[illegible]-C/3184-4

PRESENTED FOR REGISTRATION

Nov 15 2 41 PM '84

KENNETH C. WILKINS
REGISTER OF DEEDS
WAKE COUNTY

BOOK 3383 PAGE 255

Mail To: ROBERT W. WILSON, JR.
[illegible]
[illegible] 27605-0096

Prepared by, [illegible]
[illegible]sand, Attys.

NORTH CAROLINA

WAKE COUNTY

DECLARATION OF CONDOMINIUM

Franklin-Lee Homes, Inc., a North Carolina corporation with its principal place of business in Raleigh, Wake County, North Carolina, (or any successor or assign who acquires all or part of the Condominium Property for development) hereinafter referred to as "Developer," does hereby make, declare and establish this Declaration of Condominium as and for the plan of dwelling ownership of Chesapeake condominium, being the property and improvements hereinafter described.

I.

ESTABLISHMENT OF CONDOMINIUM

Developer is the owner of the fee simple title to that certain real property situated in Wake County, State of North Carolina, which property is more particularly described in Exhibit "A" Phase I, attached hereto and incorporated herein by reference, and on which property there will be constructed one (1) three (3) story building numbered "4" containing a total of twelve (12) condominium living units and their supporting facilities, areas designated for at least twenty-four (24) parking spaces and other appurtenant improvements. The buildings are of wood frame construction. Developer does hereby submit the above described property and improvements to condominium ownership under the provisions of Chapter 47A of the General Statutes of North Carolina (Unit Ownership Act), and hereby declares the same to be a condominium to be known and identified as "Chesapeake Condominiums." Hereinafter in this Declaration, Chesapeake Condominiums are sometimes referred to as "Condominium."

Developer presently intends, but is not obligated, to expand Chesapeake Condominiums beyond the twelve (12) units, Phase I described above to include up to thirteen (13) additional phases with a maximum of one hundred sixty-four (164) Units. The original phase and additional phases, if constructed, would contain the number of Units indicated:

Phase No.	Number of Units
Phase I	12
Phase II	12
Phase III	12
Phase IV	8
Phase V	12
Phase VI	12

Phase VII	12
Phase VIII	12
Phase IX	12
Phase X	12
Phase XI	12
Phase XII	12
Phase XIII	12
Phase XIV	12

The total number of Units in all phases would not exceed one hundred sixty-four (164). Phases II through XIV, if constructed, will be located on the land described in Exhibit "A," Parts II through XIV, respectively, attached hereto and incorporated herein by reference. The methods and procedures for expanding the Condominium to include these additional phases and the effects of such expansion are described in Articles IV and XXVII of this Declaration.

II.

SURVEY AND DESCRIPTION OF IMPROVEMENTS

Annexed hereto and expressly made a part hereof as Exhibit "B," consisting of 23 pages, is a survey of the land and graphic descriptions, plans of the improvements constituting the Condominium, and the specifications therefor, identifying the Condominium Units and Common Areas and Facilities, as said terms are hereinafter defined, and their respect locations, approximate dimensions and principal building materials. Each Condominium Unit is identified by specific combination numerical and letter designation on Exhibit "C," and no Condominium Unit bears the same designation as any other Condominium Unit.

III.

DEFINITIONS

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

A. Condominium Units as the term is used herein shall mean and comprise the twelve (12) separately identified Dwelling Units which are designated in Exhibit "B" to this Declaration of Condominium and on Exhibit "C" hereto, excluding, however, all spaces and improvements lying:

1. Beneath the subflooring material of all floors;

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

3. Above the interior surfacing material (sheet rock) of the ceilings;

and further excluding all pipes, ducts, wires, conduits and other facilities for the furnishing of utilities and other services to Condominium Units and Common Areas and Facilities up to and including the point of entry of such pipes, ducts, wires and conduits through the interior surfacing material for walls and ceilings and subflooring surfacing material for floors. All pipes, ducts, wires, conduits, and other such facilities shall become a part of the respective Condominium Units at such point of entry. All exterior doors, window frames, panes and screens shall be part of the respective Condominium Units, provided, however, that the exterior decoration and painting of the exterior surface of such doors and window frames shall be the responsibility of the Association, as hereinafter defined.

As shown on Exhibit "B" there is either a concrete patio, wooden deck or balcony located immediately to the rear of the Condominium Units. Such patios and decks are a part of the respective Units as shown and bear the same numerical designation on Exhibit "B" as the Unit to which they are attached.

As shown on Exhibit "B" there are storage areas located adjacent to the patio, deck or balcony on the first, second, and third floors. These storage areas are a part of the respective Condominium Units as shown and bear the same numerical designation on Exhibit "B" as the Condominium Unit for which they are designed to serve.

B. Common Areas and Facilities, sometimes referred to herein as "Common Property," shall mean and comprise all of the real property, improvements and facilities of the Condominium other than the Condominium Units and all personal property held and maintained for the use and enjoyment of all the Owners of Condominium Units.

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

> As shown on on Exhibit "B" the walks, halls, stairs (except stairs located wholly within a unit), and balconies located in each Building are reserved for the use of the Owners of Units in those Buildings, their families, guests, invitees and lessees.

The terms "Association of Unit Owners," "Building," "Common Areas and Facilities" (sometimes herein referred to as "Common Property"), "Common Expenses," "Common Profit," "Condominium," "Declaration," "Majority" or "Majority of Unit Owners," "Person," "Property," "Recordation," "Unit" or "Condominium Unit," "Unit Designation," and "Unit Owner," unless it is plainly evident from the context of this Declaration that a different meaning is intended, shall, as used herein, have the meaning set out in Section 3 of Chapter 47A of the General Statutes of North Carolina, known as the Unit Ownership Act, as that statute exists as of the date of the filing of this Declaration.

IV.

OWNERSHIP OF CONDOMINIUM UNITS AND APPURTENANT INTEREST IN COMMON PROPERTY

A. Each Condominium Unit shall be conveyed and treated as an individual property capable of independent use and fee simple ownership, and the Owner of each Unit shall also own, as an appurtenance to the ownership of each said Condominium Unit, an undivided interest in the Common Property. The undivided interest appurtenant to each Condominium Unit as of the date of this Declaration is as set out on Exhibit "C" attached hereto and made a part hereof. The proportional interest in the Common Property that is appurtenant to each Condominium Unit as shown in said Exhibit has been determined by a ratio formulated upon the relation that the approximate square footage of each Unit bears to the then aggregate square footage of all of the Units having an interest in the Common Property.

B. In the event Developer and all of the Condominium Unit Owners, acting through the Developer as their Attorney-in-Fact as provided in Article XXVII-B hereof, elect to add additional phases to the Condominium, then the percentage undivided interest in the Common Property appurtenant to each condominium Unit will change and shall be as set forth in an appropriate Amendment to Exhibit "C." The proportional interest in the Common Property appurtenant to each Condominium Unit shown in Exhibit "C" has been determined by a ratio formulated upon the relation that the approximate square footage of each Unit in the Condominium bears to the aggregate square footage of all of the Units having an interest in the Common Property. In the event Developer elects to add additional phases to the Condominium, Developer shall, in each instance, file an amendment to this Declaration containing an amended Exhibit "C" stating that the percentage undivided interest in the Common Area appurtenant to each Unit then a part of the Condominium at the time of such filing is as shown on the amended Exhibit "C." Each Unit Owner shall be deemed by his acceptance of the deed to a Condominium

Unit to have consented to the powers of amendment herein reserved by Developer and to any amendments previously or thereafter executed by Developer pursuant to this Article IV and to Article XXVII-B hereof. Further, each Unit Owner and each Institutional Lender, as hereinafter defined, shall be deemed by the Owner's acceptance of a deed to a Condominium Unit to have appointed Developer their Attorney-in-Fact to give, execute and record the consent of said Owner and Institutional Lender to any and all amendments executed pursuant to this Article and to Article XXVII-B. Except as provided herein, the percentage of undivided interest in the Common Property assigned to each Condominium Unit shall not be changed except with the unanimous consent of all of the Owners of all of the Condominium Units and with the consent of all of the Institutional Lenders, as defined in Article XXIX hereof, holding first mortgages or first deeds of trust on the Condominium Units.

V.

RESTRICTION AGAINST FURTHER SUBDIVIDING OF CONDOMINIUM UNITS: SEPARATE CONVEYANCE OF APPURTENANT COMMON PROPERTY PROHIBITED

No Condominium Unit may be divided or subdivided into a smaller Unit or Units than as shown on Exhibit "B" hereto, nor shall any Condominium Unit or portion thereof be added to or incorporated into any other Condominium Unit. The undivided interest in the Common Property declared to be an appurtenance to each Condominium Unit shall not be conveyed, devised, encumbered or otherwise dealt with separately from said Condominium Unit, and the undivided interest in Common Property appurtenant to each Condominium Unit shall be deemed conveyed, devised, encumbered or otherwise included with the Condominium Unit even though such undivided interest is not expressly mentioned or described in the instrument conveying, devising, encumbering or otherwise dealing with such Condominium Unit. Any conveyance, mortgage or other instrument which purports to grant any right, interest or lien in, to or upon a Condominium Unit shall be null, void and of no effect insofar as the same purports to affect any interest in a Condominium Unit and its appurtenant undivided interest in Common Property, unless the same purports to convey, devise, encumber or otherwise trade or deal with the entire Condominium Unit. Any instrument conveying, devising, encumbering or otherwise dealing with any Condominium Unit, which describes said Condominium Unit by the numerical designation assigned thereto in Exhibits "B" and "C" without limitation or exception, shall be deemed and construed to affect the entire Condominium Unit and its appurtenant undivided interest in the Common Property. Nothing herein contained shall be construed as limiting or preventing ownership of any Condominium Unit and its appurtenant undivided interest in the Common Property by more

than one person or entity as tenants in common, joint tenants, or as tenants by the entirety.

VI.

THE CONDOMINIUM SUBJECT TO RESTRICTIONS

The Condominium Units, Common Property and Limited Common Areas shall be, and the same are hereby declared to be, subject to the restrictions, easements, conditions and covenants prescribed and established herein governing the use of said Condominium Units, Common Property and Limited Common Areas and setting forth the obligations and responsibilities incident to ownership of each Condominium Unit and its appurtenant undivided interest in the Common Property, and said Condominium Units, Common Property and Limited Common Areas are further declared to be subject to the restrictions, easements, conditions and limitations now of record affecting the land and improvements of the Condominium.

VII.

PERPETUAL NON-EXCLUSIVE EASEMENT IN COMMON PROPERTY

The Common Property shall be, and the same is hereby declared to be, subject to a perpetual non-exclusive easement in favor of all of the Owners of Condominium Units in the Condominium for their use and the use of their immediate families, guests and invitees, for all proper and normal purposes, and for the furnishing of services and facilities for which the same are reasonably intended, for the enjoyment of said Owners of Condominium Units. Notwithstanding anything above provided in this Article, Chesapeake Condominium Association, Inc., hereinafter identified, shall have the exclusive right to establish the rules and regulations pursuant to which the Owner of any Condominium Unit, his family, guests and invitees, may be entitled to use the Common Property, including the right to make permanent and temporary assignments of parking spaces, and to establish regulations concerning the use thereof. No boats or trailers, of owners, members or their guests shall be parked in any part of the Common area except within the area designated for such parking.

VIII.

EASEMENT FOR UNINTENTIONAL AND NON-NEGLIGENT ENCROACHMENTS

In the event that any Condominium Unit shall encroach upon any Common Property, or any other Condominium Unit or

Units, as a result of initial construction or for any reason not caused by the purposeful or negligent act of the Condominium Unit Owner, or agents of such Owner, then an easement appurtenant to such Condominium Unit shall exist for the continuance of such encroachment upon the Common Property or upon a Condominium Unit for so long as such encroachment shall naturally exist; and, in the event that any portion of the Common Property shall encroach upon any Condominium Unit, then an easement shall exist for the continuance of such encroachment of the Common Property upon any Condominium Unit for so long as such encroachment shall naturally exist. If any Condominium Unit or Common Property shall be partially or totally destroyed as a result of fire or other casualty, or as a result of condemnation or eminent domain proceedings, and if upon reconstruction of such Unit and/or Common Property in accordance with Article XXII hereof, there exist encroachments of portions of the Common Property upon any Condominium Unit or upon any portion of the Common Property, then such encroachments shall be permitted and a valid easement for the maintenance thereof shall exist so long as such encroachments shall naturally remain.

IX.

RESTRAINT UPON SEPARATION AND PARTITION OF COMMON PROPERTY

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

X.

ADMINISTRATION OF THE CONDOMINIUM BY CHESAPEAKE CONDOMINIUM ASSOCIATION, INC.

To efficiently and effectively provide for the administration of the Condominium by the Owners of the Condominium Units, a non-profit North Carolina corporation known and designated as Chesapeake Condominium Association, Inc. has been organized, and said corporation shall administer the operation and management of the Condominium and undertake and perform all acts and duties incident thereto in accordance with the terms of its Articles of Incorporation and By-Laws. A true copy of said Articles of Incorporation and By-Laws are annexed hereto and

expressly made a part hereof as Exhibits "D" and "E" respectively. The Owner or Owners of each Condominium Unit shall automatically become members of said corporation upon his, their or its acquisition of an ownership interest in title to any Condominium Unit and its appurtenant undivided interest in the Common Property, and the membership of such Owner or Owners shall terminate automatically upon such Owner or Owners being divested of such ownership interest in the title to such Condominium Unit, regardless of the means by which such ownership may be divested. No person, firm or corporation holding any lien, mortgage or other encumbrance upon any Condominium Unit shall be entitled, by virtue of such lien, mortgage or other encumbrance, to membership in said corporation or to any of the rights or privileges of such membership except as set forth in Article XXIX hereof. In the administration of the operation and management of the Condominium, Chesapeake Condominium Association, Inc. shall have and is hereby granted the authority and power to enforce the provisions of this Declaration of Condominium, to levy and to collect assessments in the manner hereinafter provided, and to adopt, promulgate and enforce such rules and regulations governing the use of the Condominium Units and Common Property as the Board of Directors of said Association may deem to be in the best interests of the Association. Chesapeake Condominium Association, Inc. is hereinafter referred to as "Association."

XI.

RESIDENTIAL USE RESTRICTIONS APPLICABLE TO CONDOMINIUM UNITS

Each Condominium Unit is hereby restricted to residential use by the Owner thereof, his immediate family, guests, invitees and lessees. Any Lease or rental agreement for a Unit shall be in writing and for a period of at least thirty (30) days. Such leases shall provide that the terms of the lease are subject to the provisions of this Declaration, the Articles of Incorporation and Bylaws of the Association, and that any failure by the lessee to comply with the terms of such documents shall be a default under the terms of the lease. No Owner of any Condominium Unit shall permit the use of his Unit for transient hotel or commercial purposes. Corporate or partnership members, other than the Developer, shall permit the use of a Condominium Unit owned by it only by its principal officers, directors or partners, or other guests or lessees. Such corporate or partnership member shall annually sign and deliver to the Association a written statement designating the name of the party (or parties) entitle to use such Condominium Unit, together with a written covenant of such party in favor of the Association whereby the party agrees to comply with the terms and provisions of this Declaration of Condominium and with the rules

and regulations which may be promulgated by the Association from time to time and acknowledging that the party's right to use such Condominium Unit shall exist only so long as the corporation or partnership shall continue to be a member of the Association. Upon demand by the Association to any corporate or partnership member to remove a party for failure to comply with the terms and provisions of the Declaration of Condominium and/or the rules and regulations of the Association or for any other reason, the corporate or partnership member shall forthwith cause such party to be removed, failing which, the Association, as agent of the Owner, may take such action as it may deem appropriate to accomplish such removal, and all such action by the Association shall be at the cost and expense of the Owner who shall reimburse the Association therefor upon demand, together with such attorneys' fees as the Association may have incurred in the process of removal.

Anything in this Declaration to the contrary notwithstanding, Developer shall have the right to maintain a sales office and model units and to display advertising signs upon the Common Property during the period of Unit sales. Such right shall terminate when all Units in all phases of the Condominium are sold, or on December 31, 1989 whichever occurs first.

XII.

USE OF COMMON PROPERTY SUBJECT TO RULES OF ASSOCIATION

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

1. The right of the Association to limit the number of guest of members;

2. The right of the Association to prohibit animals, livestock or poultry of any kind from being kept or maintained in any Common Area or in any dwelling except that dogs, cats or other household pets may be kept or maintained within a members unit provided that they are not kept or maintained for commercial purposes, and no animal shall be permitted upon the Common Area unless the same is under leash.

3. The right of the Association to suspend the voting rights and right to use of the recreational facilities

by an owner for any period during which any assessment against his unit remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations.

4. The right of the Association to charge reasonable admission and other fees for the use of any recreational facility whether owned or leased by the Association for use by the Member and the right to charge special fees for parking in the recreational vehicle storage area.

XIII.

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

No immoral, improper, offensive or unlawful use shall be made of any Condominium Unit or of the Common Property, nor any part thereof, and all laws, zoning ordinances and regulations of all governmental authorities having jurisdiction of the Condominium shall be observed. No Owner of any Condominium Unit shall permit or suffer anything to be done or kept in his Condominium Unit, or on the Common Property, which will increase the rate of insurance on the Condominium, or which will obstruct or interfere with the rights of other occupants of the Condominium or annoy them by unreasonable noises, nor shall any Owner undertake any use or practice which shall create and constitute a nuisance to any other Owner of a Condominium Unit, or which interferes with the peaceful possession and property use of any other Condominium Unit or the Common Property

XIV.

RIGHT OF ENTRY INTO CONDOMINIUM UNITS EMERGENCIES

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

XV.

RIGHT OF ENTRY FOR MAINTENANCE OF COMMON PROPERTY

Whenever it may be necessary to enter any condominium Unit for the purpose of performing any maintenance, alteration or repair to any portion of the Common Property, the Owner of

each Condominium Unit shall permit other Owners or their representatives, or the duly constituted and authorized Agent of the Association, to enter such Condominium Unit for such purpose, provided that the entry shall be made only at reasonable times and with reasonable advance notice.

XVI.

LIMITATION UPON RIGHT OF OWNERS TO ALTER AND MODIFY CONDOMINIUM UNITS; NO RIGHT TO ALTER COMMON PROPERTY

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

The Association, through the Board of Directors (or its Architectural Control Committee), shall regulate the external design, appearance, use, location and maintenance of the Condominium and of improvements thereon in such a manner so as to preserve and enhance values and to maintain a harmonious relationship among structures and the natural vegetation and topography. No Owner shall cause any improvements, alteration, repairs or changes to be made on the exterior of the Condominium (including painting or other decoration, the installation of electrical wiring, television or radio antennae or any other objects or devices which may protrude through the walls or roof of the Condominium) or in any manner alter the appearance of the exterior portion of any building without the written consent of the Association being first had and obtained. No Unit Owner shall cause any object to be fixed to the Common Property or to any Limited common Area (including the location or construction of fences and the planting or growing of flowers, trees, shrubs or any other vegetation) or in any manner change the appearance of the Common Property or Limited Common Area without the written consent of the Association being first had and obtained. The Association may contract for the provision of central television antennas for the convenience of the members, or, in the absence of the availability thereof, may supply cablevision and the cost of either of these may be included in annual or special assessments.

Any Unit Owner desiring to make any improvement, alteration or change described above shall submit the plans and specifications therefor, showing the nature, kind, shape, height, materials and location of the same, to the Board of Directors

which shall evaluate such plans and specifications in light of the purpose of this Article as set forth above. As a condition to the granting of approval of any request made under this Article, the Association may require that the Unit Owner requesting such change be liable for any cost of maintaining, repairing and insuring the approved alteration. If such condition is imposed, the Owner shall evidence his consent thereto by a written document in recordable form satisfactory to the Association. Thereafter, the Unit Owner, and any subsequent Owner of the Unit, by acceptance of a deed therefor, whether or not i shall be so expressed in such deed, is deemed to covenant and agree that the cost of maintaining, repairing and insuring such alteration shall be a part of the annual assessment or charge set forth in Article XXIV, and subject to the lien rights described in said Article.

XVII.

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

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

An easement is hereby established over the Common Areas and facilities for the benefit of applicable governmental agencies, public utility companies and public service agencies as necessary for setting, removing and reading of meters, replacing and maintaining water, sewer and drainage facilities, electrical, telephone, gas and cable antenna lines, fire fighting, garbage collection, postal delivery, emergency and rescue activities and law enforcement activities.

All Units shall be subject to easements for the encroachment of initial improvements constructed on adjacent Units by the Declarant to the extent that such initial improvements actually encroach including, but not limited to, such items as overhanging eaves, gutters and downspouts and walls.

Developer reserves the right to subject the Property to a contract with Carolina Power and Light Company for the installation of above ground or underground electric cables and lines and/or the installation of street lighting, either or both of which may require an initial payment and/or a continuing monthly payment to Carolina Power and Light Company by the Owner of each Unit within said property.

XVIII.

MAINTENANCE AND REPAIR BY OWNERS OF CONDOMINIUM UNITS

Every Owner shall perform promptly all maintenance and repair work within his Condominium Unit which, if omitted, would affect the Condominium, either in its entirety or in a part belonging to other Owners, every Owner being expressly responsible for the damages and liability which his failure to do so may engender. The Owner of each Condominium Unit shall be liable and responsible for the maintenance, repair and replacement, as the case may be, of all air conditioning and heating equipment, stoves, refrigerators, fans or other appliances or equipment, including any utility fixtures and/or their connections required to provide water, light, power, telephone, sewage and sanitary service to his Condominium Unit. Such Owner shall further be responsible and liable for the maintenance, repair and replacement of the exterior surfaces of any and all walls, ceilings and floors within his Unit including painting, decorating and furnishings, and all other accessories which such Owner may desire to place or maintain in his Condominium Unit. Whenever the maintenance, repair and replacement of any item for which the Owner of a Condominium Unit is obligated to maintain, replace or repair at his own expense is occasioned by any loss or damage which may be covered by any insurance maintained in force by the Association, the proceeds of the insurance received by the Association shall be used for the purpose of making such maintenance, repair or replacement except that the Owner of such Condominium Unit shall be, in said instance, required to pay such portion of the costs of such maintenance, repair and replacement as shall, by reason of the applicability of any deductibility provision of such insurance, exceed the amount of the insurance proceeds applicable to such maintenance, repair or replacement. The Owner of a Condominium Unit who has exclusive use of any Limited Common Area shall maintain such at his own expense. All glass doors, window frames, panes and screens are

a part of the respective Condominium Units and shall be maintained by the respective Unit Owners.

XIX.-A

MAINTENANCE AND REPAIR OF COMMON PROPERTY BY THE ASSOCIATION

The Association, at its expense, shall be responsible for the maintenance, repair and replacement of all of the Common Property, including those portions thereof which contribute to the support of the buildings, and all conduits, ducts, plumbing, wiring and other facilities located in the Common Property for the furnishing of utility and other services to the Condominium Units and said Common Property, and should any incidental damage be caused to any Condominium Unit by virtue of any work which may be done or caused to be done by the Association in the maintenance, repair or replacement of any Common Property, the Association shall, at its expense, repair such incidental damage. Whenever the maintenance, repair and replacement of any item for which the Association is obligated to maintain, replace or repair at its expense is occasioned by any act of a Condominium Unit Owner, his immediate family, guests or invitees, and such loss or damage may be covered by any insurance maintained in force by the Association, the proceeds of the insurance received by the Association shall be used for the purpose of making such maintenance, repair or replacement except that the Unit Owner who is responsible for the act causing the damage (whether done by himself or by his family, guests or invitees) shall be required to pay such portion of the cost of such maintenance, repair and replacement as shall, by reason of insurance, exceed the amount of the insurance proceeds applicable to such maintenance, repair, or replacement.

XIX.-B

RESPONSIBILITY FOR MAINTENANCE OF PRIVATE STREETS AND DRIVEWAYS

The maintenance responsibility of any private streets and driveways owned by the Association shall rest with the Association pursuant to the provisions of the Cary Town Code.

XX.

INSURANCE, AUTHORITY TO PURCHASE

Insurance policies upon the Property (other than title insurance) shall be purchased by the Association in the name of the managing agent or Board of Directors of the Association, as Trustees for the Condominium Unit Owners and their respective

mortgagees as their interests may appear, and shall provide for the issuance of certificates or mortgage endorsements to the holders of first mortgages on the Condominium Units or any of them, and if the companies writing such policies will agree, the policies shall provide that the insurer waives its rights of subrogation as to any claims against Condominium Unit Owners, the Association and their respect servants, agents and guests. Each Condominium Unit Owner may obtain insurance, at his own expense, affording coverage upon his Condominium Unit, his personal property and for his personal liability as may be permitted or required by law, but all such insurance shall contain the same waiver of subrogation as that referred to above if the same is available.

XXI.

INSURANCE COVERAGE TO BE MAINTAINED: USE AND DISTRIBUTION OF INSURANCE AND CONDEMNATION PROCEEDS

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

(1) Casualty insurance covering the buildings and all improvements upon the land and all personal property included within the Property described in Exhibit "A" hereto or as it may be amended from time to time, except such personal property as may be owned by the Condominium Unit Owners, shall be procured in an amount equal to 100% of the current replacement cost (exclusive of excavation, foundations, streets and parking facilities) as determined annually by the insurance company affording such coverage. Such policy shall contain an Agreed Amount Endorsement or an Inflation Guard Endorsement, if available. By way of illustration and not of limitation, such casualty insurance shall cover fixtures, installations or additions, or equal replacements thereof, comprising a part of the building within each individual Condominium Unit (as that term is defined in Article III hereof) in accordance with the original condominium plans and specifications. In determining the amount of coverage for such fixtures, installations or additions, the Board of Directors of the Association shall annually set the standard allowance for such items as carpeting, bathroom and kitchen cabinets, wall covering, vinyl floor covering, ceramic tile, kitchen appliances, shelves, etc., which were included in the original condominium plans and specifications. By way of illustration and not of limitation such casualty insurance shall not cover furniture, furnishings or other household or personal property owned by, used by or in the care, custody, or control of a Condominium Unit Owner (whether located within or without the Unit), or fixtures installations or additions that are

placed in individual Condominium Unit by the Owner thereof at his expense. Such coverage shall afford protection against: (a) loss or damage by fire and other hazards covered by the standard extended coverage endorsement; and (b) such other risks as from time to time customarily shall be covered with respect to buildings similar in construction, location and use, including, but not limited to, vandalism and malicious mischief.

(2) A comprehensive policy of public liability insurance insuring the Association in an amount not less than One Million Dollars ($1,000,000.00) for claims for personal injury and/or property damage arising out of a single occurrence, such coverage to include protection against liability for non-owned and hired automobiles and liability for property of others, and, if available, may include coverage for water damage.

(3) The Board of Directors shall maintain fidelity coverage against dishonest acts by the Association's officers, directors, trustees and employees, and all others who are responsible for handling funds of the Association. If the Association employs a professional property management person or firm to manage the Association and to receive and disburse the monies of the Association, then such professional management person or firm shall have adequate fidelity coverage against dishonest acts and the existence of such coverage shall satisfy the requirement of this paragraph XXI-A-(3). If the Association elects to manage its own affairs and directly receive and disburse its own funds (or, if in addition to professional management, the officers or directors of the Association can and do directly receive or disburse the monies of the Association), then the Board of Directors shall provide the coverage set forth in this paragraph.

Any such fidelity bonds shall name the Association as an obligee; shall be written in an amount equal to at least 150% of the estimated annual operating expenses of the Association, including reserves; shall contain waivers of any defense based on the exclusion of person who serve without compensation from any definition of "employee" or similar expression; and shall provide that they may not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least thirty (30) days prior written notice to the Association and to any Institutional Lender who has given the notice required under Article XXIX of this Declaration.

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

B. Premiums upon insurance policies purchased by the Association shall be paid by the Association as Common Expenses

to be assessed and collected from all of the Owners of Condominium Units.

C. All insurance policies purchased by the Association and all condemnation awards attributable to the Common Property shall be for the benefit of the Association and the Condominium Unit Owners and their mortgagees, as their respective interests may appear, and shall provide that all proceeds payable as a result of casualty losses and condemnation shall be paid to the Association. The Association shall hold such proceeds in trust for the benefit of the Association, the Condominium Unit Owners and their respective mortgagees in the following shares:

(1) Proceeds on account of damage to Common Property: in undivided shares for each Condominium Unit Owner and his mortgagee, if any, which shares as to each Condominium Unit are shown on Exhibit "C" attached hereto.

(2) Proceeds on account of damages to Condominium Units shall be held in the following undivided shares:

(a) Partial destruction when the Condominium is to be restored: for the Owners of damaged Condominium Units in proportion to the costs of repairing the damage suffered by each damaged Condominium Unit.

(b) Total destruction of the Condominium or where the Condominium is not to be restored: for all Condominium Unit Owners, the share of each being set forth in Exhibit "C."

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

E. Proceeds of insurance policies received by the Association shall be distributed to or for the benefit of the beneficial Condominium Unit Owners in the following manner:

(1) 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 as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the beneficial Condominium Unit Owners, all remittances to Condominium Unit Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a Condominium Unit and may be enforced by him.

(2) If it is determined in the manner elsewhere provided that the damage for which the proceeds are paid shall not be reconstructed or repaired, the proceeds shall be distributed to the beneficial Condominium Unit Owners, remittances to Condominium Unit Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a Condominium Unit and may be enforced by him.

XXII.

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

A. If any part of the Common Property shall be damaged by casualty or shall be condemned by public authority, the determination of whether or not to reconstruct or repair the same shall be made as follows:

(1) Partial destruction shall be deemed to mean destruction or condemnation which renders less than two-thirds (2/3) of the Condominium Units untenantable. In the event of partial destruction, the Common Property shall be reconstructed or repaired unless this Declaration is terminated by the unanimous vote of all of the Condominium Unit Owners at a meeting of the members of the Association called and held prior to commencement of such reconstruction or repair.

(2) Total destruction shall be deemed to mean destruction or condemnation which renders two-thirds (2/3) or more of the Condominium Units untenantable. In the event of total destruction, the Common Property shall not be reconstructed or repaired if, at a meeting which shall be called within thirty (30) days after the occurrence of the casualty, or if by such date the insurance loss has not been finally adjusted, then within thirty (30) days after such adjustment, Condominium Unit Owners who in the aggregate own three-fourths (3/4) or more of the Condominium Units vote against reconstruction or repair.

(3) Any such reconstruction or repair shall be substantially in accordance with the plans and specification contained herein and on file with and approved by the Town of Cary, North Carolina.

B. If the damage is only to those parts of one or more Condominium Units for which the responsibility for maintenance and repair is that of the Condominium Unit Owner, then the Condominium Unit Owner shall be responsible for reconstruction and repair after casualty or condemnation. In all other instances, the responsibility of reconstruction and repair after

casualty or condemnation shall be that of the association as follows:

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

(2) When the damage is to both Common Property and Condominium Units or to Common Property only the insurance or condemnation proceeds shall be payable to the Association and shall be applied first to the cost of repairing the Common Property and the balance to the Condominium Units.

C. Each Condominium Unit Owner shall be deemed to have delegated to the Board of Directors of the Association his right to adjust with insurance companies all losses under policies purchases by the Association and to negotiate with governmental authorities any condemnation claims.

XXIII.

ASSOCIATION TO MAINTAIN REGISTER OF OWNERS AND MORTGAGEES

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

XXIV. BOOK 3333 PAGE 274

ASSESSMENTS: LIABILITY, LIEN AND ENFORCEMENT

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

A. Unless specifically otherwise provided for in this Declaration of Condominium, all assessments made by the Association shall be in such an amount that any assessment levied against a Unit Owners and his Condominium Unit shall bear the same ratio to the total assessment made against all Unit Owners and their Condominium Units as the undivided interest in Common Property appurtenant to each Condominium Unit bears to the total undivided interest in Common Property appurtenant to all Condominium Units as shown on Exhibit "C" attached hereto.

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

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

D. In order to insure that the Association will have sufficient monies available to meet operational needs during the

initial months of the Condominium's existence, the Association has established a Working Capital Fund. At the time of the closing of the first sale of each Unit, the purchaser thereof shall pay into such Fund an amount equal to two-twelfths (2/12ths) of the current annual assessment established by the Association. No such payments made into the Working Capital Fund shall be considered advance or current payment of regular assessments. All monies paid into the Working Capital Fund shall be held and administered by the Association in accordance with the terms of this Declaration and the By-Laws.

E. The Board of Directors of the Association shall establish an Annual budget in advance for each fiscal year (which shall correspond to the calendar year, except that in the initial year of operation of the Condominium, the fiscal year shall commence with the closing of the sale of the first Condominium Unit). Such budget shall reasonably project all expenses for the forthcoming year which may be required for the proper operation, management and maintenance of the Condominium, including a reasonable allowance for contingencies and reserves, and the budget shall take into account projected anticipated income which is to be applied in reduction of the amounts required to be collected as an assessment each year. The Board of Directors shall keep separate, in accordance with paragraph "G" hereof, items relating to operation and maintenance from items relating to capital improvements. Upon adoption of such Annual Budget by the Board of Directors of the Association, copies of said Budget shall be delivered to each Owner of a Condominium Unit and the assessment for said year shall be established based upon such budget, although the lack of delivery of a copy of said Budget to each Owner shall not affect the liability of any Owner for such assessment.

F. Until December 31st of the year in which the first Unit is conveyed to an Owner, the maximum annual assessment shall be as set out on Schedule "A". From and after January 1 of the year immediately following the conveyance of the first Unit to an Owner, the maximum annual assessment may be increased each year not more than twelve percent (12%) above the maximum assessment for the previous year without a vote of the membership of the Association. From and after January 1 of the year immediately following the conveyance of the first Unit to an Owner, the maximum annual assessment may be increased above twelve percent (12%) by a vote of the Unit Owners owning two-thirds (2/3rds) of the Common Areas and Facilities who are voting in person or by proxy, at a meeting duly called for such purpose.

G. The Board of Directors of the Association, in establishing the Annual Budget for operation, management and maintenance of the Condominium, shall designate therein a sum to

be collected and maintained as a reserve fund for replacement of and capital improvements to the Common Property (Capital Improvement Fund). This Fund shall be for the purpose of enabling the Association to replace structural elements and mechanical equipment constituting a part of the Common Property, as well as the replacement of portions of the Common Property. The amount to be allocated to the Capital Improvement Fund shall be established by said Board of Directors so as to collect and maintain a sum reasonably necessary to anticipate the need for replacement of Common Property. The amount collected for the Capital Improvement Fund may be maintained in a separate account by the Association and such monies shall be used only to make capital improvements to Common Property. Any interest earned on monies in the Capital Improvement Fund may, in the discretion of the Board of Directors of the Association, be expended for current operation and maintenance. Each Unit Owner shall be deemed to own a portion of the Capital Improvement Fund equal to his proportionate interest in the Common Property as shown on Exhibit "C" and the Association shall annually notify each Unit Owner of the amount of his balance in the Capital Improvement Account. However, such balance shall not be subject to withdrawal by a Unit Owner.

H. All monies collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by the Association to the payment of any expense of operating and managing the Condominium, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration of Condominium, the Articles of Incorporation and the By-Laws of the Association. As monies for any assessment are paid unto the Association by any Owner of a Condominium Unit, the same may be commingled with monies paid to the Association by the other Owners of Condominium Units. Although all funds and common surplus, including other assets of the Association, and any increments thereto or profits derived therefrom or from the leasing or use of Common Property, shall be held for the benefit of the members of the Association, no member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his Condominium Unit. When the Owner of a Condominium Unit shall cease to be a member of the Association by reason of his divestment of ownership of such Condominium Unit, by whatever means, the Association shall not be required to account to such Owner for any share of the funds or assets of the Association, or which may have been paid to the Association by such Owner, as all monies which any Owner has paid to the Association shall be and constitute an asset of the Association which may be used in the operation and management of the Condominium.

I. The payment of any assessment or installment thereof shall be in default if such assessment or installment is not paid to the Association within ten (10) days of the due date for such payment. When in default, the delinquent assessment or delinquent installment thereof due to Association shall bear interest at the highest rate allowed by law until such delinquent assessment or installment thereof, and all interest due thereon, has been paid in full to Association. All monies owing to Association shall be due and payable at the main office of Association in the State of North Carolina.

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

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

L. Recognizing that proper operation and management of the Condominium requires the continuing payment of costs and expenses therefor, and that such proper operation and management results in benefit to all of the Owners of Condominium Units, and that the payment of such common expenses represented by the assessments levied and collected by the Association is necessary in order to preserve and protect the investment of each Unit Owner, the Association is hereby granted a lien upon each Condominium Unit and its appurtenant undivided interest in the Common Property, which lien shall secure and does secure the monies due for all assessments now or hereafter levied against the Owner of each such Condominium Unit, which lien shall also secure interest, if any, which may be due on the amount of any delinquent assessments owing to the Association, and which lien shall also secure all costs and expenses, including a reasonable attorneys' fee, which may be incurred by the Association in enforcing this lien upon said Condominium Unit and its appurtenant undivided interest in Common Property. The lien granted to the Association may be foreclosed in the same manner that real estate deeds of trust and mortgages may be foreclosed in the State of North

Carolina, and in any suit for the foreclosure of said lien, the Association shall be entitled to a reasonable rental from the Owner of any Condominium Unit from the date on which the payment of any assessment or installment thereof becomes delinquent, and shall be entitled to the appointment of a Receiver for said Condominium Unit. The lien granted to the Association shall further secure such advances for taxes, and payments on account of superior mortgages, liens or encumbrances which may be required to be advanced by the Association in order to preserve and protect its lien, and the Association shall further be entitled to interest at the highest rate allowed by law on any such advances made for such purpose. All persons, firms or corporation who shall acquire, by whatever means, any interest in the ownership of any Condominium Unit, or who may be given or acquire a mortgage, lien or other encumbrance thereon, are hereby placed on notice of the lien rights granted to the Association, and shall acquire such interest in any Condominium Unit expressly subject to such lien rights.

M. The lien herein granted unto the Association shall be enforceable from the after the time of recording a claim of lien in the Public Records of Wake County, North Carolina, which claim shall state the description of the Condominium Unit encumbered thereby, the name of the record owner, the amount due and the date when due. The claim of lien shall be recordable any time after default and the lien shall continue in effect until all sums secured by said lien as herein provided shall have been fully paid. Such claims of lien shall include only assessments which are due and payable when the claim of lien is recorded, plus interest, costs, attorneys' fees, advances to pay taxes and prior encumbrances and interest thereon, all as above provided. Such claims of lien shall be signed and verified by an officer or agent of the Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record.

The lien provided for herein shall be subordinate to the lien of any first mortgage or deed of trust and any person, firm or corporation acquiring title to any Condominium Unit and its appurtenant undivided interest in Common Property by virtue of any foreclosure of a first deed of trust, deed in lieu of foreclosure of a first deed of trust or judicial sale relating to a first deed of trust, shall be liable and obligated only for assessments as shall accrue and become due and payable for said Condominium Unit and its appurtenant undivided interest in Common Property subsequent to the date of acquisition of such title, and it shall not be liable for the payment of any assessments which were in default and delinquent at the time it acquired such title. In the event of the acquisition of title to a Condominium Unit by foreclosure, deed in lieu of foreclosure or judicial sale, any assessment or assessments as to which the

party so acquiring title shall not be liable shall be absorbed and paid by all Owners of all Condominium Units as a part of the Common Expense, although nothing herein contained shall be construed as releasing the party liable for such delinquent assessment from the payment thereof or the enforcement of collection of such payment by means other than foreclosure.

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

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

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

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

XXV. BOOK 3333 PAGE 289

COMMON SURPLUS

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

XXVI.

TERMINATION

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

A. The termination of the Condominium may be effected only by the unanimous agreement of all Condominium Unit Owners expressed in an instrument to that effect duly recorded; and, provided, that the holders of all liens affecting any of the Condominium Units consent thereunto, or agree, in either case by instrument duly recorded, that their liens be transferred to the percentage of the undivided interest of the Condominium Unit Owner in the Property as provided in subparagraph "C" below. The termination shall become effective when such agreement has been recorded in the public records of Wake County, North Carolina.

B. If it is determined in the manner elsewhere provided that the condominium shall not be reconstructed after casualty, the Condominium plan of ownership shall be terminated and the Declaration of Condominium revoked. The determination not to reconstruct after casualty shall be evidenced by a Certificate of the Association certifying as to the facts effecting the termination, which Certificate shall become effective upon

being recorded in the public records of Wake County, North Carolina.

C. After termination of the Condominium, the Condominium Unit Owners shall own the Property as tenants in common in undivided shares and the holders of mortgages and liens against the Condominium Unit or Units formerly owned by such Condominium Unit Owners shall have mortgages and liens upon the respective undivided shares of the Condominium Unit Owners. The undivided share or interest owned as tenants in common shall be that percentage of the undivided interest in the Common Area and Facilities previously owned by Each Unit Owner. All funds held by the Association and insurance proceeds, if any, shall be and continue to be held for the Unit Owners in the same proportion. The costs incurred by the Association in connection with the termination shall be a Common Expense.

D. Following termination, an action or suit may be brought upon the application of any Condominium Unit Owner to have the property partitioned or sold in lieu of partition. In addition, the Board of Directors, pursuant to a vote of not less than a three-fourths (3/4) vote of its members, may bring an action or suit to have the property sold in lieu of partition. In such latter event, any action for partition or other division of the property shall be held in abeyance pending such sale, and upon the consummation thereof shall be discontinued by all parties thereto.

E. The members of the Board of Directors, acting collectively as agent for all Condominium Unit Owners, shall continue to have such powers as in this Article are granted, notwithstanding the fact that the Association itself may be dissolved upon a termination.

XXVII.

AMENDMENT OF DECLARATION OF CONDOMINIUM

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

A. An Amendment or Amendments to this Declaration of Condominium may be proposed by the Board of Directors of the Association acting upon a vote of a majority of the Directors, or by the members of the Association owning a majority of the Condominium Units, whether meeting as members or by instrument in writing signed by them. Upon any Amendment or Amendments to this Declaration of Condominium being proposed by said Board of Directors or members, such proposed Amendment or Amendments shall be transmitted to the President of the Association, or

other officer of the Association in the absence of the President, who shall thereupon call a Special Meeting of the Members of the Association for a date no sooner than twenty (20) days nor later than sixty (60) days from receipt by him of the proposed Amendment or Amendments. It shall be the duty of the Secretary to give to each member written or printed notice of such Special Meeting, stating the time and place thereof, and reciting the proposed Amendment or Amendments in reasonably detailed form, which notice shall be mailed not less than ten (10) days nor more than thirty (30) days before the date set for such Special Meeting. If mailed, such notice shall be deemed to be properly given when deposited in the United States Mail addressed to the member at his Post Office address as it appears on the records of the Association, the postage thereon prepaid. Any member may, by written waiver of notice signed by such member, waive such notice, and such waiver, when filed in the records of the Association, whether before or after the holding of the meeting, shall be deemed equivalent to the giving of notice to such member. At the meeting, the Amendment or Amendments proposed must be approved by an affirmative vote of the members owning Units in the Condominium in order for such Amendment or Amendments to become effective. During the twenty-year period beginning with the date of this Declaration, an affirmative vote of Unit Owners owning ninety percent (90%) of the undivided interest in the Common Areas and Facilities shall be required to amend this Declaration. From and after the expiration of said twenty-year period, an affirmative vote of Unit Owners owning seventy-five percent (75%) of the undivided interest in the Common Areas and Facilities shall be required. Upon adoption such Amendment or Amendments of this Declaration of Condominium shall be transcribed and certified by the President and Secretary of the Association as having been duly adopted. The original or an executed copy of such Amendment or Amendments, so certified and executed with the same formalities as a Deed, shall be recorded in the Public Records of Wake County, North Carolina, within ten (10) days from the date on which the same become effective, such Amendment or Amendments to specifically refer to the recording date identifying the Declaration of Condominium. Thereafter a copy of said Amendment or Amendments in the form in which the same were placed of record by the officers of the Association shall be delivered to the Owners of all Condominium Units, but delivery of a copy thereof shall not be a condition precedent to the effectiveness of such Amendment or Amendments. At any meeting held to consider such Amendment or Amendments, the written vote of any member of the Association shall be recognized if such member is not in attendance at such meeting or represented thereat by proxy, provided such written vote is delivered to the Secretary of the Association prior to such meeting or at such meeting.

B. Developer shall have the right to file an amendment to this Declaration at any time and from time to time prior to December 31, 1989, without the further consent of the Unit Owners, to incorporate into the Condominium (i) any or all of the additional land described in Exhibit "A," Parts II through XIV, and (ii) the one hundred and fifty-two (152) additional Condominium Units in Phases II through XIV to be constructed on the land described in Exhibit "A," Parts II through XIV, respectively. In the event that this Declaration is so amended, the terms "Condominium" and "Property" as used herein shall be deemed to mean and include the property described in Exhibit "A," Parts I through XIV, as the case may be, and all improvements and structures now or hereafter placed by Developer thereon, all easements, rights and appurtenances thereto, and all articles of personal property provided by Developer and intended for use in connection therewith. Upon any such amendment that includes the land and additional Units in Phases II through XIV, the undivided interest appurtenant to each Condominium Unit will change and shall be as set out in the appropriate amendment to Exhibit "C." The materials used in the construction of any additional Units in Phases II through XIV shall be of comparable quality as those used in the original twelve (12) Units, the layout, size and architectural style of the additional Units shall be substantially the same as and compatible with, the original Units, and the Units will be substantially completed prior to being incorporated into the condominium. No amendment made by Developer in accordance with this paragraph shall divest an Owner of any portion of his dwelling Unit without the consent of such Owner and no such amendment shall materially alter the plan of development set forth herein without the consent of all Owners affected thereby. Each Unit Owner shall be deemed, by his acceptance of a deed to a Condominium Unit, to have consented to the powers of amendment herein reserved by Developer and to any amendments previously or thereafter executed by Developer pursuant thereto. Each Unit Owner and each Institutional Lender shall further be deemed by the Owner's acceptance of a deed to a Condominium Unit to have appointed Developer their respective Attorney-in-Fact to give, execute the record the consent of said Owner and said Institutional Lender to any and all amendments to this Declaration which Developer may wish to execute pursuant to the powers herein reserved.

C. Except as expressly set forth in this Declaration, no alteration in the percentage of ownership in Common Property appurtenant to each Condominium Unit, or alteration of the basis for sharing Common Expenses and other apportionment of assessments which may be levied by the Association in accordance with the provisions hereof, or alteration of basis of ownership of Common Surplus, shall be made without the prior written consent of all of the Owners of all Condominium Units and all of the

Institutional Lenders holding first mortgages or first deeds of trust on the Condominium Units.

D. No material alteration, amendment or modification of this Declaration, the Articles of Incorporation or Bylaws of the Association shall become effective without the prior written consent of Institutional Lenders (as defined in Article XXIX holding first mortgage loans on Units representing at least fifty-one percent (51%) of the votes in the Association being first had and obtained. Any change to the provisions of this Declaration, the Articles of Incorporation or Bylaws that affects any of the following shall be deemed material: voting rights; assessments, assessment liens, or subordination of assessment liens; reserves for maintenance, repair and replacement of Common Areas; responsibility for maintenance and repairs; reallocation of interest in the Common Areas or Limited Common Areas, or rights to their use; boundaries of any Unit; convertibility of Units into Common Areas or vice versa; expansion or contraction of the Condominium, or the addition, annexation or withdrawal of property to or from the Condominium; insurance or fidelity bonds; leasing of Units; imposition of any restrictions on a Unit Owner's right to sell or transfer his or her Unit; a decision by the Owners' association to establish self management; restoration or repair of the Condominium; any provisions that expressly benefit Institutional Lenders; and any action to terminate the legal status of the Condominium after substantial destruction or condemnation occurs.

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

XXVIII.

REMEDIES IN EVENT OF DEFAULT

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

A. Failure to comply with any of the terms of this Declaration of Condominium or other restrictions and regulations contained in the Articles of Incorporation or By-Laws of the Association, or which may be adopted pursuant thereto, shall be grounds for relief including without limitation an action to recover sums due for damages, injunctive relief, foreclosure of

lien, or any combination thereof. Such relief may be sought by the Association or, if appropriate, by an aggrieved Unit Owner.

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

C. In any proceeding arising because of an alleged default by a Unit Owner, the Association, if successful, shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be determined by the Court, but in no event shall any Unit Owner be entitled to such attorneys' fees.

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

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

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

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

of the right of said party or parties to thereafter enforce such right, privilege, covenant or condition in the future.

XXIX.

RIGHTS RESERVED UNTO INSTITUTIONAL LENDERS; RIGHTS RESERVED UNTO THE VETERANS ADMINISTRATION.

A. "Institutional Lender" or "Institutional Lenders," as the terms are used herein, shall mean and refer to banks, savings and loan associations, insurance companies, other firms or entities customarily affording loans secured by first liens on residences, the Veterans' Administration, the Federal Housing Administration and eligible insurors and governmental guarantors. In addition to any other rights set forth in this Declaration, so long as any Institutional Lender or Institutional Lenders shall hold any first mortgage upon any Condominium Unit or Units, or shall be the owner of any Condominium Unit or Units, such Institutional Lender or Institutional Lenders shall have the following rights:

1. To approve the company or companies with whom casualty insurance is placed, and to be notified of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

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

3. To be given notice by the Association of the call of any meeting of the membership to be held for the purpose of considering: (1) any proposed Amendment to this Declaration of Condominium, or the Articles of Incorporation and By-Laws of the Association; (2) the proposed termination or abandonment of the Condominium; (3) the effectuation of any decision to terminate professional management of the Association and assume self-management by the Association. Such notice shall state the nature of the Amendment or action being proposed.

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

5. To be given notice of any condemnation loss or casualty loss which affects a material portion of the Common Areas or a material portion of any Unit.

6. To be given notice of any proposed action that requires the consent of a specified percentage of mortgage holders.

Whenever any Institutional Lender or Institutional Lenders desire the provisions of this Article to be applicable to it, it shall serve or cause to be served written notice of such fact upon the Association by Registered Mail or Certified Mail, identifying the Condominium Unit or Units upon which any such Institutional Lender or or Institutional Lenders hold any mortgage or mortgages, or identifying any Condominium Units owned by them, or any of them, together with sufficient pertinent facts to identify any mortgage or mortgages which may be held by it or them, and which notice shall designate the place to which notices are to be given by the Association to such Institutional Lender or Institutional Lenders.

B. So long as Developer retains the right to appoint a majority of the Board of Directors of the Association as set forth in Article XXX hereof, the following actions will require the prior approval of the Veterans Administration: amendment of the Declaration, including amendments under Article XXVII-B to add additional phases to the Condominium; and dedication of any Common Areas and Facilities.

XXX.

RIGHT OF DEVELOPER TO REPRESENTATION ON BOARD OF DIRECTORS OF THE ASSOCIATION

For a period ending one hundred twenty (120) days after Developer ceases to own twenty-five percent (25%) or more of the Units in the Condominium, but in any event, no longer than December 31, 1989, Developer shall have the right to designate and select a majority of the persons who shall serve as members of each Board of Directors of the Association.

In the event of dissolution of Developer at a time when it is the Owner of a Condominium Unit, then the rights of the Developer shall pass to and may be exercised by its successors receiving ownership of any such Condominium Unit in dissolution.

Whenever Developer shall be entitled to designate and select any person or persons to serve on any Board of Directors of the Association, the manner in which such person or persons shall be designated shall be as provided in the Articles of

Incorporation and/or By-Laws of the Association, and Developer shall have the right to remove any person or persons selected by it to act and serve on said Board of Directors and to replace such person or persons with another person or other persons to act and serve in the place of any Director or Directors so removed for the remainder of the unexpired term of any Director or Directors so removed. Any Director designated and selected by Developer need not be a resident in the Condominium. However, Developer shall be responsible for the payment of any assessments which may be levied by the Association against any Condominium Unit or Units owned by the said Developer, and for complying with the remaining terms and provisions hereof in the same manner as any other Owner of a Condominium Unit or Units.

XXXI.

SEVERABILITY

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

XXXII.

LIBERAL CONSTRUCTION

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

XXXIII.

DECLARATION OF CONDOMINIUM BINDING ON ASSIGNS, AND SUBSEQUENT OWNERS

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

115-073184-4

BOOK 3333 PAGE 239

Owners of Condominium Units in the Condominium, and their respective heirs, legal representatives, successors and assigns.

XXXIV.

AGENT FOR SERVICE OF PROCESS

The following named individual is designated as the person to receive service of process for the Association:

Fred L. Bivens
100 Sawmill Road
Raleigh, N.C. 27609

IN WITNESS WHEREOF, Franklin Lee Homes, Inc. has caused these presents to be executed in its name by its President, attested by its Secretary, and its Corporate Seal to be hereunto affixed, this 15th day of November, 1984.

ATTEST:

Fred L. Bivens
Secretary

FRANKLIN-LEE HOMES, INC.

By: Fred L. Bivens
President

NORTH CAROLINA
Wake COUNTY

I, a Notary Public of the County and State aforesaid, certify that Fred L. Bivens/mlp personally came before me this day and acknowledged that he is _____ Secretary of Franklin-Lee Homes, Inc., a North Carolina 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, sealed with its corporate seal and attested by its _____ Secretary.

WITNESS my hand and official stamp or seal, this 15 day of November, 1984.

NOTARY PUBLIC WAKE COUNTY, NC

Maria S. Pearson
Notary Public

My Commission Expires:
3-29-86

NORTH CAROLINA — WAKE COUNTY
The foregoing certificate ___ of Maria S. Pearson
_____ Notary(ies) Public is (are) certified to be correct. This instrument and this certificate are duly registered at the date and time and in the book and page shown on the first page hereof.

KENNETH C. WILKINS, Register of Deeds
By: _____ D.D.

EXHIBIT "A" TO DECLARATION
OF
CONDOMINIUM FOR CHESAPEAKE
See Condominium File No. 67
PHASE (PART) I

Beginning at a point in the northern right of way line of Dynasty Drive, the southwest corner of Oak Hollow Apartments, recorded in Book of Maps 1984, Page 654, Wake County Registry, thence along the northern line of Dynasty Drive, North 86°41'20" West 142 ft. to a point in said right of way line, thence North 06°38'35" East 104.12 ft. to a point, thence North 22°25'33" East 32.5 ft. to a point, thence in a Northwesterly direction along a curve to the right having a radius of 340 ft., a distance of 116.16 ft. to a point, thence continuing in a Northwesterly direction along a curve to the left having a radius of 122 ft., a distance of 67 ft. to a point, thence North 12°56'49" East 155.49 ft. to a point, thence South 57°07'58" East 160.34 ft. to a point, thence South 88°47'19" East 122.0 ft. to a point, thence South 03°18'40" West 295 ft. to the point and place of Beginning, containing 1.43 acres according to Map entitled "Boundary Plat Chesapeake, Developed by Franklin Lee Homes, Inc., Phase I, Cary, Wake County, N.C." dated August 15, 1984 and prepared by Bass, Nixon & Kennedy, Inc., Consulting Engineers; together with the right of ingress and egress along Choptank Court from its intersection with Gooseneck Drive to the Western line of Phase I described above.

PHASES (PARTS) II THROUGH XIV

Being all of that certain tract or parcel of land containing 21.743 acres shown on Map entitled "Boundary Plat Chesapeake, Property of Franklin Lee Homes, Inc., Cary, Wake Co., N.C." dated September 23, 1983, prepared by Bass, Nixon & Kennedy, Inc., Consulting Engineers and recorded in Book of Maps 1984, Page 147, Wake County Registry. There is excepted and reserved from the 21.743 acre tract described above all of the tract or parcel of land described as Phase (Part) I containing 1.43 acres described above.

EXHIBIT C

Type	Unit Number	Address	Approx. Area (Sq. Ft.)	Percent of Ownership
The Potomac	4-A	102 Choptank Ct. Suite B-1 Cary, N.C. 27511	740	6.44
The St. Michael's	4-B	102 Choptank Ct. Suite B-2 Cary, N.C. 27511	690	5.98
The St. Michael's Reversed	4-C	102 Choptank Ct. Suite A-1 Cary, N.C. 27511	690	5.98
The Potomac Reversed	4-D	102 Choptank Ct. Suite A-2 Cary, N.C. 27511	740	6.44
The Baltimore	4-E	102 Choptank Ct. Suite B-3 Cary, N.C. 27511	746	6.44
The Cambridge	4-F	102 Choptank Ct. Suite B-4 Cary, N.C. 27511	1152	9.98
The Cambridge Reversed	4-G	102 Choptank Ct. Suite A-3 Cary, N.C. 27511	1152	9.98
The Baltimore Reversed	4-H	102 Choptank Ct. Suite A-4 Cary, N.C. 27511	746	6.44
The Annapolis	4-I	102 Choptank Ct. Suite B-5 Cary, N.C. 27511	992	8.59
The Chesapeake	4-J	102 Choptank Ct. Suite B-6 Cary, N.C. 27511	1453	12.57
The Chesapeake Reversed	4-K	102 Choptank Ct. Suite A-5 Cary, N.C. 27511	1453	12.57
The Annapolis Reversed	4-L	102 Choptank Ct. Suite A-6 Cary, N.C. 27511	992	8.59