day each week. In no event shall trash containers be stored outside of a Unit other than on the designated pickup day.
- 8.6 Parking No Owner or any employee, agent, or invitee of any Owner, shall park, store or keep any vehicle on the Land except in the parking spaces on the Property, or inside of a Unit's garage. No motorcycle, boat, boat trailer, motor home, travel trailer, camper or other recreational vehicle may be stored on the Property at any time other than inside of a Unit's garage with the garage door remaining closed. No significant automobile repair shall be allowed in the parking areas on the Property. The Association shall have the right to tow any vehicle in violation of this Section 8.5 at its owner's expense.

- 8.7 No Timeshares. No interest in any Unit may be subjected to a time share program, as that term is defined in N.C. Gen. Stat. § 93A-41(10).
- 8.8 Animals. No animals, livestock, or poultry of any kind shall be kept or maintained on the Property or in any Unit, except that small common household pets and licensed assistance animals may be kept or maintained in each Unit, provided they are not kept or maintained for commercial purposes and provided that they are not individually known to be, nor of a breed that is commonly known to be, potentially savage or dangerous. No Owner may have more than two (2) small common household pets at any one time (excluding fish). No pet shall be permitted upon the Common Elements unless carried or leashed by a Person that can control the pet. All pets shall be controlled so as not to create a nuisance or unreasonable disturbance (including loud and excessive barking) on the Property. Pets shall not be permitted to defecate in the Common Elements, and each Owner shall clean up immediately after his pet if an accident occurs. All pets shall be registered and inoculated as required by law. Each Owner shall hold the Association harmless from any claim resulting from any action of his pet and shall repair at his expense any damage to the Common Elements caused by his pet. If any Owner violates these rules more than twice in any twelve (12) month period, then in addition to any fines allowed pursuant to the Bylaws or the Rules and Regulations, the Association shall have the right to require the Owner to remove the pet permanently from the Property upon not less than ten (10) days' written notice.
- 8.9 Utilities. All Units shall have separate electrical meters. 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 stove 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. If the Condominium has a single meter or submeter for water and sanitary sewer service provided to the Buildings, the cost of such water and sewer service shall be deemed a Common Expense and the Association shall have the right to separately meter or submeter water and sanitary sewer service to any or all Units or to any portion thereof and costs of such utility service shall be allocated to the Unit for which such meter or submeter applies. Declarant and the Association reserve the right (without obligation) to install within the Property such utility facilities and devices necessary to provide cable television, broadband internet or similar services.
- 8.10 Architectural Control. No building, wall, or other structure (other than a satellite dish or antenna as permitted by Section 8.14 or as otherwise shown on the Plans) shall be commenced, erected or maintained upon the Property, nor shall any exterior addition to or change or alteration to either the Unit or the Common Elements be made, until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Architectural Committee.

- (a) Notwithstanding the foregoing, an Owner has the right, exercisable at any time and from time to time, to install, at that Owner's sole cost and expense, any interior decorations, fixtures, and coverings (including, without limitation, painting, finishing, wall papering, carpeting, pictures, mirrors, shelving, and lighting fixtures) on the surfaces of the walls, ceilings, and floors that face the interior of that Owner's Unit and to a depth of one inch behind such surfaces for the purposes of installing nails, screws, bolts and the like, and to alter or remove interior walls, in whole or in part, in order to change that Unit's layout, or to improve the Unit, provided that no such installation, alteration, removal, or change shall impair the structural integrity of that Unit or of the Building of which it is a part. Any such improvements shall be made in accordance with applicable laws and ordinances.
 - (b) The Architectural Committee shall have the right to refuse to approve any plans and specifications for improvements (the "Plans & Specifications") proposed to be constructed with respect to a Unit that are not exempted by subsection (a) above and that are not suitable or desirable, in its sole discretion, for aesthetic or any other reasons, provided such approval is not unreasonably withheld. In approving or disapproving Plans & Specifications, the Architectural Committee shall consider the purposes of the Declaration, including the suitability of the proposed improvements and materials to be used in those improvements, the site upon which it is proposed to be erected, and the effect of the improvements on adjacent or neighboring property. There is specifically reserved unto the Architectural Committee the right of entry and inspection upon any Unit for the purpose of determining whether there exists any construction of any improvements which violates the terms of any approval by the Architectural Control Committee or the terms of this Declaration or of any other applicable covenants, conditions and restrictions. The Architectural Committee and the Board of Directors is specifically empowered to enforce the provisions of this Declaration by any legal or equitable remedy. In the event it becomes necessary to resort to litigation to determine the propriety of any constructed improvement, or to remove any unapproved improvements, the prevailing party shall be entitled to recovery of all court costs and expenses (including reasonable attorney's fees).
- 8.11 Signs and Flags. No signs or other advertising devices shall be displayed on or about the exterior of any Unit, or in the Common Elements, including, without limitation, "For Sale" or "For Rent" signs, except for: (a) one name plate or sign not exceeding twenty-four (24) square inches in area on the main door to each Unit; and (b) a temporary professionally printed "For Sale" or "For Rent" sign not to exceed three (3) square feet in one (1) window of a Unit, erected in conformance with applicable sign ordinances. The prohibition on the display of signs shall expressly include, without limitation, the display of political signs as defined in N.C. Gen. Stat. § 47C-3-121 (2). Any signs displayed as provided above or as may be otherwise permitted by the Association shall be maintained solely by the Owner of such Unit displaying such sign and shall be maintained in a neat and clean condition and shall not be permitted to become worn, tattered, faded or otherwise in disrepair. Notwithstanding the foregoing, Declarant shall have the right to maintain within the Condominium advertising signs during the Declarant Control Period, provided those signs comply with applicable sign ordinances. Further, no pole or other device for the display of decorative flags shall be erected or displayed on or about the exterior of any Unit, or in the Common Elements, unless approved in advance

by the Executive Board. In the event that the Executive Board approves installation of a pole or device for the display of decorative flags, any such flags displayed by an Owner or its Permittees, shall be in good taste and shall not contain lewd or offensive displays or material. The display of the flag of the United States or North Carolina is permitted, provided it is no greater in size than four feet by six feet and it is displayed in accordance with or in a manner consistent with the patriotic customs set forth in 4 U.S.C. §§ 5-10, as amended.

- 8.12 Maintenance. Except as otherwise specifically set forth herein, the Owner of each Unit is responsible for maintaining his Unit as well as the Limited Common Elements appurtenant thereto (excluding the structural elements of rooftop terraces or balconies). Each Owner shall keep his respective Unit and its appurtenant Limited Common Elements in a clean, neat and orderly condition and in a good state of maintenance and repair. If an Owner fails to comply with the standards or requirements of the Association relative thereto after ten (10) days written notice, the Association shall assess the defaulting Owner the cost thereof and shall undertake to effect said compliance.

- 8.13 Rules and Regulations. In addition to the use restrictions set forth in this Declaration, reasonable rules and regulations governing the use of the Property may be made and amended from time to time by the Association. Copies of such regulations and amendments thereto shall be posted prominently prior to their effective date, and shall be furnished by the Association to all Owners upon request.

- 8.14 Satellite Dishes and Antennas.

- (a) Unless otherwise required by law, no exterior satellite dish in excess of eighteen inches (18") in diameter may be placed on the exterior of any Unit or in the Common Elements without the prior written approval of the Architectural Committee, which may be withheld in its sole discretion. The location of any exterior antenna, or satellite dish less than eighteen inches (18") in diameter, shall be subject to the reasonable prior approval of the Architectural Committee, taking into account the appropriate standards set forth in the regulations of the Federal Communications Commission ("FCC"), and to the extent permitted such standards and regulations, the Architectural Committee may require that such antenna or satellite dish be screened from public view. Prior to installing the antenna or satellite dish, the Owner shall furnish to the Architectural Committee a copy of such Owner's installation plans. The Association shall have the right to perform any portion of the installation work at the expense of the Owner, or to require that any portion of the work be performed by contractors designated by the Architectural Committee. In no event shall such antenna or satellite dish be installed on the roof unless required by law or otherwise approved by the Architectural Committee in its sole discretion, and then, any roof penetration that is required to install any antenna or satellite dish shall be performed only by a roofing contractor designated or approved by the Architectural Committee. The Owner shall also be responsible for any damage caused by the removal of the antenna or satellite dish, including the sealing of conduits or other roof penetrations. The Association shall have the right

to require that any part of the removal work, including the sealing of roof penetrations, be performed by the roofing contractor designated by the Architectural Committee, at the Owner's expense. Any Owner installing an antenna or satellite dish under this Section 8.14 shall indemnify, defend and hold the Association harmless from and against any loss, damage, claim or other liability resulting from the installation, maintenance, repair, use and/or removal of the antenna or satellite dish, including any damage to the roof of the Building or other property damage caused by roof leaks.

- (b) Notwithstanding anything in this Section 8.14, all satellite dishes and antennas which are permitted by the Architectural Committee to be installed on any rooftop terrace or balcony or within any courtyard, or any other Limited Common Element, shall be subject to the following restrictions: (i) no such structure or any wiring associated therewith may protrude beyond the railing of any such balcony or rooftop terrace, and (ii) no wiring may be installed through the exterior wall of a Unit or through any other Common Element and no Common Element may be modified or damaged as a result of such installation. The Declarant, during the Declarant Control Period, or the Architectural Committee (at any time) may, to the extent permitted by any applicable regulations of the FCC, establish additional rules and regulations regarding the location and installation of any satellite dish or antenna on any rooftop terrace, balcony, courtyard or other Limited Common Element.

8.15 Rooftop Terraces. Any rooftop terraces or balconies attached to or extending from a Unit shall be kept in a clean, neat, and orderly condition at all times and shall not be used for the overnight storage of garbage or for the drying of laundry. In particular, towels or banners shall not be hung on railings, fences or gates, and any dead plants shall be removed promptly. No indoor-outdoor carpeting, hot tub or pool shall be installed on any rooftop terrace or in any courtyard or patio area. If permitted by applicable building codes and zoning ordinances, an Owner may use or store a cooking grill on its rooftop terrace or patio area, but such Owner shall be responsible for complying with all applicable laws, ordinances, and regulations in connection with such storage and use. The Declarant, during the Declarant Control Period, or the Association may adopt and enforce rules and regulations relating to the type, location, and use of furnishings, equipment, and plantings on rooftop terraces, balconies, and other Limited Common Elements.

8.16 Compliance with Covenants, Conditions, and Restrictions

- (a) Every Owner and its Permittees shall comply strictly with the covenants, conditions and restrictions set forth in this Declaration, with the Bylaws and with the rules and regulations in relation to the use and operation of the Property. A violation committed by any persons residing in, occupying or visiting a Unit at the behest or with the implied or express permission of the Owner or any other occupant of the Unit, or committed by any agent, employee, business invitee, or contractor of the Owner or of any person occupying a Unit, shall be attributed to that Unit and the Owner thereof.

- (b) Any fines imposed by the Executive Board – which is hereby empowered, after notice and opportunity to be heard, to levy reasonable fines against any Owner for the failure of such Owner to comply with any such covenants, conditions and/or restrictions – and any and all expenses incurred by the Association in enforcing any of the terms and provisions of the Condominium Documents, including reasonable attorneys' fees to the extent permitted by North Carolina law, may be levied as an individual Unit Assessment against the Unit Owner in question and his or her Unit.
- (c) Any action brought by the Association hereunder may be brought in its own name, in the name of its Executive Board or in the name of the Manager. In any case of a flagrant or repeated violation by an Owner, such Owner may be required by the Executive Board to give sufficient surety or sureties for such Owner's future compliance with the covenants, conditions and restrictions contained in this Declaration and with the Bylaws and rules and regulations.
- (d) In addition to the above rights, the Executive Board may also enter upon a Unit or any portion of the Property to perform maintenance or make repairs thereon which is the responsibility of an Owner who has failed to perform such maintenance or make such repairs (i) after having given such Owner at least ten (10) days prior notice, or (ii) without giving notice in the event of an emergency.

8.17 Limited Liability. In no case shall the City of Raleigh be responsible for failure to provide any emergency or regular fire, police or other public service when such failure is due to lack of access to an area due to inadequate design or construction, blocking of access routes, inadequate maintenance, or any other factor within the control of Declarant (during the Declarant Control Period), the Association, Owners or Occupants. In no case shall the City of Raleigh or State of North Carolina be responsible for maintaining Private Streets.

8.18 Waiver. Notwithstanding anything in this Article VIII to the contrary, during the Declarant Control Period, Declarant (and thereafter, the Executive Board) may, in its reasoned discretion, waive one or more violations of any of Sections 8.3 through Section 8.16. No such waiver shall be effective unless in writing and no such waiver shall operate as a waiver of any other requirement or as being applicable to any other Owner, Occupant or Unit, except as expressly provided in the written waiver. Notwithstanding the foregoing provisions of this section, no waiver shall be effective if it shall cause the Unit, Owner and/or Occupant that is the subject of such waiver to be in violation of Section 8.2.

ARTICLE IX THE ASSOCIATION

9.1 Organization of Association. A nonprofit North Carolina corporation known and designated as 625 New Bern Condominium Association, Inc., has been organized to provide for the administration of the Property, and the Association shall administer the operation and maintenance of the Property and undertake and perform all acts and duties incident thereto in accordance with the terms of its Articles of Incorporation, the Bylaws,

and the North Carolina Condominium Act. Every Owner shall be required to be and shall automatically be a member of the Association by virtue of his ownership interest in a Unit.

- 9.2 Powers; Lien for Assessment. In the administration of the operation and management of the Property, the Association shall have and it is hereby granted the authority and power to enforce the provisions of this Declaration, to levy and collect assessments in the manner provided in Article XII below and in the Bylaws and the North Carolina Condominium Act, and adopt, promulgate and enforce such rules and regulations governing the use of the Units and Common Elements as the Association may deem to be in the best interest of the Owners in accordance with the Bylaws and the provisions of the North Carolina Condominium Act. Any sum assessed by the Association remaining unpaid for a period of thirty (30) days or longer shall constitute a lien on the Unit with respect to which such sum was assessed upon filing in accordance with N.C. Gen. Stat. §47C-3-116, and shall be enforceable by the Association in accordance with N.C. Gen. Stat. §47C-3-116 and Sections 3.12P and 7.2A of the Bylaws. In addition, the Association shall have the right to collect from Unit Owners all assessments, late fees, service or administration fees, reasonable attorneys' fees, and costs of collection incurred by the Association in enforcing the terms of this Declaration, and such sums shall be secured by any claim of lien filed by the Association pursuant to N.C. Gen. Stat. §47C-3-116.
- 9.3 Declarant Control Period. The Declarant Control Period shall commence as of the date of recordation of this Declaration with the Wake Registry and continue until the earlier of: (a) 120 days after conveyance of seventy-five percent (75%) of the total eighteen (18) Units reserved to Declarant for construction to Unit Owners other than Declarant; (b) two years after Declarant has ceased to offer units for sale in the ordinary course of business; (c) two years after any development right to add new Units was last exercised; or (d) the date Declarant transfers, in writing, the Development Rights to the Association. Declarant may, but shall not be obligated to, unilaterally relinquish its rights under this Declaration and terminate the Declarant Control Period by recording a written instrument with the Wake Registry.
- 9.4 Executive Board during Declarant Control Period. During the Declarant Control Period, Declarant reserves the right to appoint and remove any Executive Board members and Officers of the Association; provided, however, (i) that not later than sixty (60) days after conveyance by Declarant to Owners other than Declarant of twenty-five percent (25%) of the total eighteen (18) Units reserved to Declarant for construction hereunder, at least one member and not less than twenty-five percent (25%) of the members of the Executive Board shall be elected by Owners other than Declarant; and (ii) that not later than sixty (60) days after conveyance by Declarant to Owners other than Declarant of fifty percent (50%) of the total eighteen (18) Units reserved to Declarant for construction hereunder, not less than thirty-three percent (33%) of the members of the Executive Board shall be elected by Owners other than Declarant.
- 9.5 Books and Records. The Association shall maintain current copies of: (a) the Condominium Documents, as they may be amended from time to time, (b) any rules and regulations adopted by the Executive Board from time to time; (c) records of meetings of the Association and the Executive Board; and (d) all financial records of the Association,

as required by N.C. Gen. Stat. §47C-3-118. These items shall be available for inspection, during normal business hours and upon reasonable advance notice, by any Owner, any Mortgagee, any prospective purchaser of a Unit, any insurer or guarantor of a loan secured by a Mortgage and any authorized agent of an Owner.

ARTICLE X EASEMENTS AND PROPERTY RIGHTS

- 10.1 Access by the Association. The Association, or any Person authorized by it, shall have the right of access at reasonable times to each Unit and to the Limited Common Elements to the extent necessary for performance by the Association of its obligations of maintenance, repair, or replacement of the Property. Except as provided in Section 10.4 hereinbelow, the Association shall provide reasonable prior notice to Unit Owners prior to exercising its right of access.
- 10.2 Encroachment Easements. If any portion of the Common Elements now encroaches upon any Unit, or if any Unit now encroaches upon any other Unit or upon any portion of the Common Elements, or if such encroachment shall occur hereafter as a result of the settling or shifting of any Building, there shall exist a valid easement for the encroachment and for the maintenance of same for so long as such Building shall stand. If any Building, any Unit, or any portion of the Common Elements is partially or totally destroyed by fire or other casualty or as a result of condemnation or eminent domain proceedings, and subsequently is rebuilt, any encroachment of parts of the Common Elements upon any Unit, or of parts of any Unit upon the Common Elements, due to such rebuilding shall be permitted, and valid easements for such encroachments and the maintenance thereof shall exist so long as the Building shall stand.
- 10.3 Easements over Common Elements. Declarant, during the Declarant Control Period, and the Association, at any time, may grant easements for utility purposes for the benefit of the Property, including the right to install, lay, maintain, repair and replace water lines; pipes; ducts; sewer lines; water lines; gas mains and lines; telephone broadband and television or cable television wires, cables and equipment; electrical conduits; fiber optic lines; and wires over, under, along and on any portion of the Common Elements; and each Owner hereby grants to Declarant or the Association, as applicable, 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. While the Declarant has the right to exercise its Declarant Rights and continuing through a period of two (2) years after Declarant exercises its Development Rights to construct New Buildings in accordance with Section 6.1 above, Declarant shall have an easement over the Common Elements (other than the Limited Common Elements) as may be reasonably necessary to complete the construction of the Buildings and the other improvements within such additional land.
- 10.4 Emergency Access. In case of any emergency originating in or threatening any Unit or the Common Elements, regardless of whether the Owner is present at the time of such emergency, the Association, or any other Person authorized by it, shall have the right to enter any Unit or its Limited Common Elements for the purpose of remedying or abating

the cause of such emergency and making any other necessary repairs not performed by the Owners, and such right of entry shall be immediate.

10.5 Relocation of Boundaries; Subdivision; Partitioning.

- (a) Relocation of Boundaries Between Adjoining Units. The boundaries between adjoining Units and, if applicable and requested, the corresponding Common Elements Interests, may be relocated upon application to the Association by the Owners of such adjoining Units ("Adjoining Owners") and upon approval by the Association of such application; provided, however, that no such relocation of boundaries and interests, if applicable, shall be binding upon any Mortgagee holding a Mortgage on any Unit whose boundaries are relocated, unless consented to in writing by such Mortgagee. Any such application to the Association must be in such form and contain such information as may be reasonably required by the Association, and shall be accompanied by, a plat detailing the proposed relocation of boundaries. Unless the Association determines within thirty (30) days after submission to it of the application that the proposed relocation of boundaries and interests, if applicable, is unreasonable, the application shall be deemed approved. Upon approval of the proposed relocation of boundaries, the Association shall cause to be prepared and filed, at the Adjoining Owners' expense, an amendment to this Declaration and a plat which identifies the Units involved, describes and depicts the altered boundaries, and gives the dimensions of the altered Units. Such amendment shall also contain operative words of conveyance and be signed by the Adjoining Owners and consented to by their Mortgagees, if any, and shall be indexed in the Wake Registry in the names of the Adjoining Owners.
- (b) Subdivision of Units. No Unit may be subdivided, without the prior written approval of the Executive Board, and (if during the Declarant Control Period) Declarant, which may be granted or denied in their respective sole discretion.
- (c) Partitioning. The interests in the Common Elements allocated to each Unit shall not be conveyed, devised, encumbered, partitioned or otherwise dealt with separately from each such Unit, and the interests in the Common Elements allocated to each Unit shall be deemed conveyed, devised, encumbered or otherwise included with the Unit even though such interests are not expressly mentioned or described in the instrument conveying, devising, encumbering or otherwise dealing with such Unit. Any conveyance, mortgage or other instrument which purports to grant any right, interest or lien in, to or upon the Unit, shall be null, void and of no effect insofar as the same purports to affect any interest in a Unit's Allocated Interests unless the same purports to convey, devise, encumber or otherwise deal with the entire Unit. Any instrument conveying, devising, encumbering or otherwise dealing with any Unit, which describes said Unit by the identifying number assigned thereto on the Plans and herein without limitation or exception shall be deemed and construed to affect the entire Unit and its Allocated Interest. Nothing herein contained shall be construed as limiting or preventing ownership of any Unit and its Allocated Interest by more than one Person or entity as tenants in common, joint tenants, or as tenants by the entirety or any other form permitted by law.

- 10.6 Conveyance or Encumbrance of Common Elements. While the Property remains subject to this Declaration and to the provisions of the North Carolina Condominium Act, no conveyances of or security interests or liens of any nature shall arise or be created against the Common Elements without the consent by vote of at least eighty percent (80%) of the votes in the Association, including at least eighty percent (80%) of all votes held by Owners other than Declarant. Every agreement for the performance of labor or the furnishing of materials to the Common Elements, whether oral or in writing, must provide that it is subject to the provisions of this Declaration and that the right to file a mechanic's lien or other similar lien by reason of labor performed or material furnished is subordinated to this Declaration and to the lien of assessments for Common Expenses provided for in Section 9.2 of this Declaration. Nothing in this Section 10.7 shall be construed to limit the right of any Owner to convey or to encumber its Allocated Interest as an appurtenance to and in connection with the conveyance or mortgaging of his Unit.
- 10.7 Nature of Interest in Unit. Every Unit and Land Unit, together with its Allocated Interest, shall for all purposes be and it is hereby declared to be and constitute a separate parcel of real property. The Owner of each Unit and each Land Unit shall be entitled to the exclusive fee simple ownership and possession of his Unit and/or Land Unit subject only to the covenants, conditions, restrictions, easements, uses, limitations, obligations, rules and regulations set forth in the Condominium Documents, or as otherwise adopted by the Association.
- 10.8 Existing Easements. The Property is subject to those certain easements listed on Exhibit C attached hereto and incorporated herein by reference.

ARTICLE XI CITY OF RALEIGH PROVISIONS

- 11.1 Stormwater Control Measures. The Raleigh City Code of Ordinances (the "Code") requires that stormwater runoff from the Property be controlled and nitrogen loading from stormwater runoff from the Property be reduced. To comply with the Code, stormwater control measures have been installed by Declarant and shall be maintained by the Association as Common Elements or Limited Common Elements in strict compliance with the Stormwater Facilities Operations and Maintenance Manual and Budget for 625 New Bern Condos SR-60-18 dated May 8, 2019 for the Property so that, at all times, the stormwater control measures shall perform as designed and shall comply with the Code and applicable regulations, rules and directives of the City of Raleigh. The expenses for maintenance of such stormwater control measures by the Association shall be Common Expenses (or, if applicable, Limited Common Expenses). Failure to maintain the stormwater control measures constitutes a violation of the Code potentially subjecting the Association to significant civil penalties and other enforcement actions. The Declarant reserves the right to amend this Declaration without the consent of any other party to comply with the Code.

11.2 Private Streets Pursuant to Section 10-3074(b) and (c) of the Code, all of the following are applicable to Private Streets:

- (a) In no case shall the City be responsible for failing to provide any emergency or regular fire, police or other public service to any cluster unit development, unit Ownership (condominium) development, group housing development, townhouse development, or manufactured home park or to the occupants of same when such failure is due to lack of access to such areas due to inadequate design, construction or blocking of access routes, inadequate maintenance, or any other factor within the control of the Declarant, Association, Owners or Occupants of the Property.
- (b) In no case shall the City of Raleigh or the State of North Carolina be responsible for maintaining any Private Street. Such responsibility shall rest with the Association and Owners, in that Private Streets will not be constructed to the minimum standards sufficient to allow their inclusion for public maintenance.
- (c) The provisions of this Section shall be incorporated into all conveyances of any part or all of the Property, which incorporation may be by reference to this Declaration; provided, however, the provisions of this Section and all other provisions of this Declaration are applicable to the portions of the Property conveyed and the Owners thereof, whether or not any such provisions are incorporated into the conveying documents.

ARTICLE XII ASSESSMENTS

12.1 Taxes. Every Unit and Land Unit, together with its Allocated Interest shall be separately assessed and taxed by each assessing authority for all types of taxes authorized by law. Each Owner shall be liable solely for the amount taxed against his individual Unit or Land Unit, provided, however, some Units or Land Units may not initially be separately assessed with respect to Wake County ad valorem property taxes for the year in which their construction is substantially completed, and any such taxes for any calendar year in which the Units or Land Units are not separately assessed shall be paid by Declarant (subject to reimbursement from each Owner for its pro rata share at closing on a Unit).

12.2 Common Expenses.

- (a) Except as otherwise provided in this Declaration or in the Bylaws, the Owners of the Units shall contribute, as a group, one hundred percent (100%) of all Common Expenses incurred by the Association, all in accordance with the definition of "Common Expenses" set forth in Article I, the Bylaws, and the provisions of the North Carolina Condominium Act. If Declarant exercises its Development Rights to create additional Units and Limited Common Elements, Declarant shall adjust the Allocated Interest for each Unit in accordance with the formula stated in Section 5.3.

- (b) Due dates for payment of Common Expenses shall be established by the Association and shall be collected at least annually. The Association also has the right to impose additional assessments for shortfalls in the budget versus actual Common Expenses (pursuant to the terms of Section 12.7 herein below), for damage or loss caused by one Owner in particular, and for Units that require extra utility services to the extent not separately metered.
- (c) No Owner shall be exempted from liability for payment of its Allocated Interest of Common Expenses by waiving the use or enjoyment of any or all of the Common Elements or by abandoning its Unit. No Owner shall be entitled to a diminution or abatement in its Allocated Interest of Common Expenses for any inconvenience or discomfort arising from: (i) the failure or interruption of any utility or other services; (ii) the making of repairs or improvements to the Common Elements or any Unit; or (iii) any action taken by the Executive Board to comply with law.

12.3 Budget. On or before January 1 of each year, the Executive Board shall adopt a proposed budget for Common Expenses. This proposed budget shall include all anticipated revenues, the anticipated Common Expenses, and any surplus or deficit in the budget from the prior years. Within thirty (30) days after adoption of any proposed budget, the Executive Board shall send each Owner a copy of that proposed budget along with notice of a scheduled meeting of the Association to consider ratification of the budget. The date of that meeting shall be not less than ten (10) nor more than sixty (60) days following the notice of the meeting. The proposed budget shall be deemed ratified unless a majority of the votes of the Association reject the budget. A quorum need not be present at the ratification meeting. The budget as ratified shall be the basis for calculating the Owners' liability for Common Expenses during the calendar year. Following ratification of the budget, the Executive Board shall calculate the amount of each Unit's Allocated Interest of Common Expenses and shall send a notice of that amount to each Owner of a Unit. The failure or delay of the Executive Board to prepare or adopt a budget or to determine the Common Expenses for any calendar year shall not be deemed a waiver, modification or release of the Owners' obligation to pay its Allocated Interest of Common Expenses. In such event, the Allocated Interests in Common Expenses that were computed on the basis of the Common Expenses for the prior calendar year shall continue to be payable until a new budget is adopted and ratified.

12.4 Common Surplus. The term "Common Surplus" means and refers to all funds and other assets of the Association, including excess of receipts of the Association from assessments, rents, profits and revenues from whatever source, over the amount of Common Expenses. The Common Surplus shall be owned by the Owners in equal shares, based upon the total number of Units in the Condominium from time to time; provided, however, that the Common Surplus shall be held by the Association in the manner and subject to the terms, provisions and conditions of this Declaration imposing certain limitations and restrictions upon the use and distribution thereof. Except for distribution of any insurance proceeds, which shall be made in the manner provided in Section 13.6, or upon termination of the Condominium, any attribution or distribution of Common Surplus which may be made from time to time shall be made to the then Owners in equal shares, based upon the total number of Units in the Condominium at that time.

12.5 Fines. The Executive Board may impose fines on any Owner, Occupant or Unit for a failure to comply with this Declaration. Fines shall be paid not later than thirty (30) days after notice of the assessment is given to the offending Owner. These fines shall not be construed to be exclusive, and shall exist in addition to all other rights and remedies to which the Association may be otherwise entitled under law. Any fine paid by the offending Owner shall nevertheless be deducted from or offset against any damages that the Association may otherwise be entitled to recover by law from that Owner. Fines shall be as follows:

- (a) First non-compliance or violation: a fine not in excess of Fifty Dollars (\$50.00).
- (b) Second non-compliance or violation: a fine not in excess of One Hundred Dollars (\$100.00).
- (c) Third and subsequent non-compliance or violation, or violations that are of a continuing nature: a fine not in excess of One Hundred Dollars (\$100.00) for each week of continued violation or non-compliance.

12.6 Working Capital Contribution. When Declarant first conveys a particular Unit to a purchaser other than Declarant, an amount equal to three months' of the Allocated Interest in Common Expenses for Unit shall be collected from the purchaser and paid to the Association's working capital fund. The foregoing shall not constitute an advance payment of Common Expenses by such Owner.

12.7 Special Assessments. In addition to all other assessments authorized herein, and subject to the other requirements of this Declaration, the Association may levy special assessments for the purpose of defraying, in whole or in part, the costs or expenses of any one or more of the following:

- (a) Maintenance of a capital improvement in or on the Common Elements, including fixtures and personal property related thereto;
- (b) Maintenance of the necessary facilities and equipment to enable the Association to perform the functions and offer the services required or authorized herein;
- (c) The Common Expenses, to the extent that such Common Expenses are not covered by the annual assessments and applicable reserve funds; and
- (d) Repayment of any loan made to the Association to enable it to pay the Common Expenses or to perform the other functions and provide the other services required or authorized herein.

Each special assessment levied under this Section first shall be approved by the affirmative vote of sixty-seven percent (67%) or more of the of the Owners. A special assessment shall be effective on the later of the date it is approved by the vote of the Owners, or such later date as

adopted in the vote approving the special assessment, and each Owner shall be responsible for its pro rata share of the special assessment in accordance with its Allocated Interest.

ARTICLE XIII INSURANCE

- 13.1 Property Insurance. The Association shall obtain and maintain at all times a policy of property insurance on the Buildings (ISO special form or its equivalent) in an amount not less than one hundred percent (100%) of the replacement cost of the Buildings at the time such insurance is purchased and at the time of each renewal thereof (specifically excluding the cost of foundations and footings, the cost of any personal property supplied or installed by Owners and any and all fixtures installed in a Unit by or for an Owner after such Unit has been conveyed to such Owner by the Declarant and any other items that are not expressly required to be insured by the Association pursuant to N.C. Gen. Stat. §47C-3-113), with a commercially reasonable deductible not in excess of \$10,000.00. The policy shall be issued by an insurance company properly licensed to do business in the State of North Carolina, with a general policyholder's rating of at least "A" in the most recent edition of the Standard & Poor's Insurance Ratings Guide, (or if such guide ceases to exist, a rating agency of similar standing in the industry). The policy shall provide that each Owner is an insured Person with respect to his Unit and his Allocated Interest. The policy shall contain an inflation guard endorsement, if available, and a construction code 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 or 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; 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 Mortgagees.
- 13.2 Liability Insurance. The Association shall obtain and maintain a policy of commercial general liability insurance (current ISO form or its equivalent) in such limits as the Executive Board may, from time to time, determine, covering each member of the Executive Board, the Manager, if any, and each Owner with respect to liability arising out of the use, ownership, maintenance, or repair of the Common Elements; provided, however, that in no event shall the limits of such policy ever be less than \$1,000,000.00 per occurrence. The liability insurance policy shall include endorsements covering cross liability claims of one insured against another, including the liability of the Owners as a group to a single Owner, and shall provide that it may not be canceled or substantially modified without at least thirty (30) days' prior written notice to the Association and to all insureds, including all Owners and Mortgagees. The Executive Board shall review the liability insurance limits annually.

- 13.3 Fidelity Coverage. The Association may obtain such fidelity coverage against dishonest acts on the part of all Persons responsible for handling funds belonging to or administered by the Association as it deems necessary. Any such fidelity insurance policy must name the Association as the named insured and shall be written in an amount as may be determined by the Executive Board, but in no event less than one-half the annual budgeted amount of Common Expenses, plus the amount of any reserves maintained by the Association, or the amount required by any Mortgagee; whichever is greater.
- 13.4 Other Insurance Policies. The Declarant and/or Association shall be authorized to obtain such other insurance coverage on behalf of the Condominium, including worker's compensation or employee liability insurance, as the Association or Declarant shall determine from time to time to be desirable or necessary.
- 13.5 Premiums. Premiums upon insurance policies purchased by the Association, and any amounts paid as a result of a deductible, shall be paid by the Association and charged as a Common Expense. Notwithstanding the preceding sentence, if a casualty occurs wholly within the boundary of one Unit and does not affect any other Unit or Common Elements, the Owner of such Unit shall be wholly responsible for any deductible amount in such policy of insurance relating to such claim.
- 13.6 Distribution of 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 and their Mortgagees in the following shares:
- (a) Proceeds on account of damage to the Common Elements shall be held in undivided shares for each Owner and his Mortgagee, if any, each Owner's share to be the same as such Owner's Allocated 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 Interest.
 - (c) In the event that 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 in Article XIV below, that the damaged property with respect to which the proceeds are paid shall not be reconstructed or repaired,
 - A. 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;
 - B. the insurance proceeds attributable to Units and Limited Common Elements which are not rebuilt shall be distributed to the owners of those Units and of the Units to which those Limited Common Elements were allocated or to their Mortgagees, in proportion to their respective Allocated Interests; and
 - C. the remainder of the proceeds shall be distributed to all Owners or Mortgagees, as their interests may appear, in proportion to their respective Allocated Interests.
- (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 and their Mortgagees, if any, jointly in proportion to each Owner's Allocated Interest.

13.7 Insurance Obtained by Owners. Each Owner shall obtain and keep continuously in force additional fire and casualty and extended coverage insurance upon its personal property, any and all fixtures installed in a Unit by or for an Owner after such Unit has been conveyed to such Owner by the Declarant, and any other items that are not expressly required to be insured by the Association pursuant to N.C. Gen. Stat. § 47C-3-113, public liability insurance, and such other insurance coverage as he may desire. Each Owner shall obtain and maintain public liability insurance coverage in the amount of at least \$100,000.00 for bodily injury, including deaths of Persons and property damage, arising out of a single occurrence. Each Owner shall file a copy of each such individual policy with the Association within thirty (30) days after purchase and shall provide, upon renewal, evidence of such renewal. Each such policy shall also provide that such policy cannot be terminated or cancelled without thirty (30) days' notice to the Association.

ARTICLE XIV DUTY TO REPAIR OR RECONSTRUCT

14.1 Reconstruction and Repair. In the event of damage to or destruction of any Building as a result of fire or other casualty, the Association shall arrange for the prompt restoration and replacement of the damaged or destroyed Building unless: (a) the Condominium is terminated in accordance with the provisions of Article XVII below, or (b) repair or replacement would be illegal under any state or local health or safety statute or ordinance,

or (c) the Owners decide not to rebuild by a vote of eighty percent (80%) of the votes in the Association, including one hundred percent (100%) of the votes held by 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. Unless one of the preceding three conditions occurs, the Association shall arrange for the prompt repair and restoration of the damaged or destroyed Building, not including any decoration or covering for walls, ceilings, or floors, or furniture, furnishings, fixtures or equipment (unless the subject insurance policy covers a portion or all of such loss, in which event the Association shall repair or replace such covered property if damaged), and the Association shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments and in accordance with the provisions of Section 13.6(d)(ii) of this Declaration. Any payment for repair and restoration in excess of the insurance proceeds shall constitute a Common Expense. Any reconstruction or repair shall be in accordance with the Plans. If the Owners vote not to rebuild any Unit, that Unit's Allocated Interest shall be automatically reallocated upon the vote as if the Unit had been condemned under N.C. Gen. Stat. §47C-1-107(a).

- 14.2 Obligations of Owners. Each Owner will, at his sole cost and expense, keep and maintain his Unit in good order and repair in accordance with the Plans, and will make no structural addition, alteration or improvement to his Unit without the prior written consent of the Architectural Committee, except as specifically permitted by this Declaration or authorized under N.C. Gen. Stat. §47C-2-III. Upon the failure of an Owner to so maintain his Unit, the Association shall be authorized to maintain, repair or restore such Unit, and the cost thereof shall be charged to such Owner and constitute a lien on the Unit until paid.

ARTICLE XV UNITS SUBJECT TO CONDOMINIUM DOCUMENTS

All present and future Owners and occupants of the Units shall be subject to and shall comply with the provisions of the Condominium Documents, as each of the foregoing may be amended and supplemented from time to time. The acceptance of a deed of conveyance or the entering into occupancy of any Unit shall constitute an agreement that the provisions of the Condominium Documents are accepted and ratified by such Owner or Occupant, and an agreement that such provisions shall be deemed and taken to be covenants running with the Property and shall bind any Person having at any time any interest or estate in such Unit as though such provisions were made a part of each and every deed of conveyance.

ARTICLE XVI AMENDMENT TO AND SUPPLEMENT OF DECLARATION

Except in cases of amendment by the Declarant under Article VI, N.C. Gen. Stat. §§47C-2-109(d) or 47C-2-110 (wherein Declarant may record a Supplementary Declaration without the consent or approval of the Association, or any other Owner or Mortgagee, in the manner provided in Section 6.5 above), or the Association under N.C. Gen. Stat. §§47C-1-107, 47C-1-106(d), 47C-2-112(a) or 47C-2-113 or certain Owners under N.C. Gen. Stat. §§47C-2-108(b), 47C-2-112(a),

47C-2-113(b) or 47C-2-118(b), or as is otherwise specifically authorized herein, this Declaration may be amended only as set forth in this paragraph. The Declaration may be amended only by the vote not less than sixty-seven percent (67%) of the total number of votes in the Association, cast in person or by proxy at a meeting duly held in accordance with the provisions of the Bylaws. Except to the extent expressly permitted by the other provisions of this Declaration, any amendment which amends or alters the Allocated interest of any Unit, increases the number of Units, changes the boundaries of any Unit, changes the use to which any Unit is restricted, or modifies the terms of this Article XVI, shall require the written approval of all Owners, together with the consent of all their respective Mortgagees. No amendment to the Declaration shall be effective until (i) executed on behalf of the Association by its president, or by any other officer designated for that purpose, (ii) certified by its secretary, or by any other officer designated for that purpose, and (iii) recorded in the Wake Registry. No amendment to this Declaration shall be adopted or passed which shall impair or prejudice the rights and priorities of any Mortgagee without the written consent of such Mortgagee. Notwithstanding the foregoing sentence, in the event any Mortgagee fails to submit a response to any written proposal for an amendment within sixty (60) days after Mortgagee receives proper written notice of the proposal by certified or registered mail, return receipt requested, Mortgagee's implied approval shall be deemed granted. During the Declarant Control Period, no amendment to this Declaration shall be effective without the written consent of Declarant.

ARTICLE XVII TERMINATION

The Condominium may be terminated and the Property removed from the provisions of the North Carolina Condominium Act only by the vote of not less than eighty percent (80%) of the votes in the Association, cast in person or by proxy at a meeting duly held in accordance with the provisions of the Bylaws, and as evidenced by execution of a termination agreement, or ratification thereof, by the requisite number of Owners and Mortgagees. The termination shall comply with the requirements of N.C. Gen. Stat. §47C-2-118, and must be recorded in the Wake Registry before it becomes effective. Following the recordation of the termination agreement, the interests of the Owners and Mortgagees in the Property shall be as provided in N.C. Gen. Stat. §47C-2-118.

ARTICLE XVIII MORTGAGEE PROTECTION

- 18.1 General Provisions. This Article XVIII establishes certain standards and covenants for the benefit of Mortgagees. This Article XVIII is supplemental to, and not in substitution for, any other provisions of the Condominium Documents, but in the event of any conflict between the provisions of the Condominium Documents and the provisions of this Article XVIII, the provisions of this Article XVIII shall control.
- 18.2 Rights 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 ninety (90) days following the end of each fiscal year. The financial statement and report shall be audited by an independent certified public accountant.

18.3 Mortgagee's Rights to Notice. Any Mortgagee (including, for purposes of this Section 18.3, any insurer or guarantor of a loan secured by a Mortgage that has notified the Association in writing of its name and address, and that it insures or guarantees a Mortgage) 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 Mortgagee, 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 Executive Board, or the Owners, which under the terms of the Condominium Documents requires the consent of all or any portion of the Mortgagees.

18.4 Other Mortgagee Rights. Notwithstanding anything contained herein to the contrary, any Mortgagee or other purchaser at a foreclosure sale who obtains fee ownership of a Unit pursuant to foreclosure under power of sale, judicially or under any other remedy contained in a Mortgage shall not be liable for unpaid assessments which accrued against the Unit prior to such Mortgagee or purchaser obtaining title to such Unit. Any representative of a Mortgagee may attend and address any meeting that an Owner may attend.

18.5 Enforcement. The provisions of this Article XVIII are for the benefit of all Mortgagees and their successors, and may be enforced by any of them by any available means.

ARTICLE XIX CONDEMNATION

If all or any part of the Condominium is taken in condemnation or by eminent domain, the award for such taking shall be distributed in accordance with the procedure set forth in N.C. Gen. Stat. §47C-1-107, provided, however, that the proceeds of any award payable to the Association as a result of condemnation of all or a portion of the Common Elements shall first be used to restore the damaged area to a condition compatible with the rest of the Condominium or to raze the

remaining damaged improvements, and thereafter, any remaining proceeds shall be distributed as set forth above.

ARTICLE XX MISCELLANEOUS PROVISIONS

- 20.1 Invalidity. The invalidity of any provision of this Declaration shall not be deemed to impair or affect in any manner the validity and enforceability of the remainder of this Declaration, and in such event, all the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included herein.
- 20.2 Waiver. No provisions contained in the Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.
- 20.3 Captions. The captions herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Declaration or the intent of any provision hereof.
- 20.4 Law Controlling. This Declaration and the Condominium Documents shall be construed and controlled by and under the laws of the State of North Carolina.
- 20.5 Liberal Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan of condominium ownership as provided in the North Carolina Condominium Act. Throughout this Declaration wherever appropriate, the singular shall include the plural and the masculine gender the feminine or neuter as the context permits or requires.

ARTICLE XXI ENFORCEMENT; ARBITRATION

- 21.1 Actions by the Association. The Association, or the Executive Board acting on its behalf, shall have the right, in addition to any other remedies provided for in the Condominium Documents, to bring a civil action against any Owner to enforce any obligation, covenant or restriction set forth in this Declaration or the other Condominium Documents.
- 21.2 Actions by Owners. Any Owner may bring an action against any other Owner, or against the Association, or against the Executive Board, or an one or more of them, to enforce any obligation, covenant, or restriction set forth in this Declaration or the other Condominium Documents.
- 21.3 Arbitration. Each Owner, by accepting a deed to a Unit, agrees that any Owner may require that any unresolved matter between the Owners or before the Executive Board or before the Association be submitted to binding arbitration pursuant to the Uniform Arbitration Act set forth in N.C. Gen. Stat. § 1-567. 1 et seq. as the same shall be amended from time

to time. The fees and expenses of arbitration shall be paid as set forth in the award and shall not be a Common Expense unless all Owners so agree in writing or unless an award is to be paid by the Association per the arbitration order.

21.4 Judicial Proceedings. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any Person or Persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the Units, to enforce any liens created by this Declaration. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by at least seventy-five percent (75%) of the Unit Owners which approval must be accompanied by the approval of a reasonable litigation budget and the approval of an assessment in an amount equal to the litigation budget to be levied equally among the Units and collected before commencement of any action. This section shall not apply, however, to (a) actions brought by the Association against someone other than Declarant to enforce the provisions of this Declaration (including the foreclosure of liens); (b) the collections of assessments; (c) proceeding involving challenges to ad valorem taxation; or (d) counterclaims brought by the Association in proceedings instituted against it. This section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

**ARTICLE XXII
CONSENT OF MORTGAGEE**

The Property is currently encumbered by the following security instruments in favor of Pinnacle Bank: (1) that certain Construction Deed of Trust Securing Future Advances filed April 1, 2019 and recorded in Book 17400, Page 2662, Wake County Registry; and (2) that certain Modification to Construction Deed of Trust Securing Future Advances filed August 21, 2020 and recorded in Book 18030, Page 290, Wake County Registry. A Consent of Mortgagee in connection with the aforementioned security instruments is attached to and made a part of this Declaration.

**ARTICLE XXIII
EXHIBITS**

The following exhibits are attached to and are an integral part of this Declaration:

- (a) Exhibit A Legal Description
- (b) Exhibit B Schedule of Units and Percentage Interests
- (c) Exhibit C Recorded Easements
- (d) Exhibit D Architect's Certificate of Completion

IN WITNESS WHEREOF, Declarant has executed and sealed this Declaration as of the day and year first above written.

DECLARANT:

904 OBERLIN PARTNERS, LLC

By: [Signature]

Name: Daniel W Russell

Title: Manager

County of WAKE

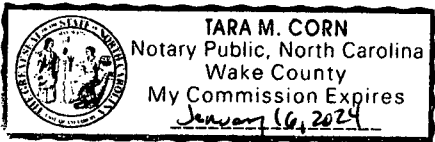
State of NORTH CAROLINA

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document:

DANIEL W. RUSSELL
Name(s) of principal(s)

Witness my hand and official seal, this the 5th day of APRIL, 2021.

(Official Seal)



[Signature]
Official Signature of Notary

TARA M. CORN, Notary Public
Notary's printed or typed name

My commission expires: January 16, 2024

EXHIBIT A

LEGAL DESCRIPTION

BEING all of New Lot 1, containing approximately 0.5299 acres, as shown on right-of-way dedication and easement plat entitled "Survey for 904 Oberlin Partners LLC, 625 New Bern Avenue" drawn by John A. Edwards & Company, dated November 11, 2019, and recorded in Book of Maps 2020, Page 74, Wake County Registry, to which reference is hereby made for a more particular description.

Property Address: 625 New Bern Avenue, Raleigh, NC 27601
Wake County REID: 0017623

EXHIBIT B
SCHEDULE OF UNITS AND ALLOCATED INTERESTS

	Unit Number	Allocated Interest	Street Address
Building 1	101	16.666%	712 E. Edenton Street, Unit 101 Raleigh, NC 27601
	102	16.666%	712 E. Edenton Street, Unit 102 Raleigh, NC 27601
	103	16.666%	712 E. Edenton Street, Unit 103 Raleigh, NC 27601
	104	16.666%	712 E. Edenton Street, Unit 104 Raleigh, NC 27601
	105	16.666%	712 E. Edenton Street, Unit 105 Raleigh, NC 27601
	106	16.666%	712 E. Edenton Street, Unit 106 Raleigh, NC 27601
Land Units	2	0.00%	
	3	0.00%	
Total	8	100.00%	

**EXHIBIT C
RECORDED EASEMENTS**

- Matters shown on the plat recorded in Book of Maps 2020, Page 74, Wake County Registry.
- Deed of Easement for Utility Placement Purposes to the City of Raleigh recorded in Book 17714, Page 2594, Wake County Registry.
- Deed of Easement for Sidewalk Purposes to the City of Raleigh recorded in Book 17714, Page 2603, Wake County Registry.
- Utility Easement to Public Service Company of North Carolina, Incorporated, d/b/a Dominion Energy North Carolina, recorded in Book 18132, Page 1797, Wake County Registry.

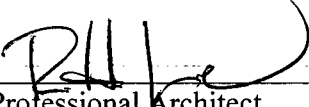
EXHIBIT D

ARCHITECT'S CERTIFICATE OF COMPLETION
FOR
625 NEW BERN CONDOMINIUM

The undersigned, being a Professional Architect licensed under the provisions of Chapter 83A of the North Carolina General Statutes, hereby certifies that the plans recorded with the Declaration of Condominium for 625 New Bern Condominium to which this Architect's Certificate of Completion is attached, fully and accurately depict the structural components and mechanical systems of Building 1.

This Architect's Certificate of Completion is issued in accordance with and in satisfaction of the requirements of N.C.G.S. 47C-2-101.

This the 5th day of APRIL, 2021.

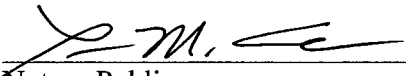
By: RUSSELL H. LONG 
_____, Professional Architect
License No. 11393

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, TARA M. CORN a Notary Public of the County and State aforesaid, do hereby certify that RUSSELL H. LONG, Professional Architect, personally appeared before me this day and acknowledged the due execution of the following instrument.

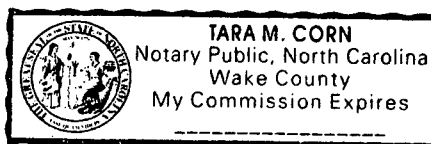
Witness my hand and official seal, this the 5th day of APRIL, 2021.



Notary Public
TARA M. CORN

Printed Name

My Commission Expires: January 16, 2024



CONSENT AND SUBORDINATION

Pinnacle Bank ("Lender"), owner and holder of certain notes secured by (1) that certain Construction Deed of Trust Securing Future Advances filed on April 1, 2019 and recorded in Book 17400, Page 2662, Wake County Registry; and (2) further secured by that certain Modification to Construction Deed of Trust Securing Future Advances filed August 21, 2020 and recorded in Book 18030, Page 290, Wake County Registry (collectively, the "Security Instruments"), hereby consents to the execution, delivery and recording of the foregoing Declaration of Condominium for 625 New Bern Condominium by 904 Oberlin Partners, LLC (the "Declaration") and agrees that any subsequent foreclosure of the Security Instruments shall not extinguish the Declaration and that the Security Instruments, the liens created thereby, and Lender's and Trustee's interest in the property described therein by virtue of the Security Instruments, are, and shall be, subject and subordinate to the Declaration and the provisions thereof.

IN WITNESS WHEREOF, the undersigned has duly executed these presents under due authority as of this the 8TH day of APRIL, 2021.

LENDER:

Pinnacle Bank

By: 
 Name: DAVID L. PANNIK
 Title: SVP

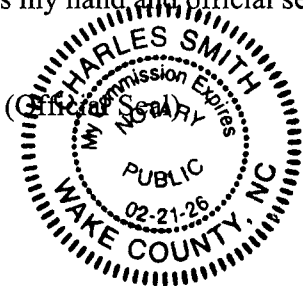
TRUSTEE:


 Name: Hugh M. Queener

County of WAKE
State of NORTH CAROLINA

I, CHARLES SMITH, a Notary Public of aforesaid County and State, certify that DAVID PANNILL personally appeared before me this day and acknowledged that he/she is SVP of **Pinnacle Bank**, the Lender, and that he/she, as SVP being authorized to do so, executed the foregoing on behalf of the Lender for the purposes stated therein.

Witness my hand and official seal, this the 8TH day of APRIL, 2021.



[Signature]
Official Signature of Notary

CHARLES SMITH, Notary Public
Notary's printed or typed name

My commission expires: 2/21/26

County of Williamson (At Large)
State of Tennessee

I, Marcia S. Hoover, a Notary Public of aforesaid County and State, certify that Hugh M. Queener personally appeared before me this day and acknowledged that he executed the foregoing for the purposes stated therein.

Witness my hand and official seal, this the 6th day of April, 2021.

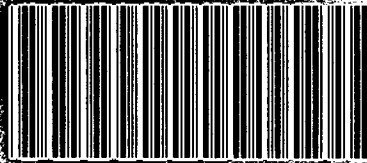
(Official Seal)



[Signature]
Official Signature of Notary

Marcia S. Hoover, Notary Public
Notary's printed or typed name

My commission expires: Sept 16, 2023



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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

_____ 47 # of Pages LG

State of North Carolina
Department of the Secretary of State

ARTICLES OF INCORPORATION
NONPROFIT CORPORATION

Pursuant to §55A-2-02 of the General Statutes of North Carolina, the undersigned corporation does hereby submit these Articles of Incorporation for the purpose of forming a nonprofit corporation.

1. The name of the nonprofit corporation is: 625 New Bern Condominium Association, Inc.

2. ☐ (Check only if applicable.) The corporation is a charitable or religious corporation as defined in NCGS §55A-1-40(4).

3. The name of the initial registered agent is: Daniel W. Russell

4. The street address and county of the initial registered agent's office of the corporation is:

Number and Street: 3304 Six Forks Road, Suite 100
City: Raleigh State: NC Zip Code: 27609 County: Wake

The mailing address *if different from the street address* of the initial registered agent's office is:

Number and Street or PO Box: PO Box 19961
City: Raleigh State: NC Zip Code: 27619 County: Wake

5. The name and address of each incorporator is as follows:

Name	Address
<u>Tara M. Corn</u>	<u>c/o Midtown Property Law, 4800 Six Forks Road, Suite 120, Raleigh, NC 27609</u>
<u></u>	<u></u>
<u></u>	<u></u>

6. (Check either "a" or "b" below.)

a. ☒ The corporation will have members.

b. ☐ The corporation will not have members.

7. Attached are provisions regarding the distribution of the corporation's assets upon its dissolution.

8. Any other provisions which the corporation elects to include are attached.

9. The street address and county of the principal office of the corporation is:

Principal Office Telephone Number: 919-781-3800

Number and Street: 3304 Six Forks Road, Suite 100

City: Raleigh State: NC Zip Code: 27609 County: Wake

The mailing address *if different from the street address* of the principal office is:

Number and Street or PO Box: _____

City: _____ State: _____ Zip Code: _____ County: _____

10. **(Optional):** Listing of Officers (See instructions for why this is important)

Name	Address	Title
Daniel W. Russell	3304 Six Forks Road, Suite 100 Raleigh, NC 27609	President

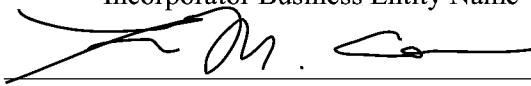
11. **(Optional):** Please provide a business e-mail address: _____.

The Secretary of State's Office will e-mail the business automatically at the address provided at no charge when a document is filed. The e-mail provided will not be viewable on the website. For more information on why this service is being offered, please see the instructions for this document.

12. These articles will be effective upon filing, unless a future time and/or date is specified: _____

This is the 5th day of August, 2020.

Incorporator Business Entity Name



Signature of Incorporator

Tara M. Corn, Incorporator

Type or print Incorporator's name and title, if any

NOTES:

1. Filing fee is \$60. This document must be filed with the Secretary of State.

**ATTACHMENT TO ARTICLES OF INCORPORATION
625 NEW BERN CONDOMINIUM ASSOCIATION, INC.**

A. Purpose. The purpose(s) for which the Corporation is organized are: (a) to operate as an owners' association consistent with the North Carolina Condominium Act and the terms of the Condominium Declaration for 625 New Bern Condominium; and, (b) to engage in any lawful act or activity for which corporations may be organized under the Nonprofit Corporation Act in furtherance of the purpose described in (a) above.

B. Earnings. No part of the earnings of this Corporation or the funds contributed by any person or corporation shall inure to the benefit of any director, officer, or member of the Corporation, or any private individual (other than as permitted under G.S. §55A-13-02), except that reasonable compensation may be paid for services rendered to or for the Corporation affecting one or more of its purposes.

C. Dissolution Distributions. Except as permitted by G.S. §55A-13-02, in the event of the liquidation or dissolution of the Corporation, either voluntary or involuntary: (a) no director or officer of the Corporation or any private individual shall be entitled to any distribution or division of its remaining property or its proceeds; and (b) all money and other property received by the Corporation from any source, after the payment of all debts and obligations of the Corporation, shall be used or distributed exclusively to an entity or entities, public or private, whose purposes are substantially similar to those set forth in these Articles of Incorporation or to an organization which would then qualify under the provisions of Section 501 (c)(3) of the Internal Revenue Code and its regulations as they now exist or as they may hereafter be amended.

D. Director Liability. To the extent permitted by G.S. §55A-2-02(b)(4), no director or executive board member shall have any personal liability arising out of any action whether by or in the right of the Corporation or otherwise for monetary damages for breach of any duty as a director.

E. Indemnification. The Corporation shall indemnify its directors, executive board members, officers, and employees to the full extent permitted by G.S. §55A-8-57.