

THE GABLES

DECLARATION OF CONDOMINIUM OWNERSHIP

THIS DECLARATION is made this 29th day of July, 1986, by SIDNEY A. MARTIN, of Raleigh, North Carolina (hereinafter called the "Declarant") for the purpose of submitting certain property to condominium use and ownership in accordance with the provisions of the North Carolina Unit Ownership Act, North Carolina General Statutes Chapter 47A, Article 1.

WHEREAS, the Declarant is the Owner in fee simple of certain real property located in Chapel Hill, North Carolina, which real property is more particularly described in Exhibit "A" attached hereto and made a part hereof; and

WHEREAS, it is the desire of the Declarant to submit the real property described in Exhibit "A", together with all of the improvements thereon and hereinafter described, to the provisions of the North Carolina Unit Ownership Act, N.C. Gen. Stat. Chapter 47A, Article 1.

NOW, THEREFORE, the Declarant hereby submits the real property described in Exhibit "A", together with all buildings and improvements thereon and all easements, rights and appurtenances thereunto belonging and all personal property owned by Declarant, located thereon and used in connection therewith, to the provisions of the North Carolina Unit Ownership Act, N.C. Gen. Stat. Chapter 47A, Article 1, and states:

1. **DEFINITIONS:** Certain of the terms as used in this Declaration, the By-Laws which are attached hereto as Exhibit "C" and are made a part hereof, and the Drawings which are identified as Exhibit "B" and incorporated herein by reference, as all of the same may be amended from time to time, are defined and shall have meaning as follows, unless the context clearly indicates a different meaning therefor:

(a) "Act" means the North Carolina Unit Ownership Act, N.C. Gen. Stat. Chapter 47A, Article 1, as the same may be amended or supplemented from time to time.

(b) "Assessment(s)" or "Common Assessment(s)" means assessments charged proportionately against all Units for common purposes and the "other charges" which from time to time shall be payable by a Unit Owner. "Other charges" shall include without limitation, the costs, expenses and charges for repairs and replacements made by the Association which were the obligation or responsibility of a Unit Owner to make, any special charges made by the Association to the Unit Owner for special services rendered to the Unit Owner or that person's Unit and for special or extraordinary uses or consumptions attributable to such Unit Owner or that person's Unit, damages resulting from the failure of the Unit Owner or of any occupant of the Unit to comply with any of the covenants, conditions, obligations or restrictions contained in the Declaration or the By-Laws or with any of the rules properly promulgated by the Association, and the costs of any action to obtain injunctive relief against such noncompliance,

any other charges or assessments permitted by this Declaration to be made against the Unit Owner or Unit, which may be charged to a person without being usurious from the date the assessment or charge first becomes due to the date it is paid in full, and the reasonable cost of collection of any unpaid assessment and charges (including court costs and reasonable attorney's fees).

(c) "Association" or "Unit Owners' Association" means the Gables Unit Owners' Association which shall be formed in accordance with the provisions of the Declaration and the By-Laws, and shall be the entity responsible for the administration and operation of the Condominium Property and shall consist of all of the Unit Owners as they from time to time may be constituted.

(d) "Board" or "Board of Directors" means the governing body of the Association elected pursuant to the By-Laws as the same may be constituted from time to time.

(e) "Building" means the building constituting a part of the condominium property and more specifically described in Paragraph 4 herein.

(f) "By-Laws" means By-Laws of the Association, attached hereto as Exhibit "C" and made a part hereof.

(g) "Common Areas and Facilities" or "Common Area(s)" means all that portion of the Condominium Property which does not consist of a Unit. The term "Common Area" or "Common Areas and Facilities" as used herein is intended to be synonymous and coterminous with the term "Common Area and Facilities" within the meaning of N.C. Gen. Stat. Section 47A-3(2) of the Act, unless otherwise provided in this Declaration.

(h) "Common Expenses" means all expenses designated as Common Expenses in the Act or in accordance with this Declaration.

(i) "Common Profits" means the balance of all income, rents, profits, and revenues from the common areas and facilities remaining after deduction of the common expenses.

(j) "Condominium" means The Gables multi-unit residential condominium.

(k) "Condominium Property" means the real property described in Exhibit "A" which is attached hereto and made a part hereof, together with all buildings and other improvements and structures now or hereafter thereon, all easements, rights and appurtenances belonging thereto, and all personal property now or hereafter used in connection therewith, which have been submitted to the provisions of the Act.

(l) "Condominium Rules" or "Rules" means such rules and regulations as the Declarant or the Board from time to time may adopt relative to the use of the Condominium Property or any part thereof.

(m) "Declarant" means Sidney A. Martin, Jr. of Raleigh, North Carolina who has made and executed this Declaration.

(n) "Declaration" means this instrument, including all exhibits and attachments hereto, as originally executed, or, if amended, as so amended.

(o) "Drawings" means the drawings prepared and certified by Philip Szostak, Registered Architect, in accordance with N.C. Gen. Stat. Section 47A-15, relating to the Condominium Property, which Drawings are marked and identified as Exhibit "B" and are incorporated herein by reference as if fully rewritten herein at length.

(p) "Limited Common Areas and Facilities" or Limited Common Area" means those portions of the Common Areas and Facilities which are reserved for the use of a certain unit or units to the exclusion of other units. The term "Limited Common Area and Facilities" or "Limited Common Area" as used herein is intended to be synonymous and coterminous with the term "Limited common areas and facilities" within the meaning of N.C. Gen. Stat. Section 47A-3(7).

(q) "Mortgagee" means a private person, or a bank, savings and loan association, insurance company, mortgage company or agency of the United States or any State, authorized and qualified to do business in the State of North Carolina and holding a mortgage on a Unit or any portion of the Common Areas and Facilities.

(r) "Occupant" means the person in possession of a Unit.

(s) "Ownership Interest" or "Condominium Ownership Interest" means a fee simple estate in a Unit, together with an appurtenant undivided interest in the Common Areas and Facilities.

(t) "Person" means an individual, a corporation, partnership, trust and any other legal entity to which the law attributes the capacity of having rights and duties.

(u) "Unit" means a part of the Condominium Property consisting of one or more rooms on one or more floors of a building designated as a Unit in this Declaration and delineated on the Drawings.

(v) "Unit Owner" or "Owner" means a person or persons, natural or artificial, at any time owning the fee simple estate in a Unit.

2. NAME: The Condominium Property shall be known and designated as THE GABLES.

3. THE PURPOSE OF AND RESTRICTIONS ON USE OF CONDOMINIUM PROPERTY.

(a) Purpose: The Gables shall be used for residential use and other purposes incidental thereto, and for no other purpose, and the Common Areas and Facilities shall be used for the joint and several benefit, convenience and recreation of the Unit Owners, all subject to the

restrictions, easements, limitations, covenants, declarations and conditions which are of record and/or set forth in this Declaration.

(b) Restrictions and Conditions on Condominium Use.

(1) Each Unit shall be occupied and used only for private residential purposes by the Owner and Owner's family, or by lessees or guests of the Owner, except for such limited professional use as the Board or the Declarant, upon application from the Owner, from time to time may authorize as not being incompatible with the residential character of the condominium; provided, however, the Declarant, as the Owner of any Units which have not been sold (a Unit is not deemed "sold" within the meaning of this subparagraph until such time as a deed for the Unit has been filed for record with the Orange County, North Carolina Register of Deeds), may make such use of the Condominium Property on a rent-free basis until all Units thereunder are sold by Declarant as may facilitate the completion of any construction and such sale, including, without limiting the generality of the foregoing, the right to enter all Units and Common Areas for construction purposes, the right to store materials, the showing of the property, the displaying of signs, the right to use one or more units for business or promotional purposes, including clerical activities, sales offices, model units and the like, in connection with the original sale or other disposition of said Units.

(2) The Common Area shall not be used in a manner which is inconsistent with the residential character of the Condominium Property. Except as otherwise provided herein, no one shall obstruct, commit any waste in or otherwise cause any damage beyond reasonable wear and tear to the Common Area; and, except as hereinafter provided, nothing shall be stored in the Common Area without the prior written consent of the Board or the Declarant. Except as otherwise provided herein, nothing shall be altered, constructed in or removed from the Common Area without the prior written consent of the Board or the Declarant.

(3) No noxious or offensive use shall be made of any part of the Condominium Property and nothing shall be done therein which is or will become an annoyance or nuisance to the other Owners. No use shall be made of any part of the Condominium Property which will constitute a fire hazard or which will result in the cancellation of insurance on any part of the Condominium Property or which is in violation of any law, ordinance or other governmental regulation applicable thereto. No use shall be made of any part of the Condominium Property which will increase the rate of insurance on the Common Area without the prior written consent of the Board. No Unit Owner shall permit anything to be done or kept in the Unit or in the Common Areas and Facilities which is in violation of any law or regulation of any governmental authority, this Declaration or the Condominium Rules.

(4) No signs (except as provided in subparagraphs 3(b)(1), and (2) hereof), shutters, clothes lines, flags, radio or television antenna, or

refuse shall be hung, posted or otherwise placed upon the exterior walls or roof of the Building, without the prior written consent of the Board.

(5) None of the rights and obligations of the Owners created herein, or in any deed conveying a Unit from the Declarant to a purchaser thereof, shall be altered in any way by encroachments created as a result of construction of any structures or due to settling or shifting of structures. There shall be valid easements for the maintenance of such encroachments so long as they shall exist; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to willful conduct of said Owner or Owners.

(6) All Unit Owners covenant and agree that the administration of the Condominium Property shall be in accordance with the provisions of this Declaration, the By-Laws and the general law and that they will comply with all of the same.

(7) Each Owner, tenant or occupant of the Unit shall comply with the provisions of this Declaration and the By-Laws and the decisions, resolutions and rules of the Association or its representative, as lawfully amended from time to time, and failure to comply with any such provisions, decisions or resolutions shall be grounds for an action to recover sums due, for damages or for injunctive relief.

(8) No Owner shall be exempt from liability for such Owner's contribution towards the Common Expenses by waiver of the use or enjoyment of any of the Common Areas and Facilities or Limited Common Areas and Facilities or by the vacating or abandoning of the Unit owned by such Owner.

(9) No animal of any type shall be raised, bred or kept in any Unit or in any Common Area or Facility except that dogs (not exceeding twenty (20) pounds mature weight), cats (not exceeding ten (10) pounds mature weight) and other animals owned commonly as household pets may be kept in Units subject, however, to the strict adherence of rules and regulations adopted by the Association. Under no circumstances shall animals be kept, bred or maintained in any Unit, Common Area or Facility for commercial purposes. Any pet maintained upon the Condominium Property without the knowledge and consent of the Association may be ordered removed if the Association believes that such pet or animal is causing or creating an unreasonable disturbance and, under such circumstances, the pet shall be removed upon thirty (30) days' written notice from the Board.

(10) Nothing shall be done in any Unit, or in, on or to the Common Areas and Facilities which will impair the structural integrity of the Condominium Property or which would structurally change the Condominium Property except as is otherwise provided herein or except as may be approved by the Declarant or the Board.

(11) The Common Areas and Facilities shall be kept free and clear of rubbish, debris and other unsightly materials. Garbage and trash shall be disposed of only in areas specifically designated therefor.

(12) There shall be no "For Sale," "For Rent," or other commercial signs or window displays or advertising maintained or permitted on any part of the Condominium Property or in any Unit therein, except as hereinafter provided. The right is reserved by the Declarant or its agents, successors and assigns, to place "For Sale" or "For Rent" signs on any unsold or unoccupied Units, and the right is hereby given to any Mortgagee, who may become the owner of any Unit, to place such signs on any Unit owned by such Mortgagee. In addition, after the sale of all the Units by the Declarant, the right is hereby given the Association or its representatives to place "For Sale" or "For Rent" signs on any Unit or on the Condominium Property for the purpose of facilitating the disposal of Units by any Owner, Mortgagee or the Association.

(13) The Common Areas and Facilities shall remain undivided; and no Owner shall bring any action for partition, except as permitted in the Act. Nothing herein, however, shall be deemed to prevent ownership of a Unit by the entireties, jointly, in common, or in any other form permitted by law.

(14) No structure of a temporary character shall be placed upon the property at any time, provided, however, that this prohibition shall not apply to shelters used by Declarant during the construction of the building, it being clearly understood that these latter temporary shelters may not, at any time, be used as offices or permitted to remain on the premises after construction is completed.

(15) No industry, business, trade, occupation or profession of any kind, commercial, religious, educational or otherwise, designated for profit, altruism, exploitation, or otherwise, shall be conducted, maintained or permitted on any part of the Condominium Property, except as permitted in this Declaration. Nothing in this Declaration or the By-Laws shall be construed to prohibit, and the right is hereby reserved by Declarant and granted to the Association to operate such coin-operated washers and dryers or vending machines, or other "commercial" enterprises in the Common Areas and Facilities, provided that such operation shall be primarily intended for the convenience and welfare of the Owners of the Condominium Property notwithstanding that the enterprises(s) may produce a profit.

(16) Each Unit Owner shall furnish written notice to the Secretary of the Association of the name and address of such Unit Owner's Mortgagee and of the cancellation or alteration in the status of the mortgage covering the Owner's Unit.

→ (17) The Owners of the respective Units shall have the right to lease them provided that such lease is made subject to the covenants and restrictions contained in this Declaration, to the By-Laws attached hereto and reasonable rules and regulations of the Association.

(18) All covenants, restrictions and affirmative obligations set forth in this Declaration shall run with the land and shall be binding on

all parties and persons claiming under them for a period of Twenty-five (25) years from the date this Declaration is recorded in Orange County, after which time said covenants shall be extended automatically for successive periods of ten (10) years unless an instrument signed by the unit owners owning 66 2/3 percent in common interest of the units affected by such covenants (except in those instances specifically governed by North Carolina General Statute 47A-16) has been recorded agreeing to revise or amend or rescind said covenants in whole or in part.

4. DESCRIPTION OF THE CONDOMINIUM PROPERTY. A description of the Condominium Property, including the land and the Building, is set forth below.

(a) The land on which the Building and improvements are located is described in Exhibit "A" attached hereto and made a part hereof by reference.

(b) A description of the Building, stating the number of stories and basements, the number of units, and the principal materials of which it is constructed is as follows:

The condominium building is a seven (7) story, multi-family residential building containing sixteen (16) units, a parking garage, and a swimming pool. The building is constructed on concrete, steel framing, and brick. The flat roof is composed of a single-ply member. The gable roofs are composed of asphalt shingles. The floors are built of concrete on metal decking. The windows are made of aluminum clad wood. Interior finishes of the exterior walls and partitions between units and rooms are made of drywall or metal studs. A hydraulic elevator serves all floors.

5. DESCRIPTION OF UNITS: The Unit designation of each Unit, its location, its dimensions, approximate area, number of rooms, the Common Areas and Facilities and Limited Common Areas and Facilities to which it has immediate access, and other data concerning its proper identification are set forth in the Drawings, attached hereto as Exhibit "B" and made a part hereof by reference.

(a) Each of the Units shown in the Drawings is hereby declared and established as a separate freehold estate, and shall consist of air space between the horizontal and vertical planes as delineated by the undecorated interior surfaces of the perimeter walls, floors and ceilings of each Unit, projected if necessary, by reason of structural divisions such as interior walls and other partitions to constitute a complete enclosure of space; provided that, wherever such undecorated surfaces consist of plaster or plasterboard or the wood subfloor, all of such plaster or plasterboard or wood subfloor contiguous to such surface shall be included within the Unit but excepting the space occupied thereby lying outside of the perimeter of the Unit, including, without limitation the following:

(i) The decorated surfaces, including paint, lacquer, varnish, wallpaper and any other finishing material applied to said perimeter walls, floors and ceilings and also the aforesaid finishing material applied to the interior walls, floors and ceilings;

(2) The receptacles and switch plates and covers, grills, vent covers, registers, and other coverings of space, light fixtures, and control knobs, within the bounds of a Unit and which serve only the Unit;

(3) All non-structural interior walls (other than walls separating Units) and all space between interior walls, including the space occupied by structural component parts of the Building and by utility pipes, wires, lines and conduits within the bounds of a Unit; and

(4) Without limiting the foregoing, all space occupied by any Common Area located within the bounds of a Unit;

(5) All plumbing, electric, heating, cooling, ventilating and other utility or services lines, pipes, ducts, wires, plugs, outlets, conduits and valves existing within a Unit to their place of connection to the toilets, sinks, valves, registers, grills, outlets, light fixtures, appliances and receptacles within a Unit and/or to their tap, plug, or shutoff valve within a Unit, and all such lines, pipes, ducts, wires, plugs, outlets, conduits, and valves which serve or may serve more than one Unit or the Common Area.

(b) In addition, each unit shall include that unit's undivided share in the Common Areas and Facilities and Limited Common Areas and Facilities which is appurtenant to each unit as set forth in Exhibit D attached hereto and made a part hereof.

(c) Declarant reserves the right to change the interior design and arrangement of all units, and to alter the boundaries between units, so long as Declarant owns the units so altered. No such change shall increase the number of units or alter the boundaries of the common areas without amendment of this Declaration by approval of the Association and the unit owners in the manner elsewhere provided. If Declarant shall make any changes in units authorized herein, such changes shall be reflected by an amendment to this Declaration. If more than one unit is concerned, Declarant shall apportion between the units the shares in the common areas which are appurtenant to the units concerned. So long as the amendment does not change or otherwise alter the total percentage ownership of a given unit as expressed in this Declaration at the time of filing the same, then an amendment of the Declaration altering the existing ratios by dividing existing unit percentages need be signed and acknowledged by Declarant only and need not be approved by the Association, the unit owners, or lienors, mortgagees of units or of the condominium, whether or not elsewhere required.

6. DESCRIPTION OF COMMON AREAS AND FACILITIES. A description of the Common Areas and Facilities is as set forth below:

(a) The Common Area shall consist of all parts of the Condominium Property except the Units. Without limiting the generality of the foregoing, the Common Area includes the following whether or not located within the bounds of a Unit:

(1) The land on which the Building is erected and all lands surrounding the Building as is more fully described in Exhibit "A" attached hereto.

(2) The foundations, columns, girders, floors, beams, supports, exterior walls and other structural walls, rafters, roofs, elevator shafts, fire escapes, and floors and ceilings if they support or contain the Common Areas and Facilities.

(3) Circulating pumps, stand pipes, sprinkler heads and parts, ducts and installations related thereto.

(4) Installations of any central or common services such as power, light, telephone, gas, hot and cold water and common meters therefor, heating, air conditioning, rubbish compactors, intercom, and all pipes, storm and sanitary sewers, ducts, wires, conduits, fan coil units, television antennae and lines, lines for cable television service, receptacles, switches, grills, thermostats and control devices which are part of, connected to, or used in conjunction with any of the foregoing.

(5) All storage areas for tools and maintenance equipment, all other storage areas wherever located in the Building, foyer, stairways, hallways, mechanical equipment rooms, and entrances and exits to the Building.

(6) The swimming pool, elevators, tanks, pumps, motors, fans, compressors and, in general, all apparatus and installations existing for common use.

(7) The doors and windows in the perimeter walls of a Unit.

(8) All other parts of the Condominium Property necessary or convenient to its existence, maintenance and safety, or normally in common use.

(9) All repairs and replacements of any of the Common Area.

(10) Any room or structure within or attached to the Building containing Common Facilities, such as water and gas meters, mail receptacles, electric panels, switches and other utilities and mechanicals.

(b) The Common Area comprising, in the aggregate, a single freehold estate, shall be owned by the Unit Owners as tenants in common and shall remain undivided. No action for partition of any part of the Common Areas and Facilities shall be maintainable, except as provided in this Declaration or the Act, nor may any Unit Owner otherwise waive or release any rights in the Common Area and Facilities; provided, however, that if any Unit be owned by two or more co-owners as tenants in common or as joint tenants, nothing herein contained shall be deemed to prohibit a voluntary or judicial partition of such Unit as between such co-owners.

(c) Except as otherwise limited and restricted herein, each Unit Owner shall have the right to use the Common Area in accordance with the purposes for which it is intended, for all purposes incident to the use and occupancy of the Unit, including without limitation the non-exclusive easement, together with all the Unit Owners, to use and enjoy the Common Area for ingress and egress to and from the respective Units, and for such other uses as are permitted by this Declaration, which rights shall be appurtenant to and run with each Unit; provided, however, that no person shall use the Common Area or any part thereof in such manner as to interfere with, restrict or impede the use thereof by others entitled to the use thereof, or in any manner contrary to or not in accordance with this Declaration and the rules and regulations promulgated by the Association. The Declarant and the Association shall each, subject to the provisions of this Declaration, have the right but not the obligation, to promulgate rules and regulations governing the use of the Common Area.

(d) A portion of the Common Areas and Facilities is hereby set aside and allocated for the restricted use of the respective units appurtenant as shown in the drawings attached hereto as Exhibit B and made a part hereof, and said areas shall be known as "Limited Common Areas and Facilities."

7. PERCENTAGE OF INTEREST IN COMMON AREAS. Each Unit Owner shall be entitled to ownership of an undivided interest in the Common Areas and Facilities and Limited Common Areas and Facilities, percentage representation for voting purposes in the Association and percentage interest in the Common Profits and Common Expenses in such percentage as is expressed for the Unit in Exhibit "D" attached hereto and made a part hereof.

Said percentages of ownership interest as shown in Exhibit "D" were computed on the ratio of each Unit's square footage to the total square footage in all the Units. Said percentages of Unit Ownership interest as shown in Exhibit "D" cannot be changed, altered or amended except if changed pursuant to the provisions of Paragraph 8 hereof or by an amendment to this Declaration unanimously approved by all the Unit Owners affected. Declarant, for itself and its successors and assigns, covenants and agrees that the undivided percentage of interest in the Common Areas and Facilities and the fee titles to the respective Units, shall not be separated or separately conveyed, encumbered, inherited or devised by Declarant, and each said undivided interest shall be deemed to be conveyed or encumbered with its respective Unit even though the description in the instrument of conveyance or encumbrance may refer only to the fee title of said Unit.

For purposes of conveyance of title to purchasers of the individual Units, description by Unit number and reference to this Declaration and the Drawings shall be adequate to convey the Condominium Ownership Interest to the Unit together with and subject to the easements of record or those which are specified herein. The conveyance of a Unit by Unit number shall also include inseparably the stated percentage interest in the Common Areas and Facilities and Limited Common Areas and Facilities.

8. SUBDIVISION OR COMBINATION OF UNITS. Subject to and only if permitted by the provisions of the Act and other governmental laws, ordinances, rules and regulations, a Unit may be subdivided by the Unit Owner thereof into

two or more separate new Units, a Unit or any portion thereof may be transferred by the Unit Owner thereof to the Unit Owner of a Unit or Units adjacent thereto, and may be combined with such adjacent Unit or Units, and made a part thereof, for use together with such adjacent Unit or Units (thereby forming a new larger Unit), and the Common Areas and Facilities affected by such subdivision or transfer and combination may be located or relocated, as required to effect such subdivision or transfer and combination, provided that such subdivision or transfer and combination is made in compliance with the Act and the following provisions.

(a) The Unit Owner or Unit Owners desiring to make such subdivision or transfer and combination shall make written application to the Board requesting an amendment to this Declaration (including the Drawings) containing (i) a survey of the proposed alterations of the affected Unit or Units and the affected Common Areas and Facilities, and (ii) a calculation of the proposed reallocation to the new Units to be created by such proposed subdivision or transfer of the percentage of interest in the Common Areas and Facilities appurtenant to such affected Unit or Units. Any Unit Owner desiring to alter any part of the Common Areas and Facilities separating and located between and exclusively serving one or more Units to be transferred and combined pursuant to the provisions of the Act and this Paragraph 8(a) shall in addition comply with the applicable provisions of Paragraph 8(b) hereof. No such proposed subdivision or transfer and combination shall be effective unless first approved in writing by a majority of members of the Board in their sole and absolute discretion. If so approved by the Board, notwithstanding the requirements of Paragraph 24 hereof, such proposed subdivision or transfer and combination shall be effective upon recording of an amendment to this Declaration, consistent with and reflecting said subdivision or transfer and combination, and executed by the Unit Owner or Owners of the affected Unit or Units, together with the amended Drawings, in accordance with the Act. Each other Unit Owner shall be deemed to have consented to any such amendment and no further action or consent by or from such other Unit Owners shall be necessary to make any such amendment effective. Such amendment shall also specify the resultant reapportionment of the percentage of interest in the Common Areas and Facilities, the proportionate share of the Common Areas and Facilities resulting from the division or combination, the total of which, in each case, shall equal the interest, share and power of the former Unit or Units divided or combined. Any expenses incurred in connection with accomplishing any such subdivision or transfer and combination, as provided hereunder, including without limitation, attorney's fees, shall be paid by the Unit Owners of the Units involved, and such Unit Owners shall be jointly and severally liable for the payment thereof.

(b) That part of the Common Areas and Facilities separating and located between and exclusively serving two or more adjacent Units used together (including, without limitation, portions of any hallway and any walls) may be altered to afford ingress and egress to and from such Units and to afford privacy to the Occupants of such Units when using the Common Areas and Facilities, and that part of the Common Areas and Facilities so altered may be used by the Unit Owner or Owners of such Units as a licensee pursuant to a license agreement with the Association,

provided that (i) the expense of such alterations shall be paid in full by the Unit Owner or Owners making such alteration; (ii) such Unit Owner or Owners shall pay in full the expense of restoring such Common Areas and Facilities to their condition prior to such alteration in the event such Units shall cease to be used together, as aforesaid; and (iii) such alteration shall not interfere with the use and enjoyment of the Common Areas and Facilities (other than separating such adjacent Units) by other Unit Owners, including without limitation, reasonable access and ingress to and egress from the other Units in the hallway affected by any such alteration.

9. UNIT OWNERS' ASSOCIATION. Declarant shall cause to be formed The Gables Unit Owners' Association which shall administer the Condominium Property. Each Unit Owner shall be a member of the Association, which membership shall terminate upon the sale or other disposition by such member of such member's Unit, at which time the successor Unit Owner shall become a member of the Association. The formation of the Association and the administration of the Condominium Property shall be in accordance with the provisions of the Act, this Declaration and By-Laws of the Association which are attached hereto as Exhibit "C", as the same may be amended from time to time.

10. STATUTORY AGENT. Richard J. Snider, Jr., Attorney at Law, Suite 20, Franklin Building, 137 East Franklin Street, Chapel Hill, North Carolina 27514, shall be designated as the Statutory Agent to receive service of process for the Association. Said office is located within the city and county in which the Condominium Property is located.

11. INSURANCE AND VOTING IN THE EVENT OF DAMAGE OR DESTRUCTION.

(a) Insurance to be Obtained. The Board as a Common Expense shall obtain and maintain, to the extent obtainable, the following insurance:

L Casualty insurance on the building and all improvements upon the land including all personal property in the Common Areas and Facilities and all fixtures and equipment within an individual unit to the extent that such are secured by a deed of trust on that Unit but not including furniture, furnishings, equipment, machinery or other personal property supplied or installed by the Unit Owners or tenants of Unit Owners in an amount equal to the maximum insurable replacement value (100% of current replacement costs) as determined annually by the Board of Directors with the assistance of the insurance company providing such coverage and shall insure against loss or damage by fire, lightning, and such perils as are commonly known as "extended coverage," and vandalism and malicious mischief, and such other risks as from time to time would be similarly covered with respect to buildings similar in construction, location and use. Such insurance shall be written in the name of and the proceeds thereof shall be payable to the Board of Directors for the Owners and their respective Mortgagees, as their interests may appear, and provision shall be made for the issuance of certificates of such insurance to the Owners and their respective Mortgagees. Notwithstanding the above, until the Association shall be formed, the insurance may be written in the name of and the proceeds thereof shall be payable to the Declarant and Declarant's Mortgagees, as their respective interests may appear.

COURTMAN, BERNHARTZ, DEWENSON, BERNHARTZ, GLENNON, ATTORNEYS AT LAW

(2) Third party liability insurance in the form and in such amounts as the Board may from time to time determine, insuring the Declarant, each member of the Board, the Officers of the Association, and the Owners, and with cross liability coverage with respect to liability claims of any one insured thereunder against any other insured thereunder. This insurance, however, shall not insure against the individual liability of an Owner for personal liability arising out of the ownership, maintenance or use of the person's Unit or Units and/or any automobiles or motor-driven vehicles driven by or on behalf of such individual Owner(s), but shall insure the Declarant, the Association's Officers and each member of the Board for death, personal injury or property damage arising from or resulting to the ownership, maintenance or use of a Unit by its Unit Owner.

(3) Workmen's compensation insurance as required by law.

(4) Rent insurance in an amount equal to the aggregate of the common charges payable to the Board.

(5) Such other insurance as the Declarant prior to the formation of the Association and the Board thereafter may determine, including, without limitation, errors and omissions insurance, liability insurance for Board members, and all risk coverage under the casualty insurance.

(b) General Insurance Provisions. All insurance affecting the Condominium Property shall be governed by the following provisions:

(1) The original of all policies and endorsements thereto shall be deposited with the Declarant or Board after the formation of the Association which shall hold them subject to the provisions of subparagraph (c) of this Paragraph.

(2) Exclusive authority to adjust losses under policies hereafter in force on the Condominium Property shall be vested in the Declarant prior to the formation of the Association and thereafter in the Board.

(3) Each Unit Owner may obtain additional insurance at such Owner's expense; provided, however, that no Unit Owner shall be entitled to obtain coverage on those items insured under the policies required to be purchased under subparagraph (a)(1) of this Paragraph, (the "Master Policy"), or to otherwise exercise such Owner's right to maintain insurance coverage in such a way as to decrease the amount which the Declarant or the Association, on behalf of all Unit Owners and their Mortgagees, may realize under any insurance policy which the Declarant or the Association may have in force on the Condominium Property at any particular time; and provided further, that each policy of insurance obtained by any Unit Owner shall contain, if obtainable, a clause or endorsement providing in substance that the insurance shall not be prejudiced if the insureds have waived right of recovery from any person or persons prior to the date and time of loss or damage, if any.

(4) Any Unit Owner who obtains an individual insurance policy covering any portion of the Condominium Property, other than improvements not insured by the Association or Declarant and personal property belonging to such Unit Owner shall be required to file a copy of each such individual policy with the Secretary of the Association within thirty (30) days after the purchase of such insurance. If said policy could prejudice the Master Policy, the Association shall have the right to require the Unit Owner to cancel said policy.

(5) It shall be the responsibility of each Unit Owner at such Owner's expense to provide, as the Owner sees fit, Condominium Unit Owner's liability insurance for the Unit, casualty, fire, flood, theft and other insurance covering improvements, betterments and personal property damage and loss not covered by the Master Policy. The Declarant or Association shall have no responsibility of obligation to insure such matters or against such risks for or on behalf of the Unit Owners. In allocating among the Unit Owners any insurance proceeds received by the Declarant or the Association, the Declarant or Association may adjust the proportionate share of such proceeds allocable to a Unit to reflect the matters which should be paid for by (and insured by) the Unit Owners.

(6) The Board shall conduct a periodic insurance review which may, at the option of the Board, include a replacement cost appraisal, without respect to depreciation, of all improvements constituting the Condominium Property (with the exception of improvements not covered under the Master Policy) by one or more qualified persons. If a Unit Owner should replace any item covered under the Master Policy, said Unit Owner should use all best efforts to promptly inform the Association of such replacement and the cost thereof.

(7) Every reasonable effort shall be made to secure insurance policies that will provide for the following:

(i) a waiver of subrogation by the insurer as to any claims against the Declarant, Board, Officers of the Association, the Managing Agent, if any, the Unit Owners and the Occupants;

(ii) a Special Condominium Endorsement, or its equivalent, and an Inflation Guard Endorsement, if either or both are available;

(iii) that the Master Policy cannot be cancelled, invalidated or suspended on account of any one or more individual Unit Owners;

(iv) that the Master Policy cannot be cancelled, invalidated or suspended on account of the conduct of any director, officer or employee of the Association or its duly authorized Managing Agent, if any, without a prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its Managing Agent, if any, Unit Owner or Mortgagee;

(v) that any "other insurance" clause the Master Policy exclude individual Unit Owners' policies from consideration;

(vi) that notwithstanding any provision of any policy which gives the insurer an option to restore damage in lieu of making a cash settlement therefor, such option shall not be exercisable in the case of removal of the Condominium Property from the provisions of N.C. Gen. Stat. Chapter 47A, Article 1 as provided for in this Declaration; and

(vii) that the amount of coverage of any policy shall not be reduced nor shall the coverage of any policy be cancelled for non-payment of premiums without the insurer or insurers providing written notice at least ten (10) days prior to the effective date of any reduction or cancellation to each holder of an first mortgage upon a Unit of which such insurer or insurers have written notice.

(viii) the Master Policy may contain a deductible not exceeding One Thousand Dollars (\$1,000.00) unless the Declarant prior to formation of the Board and the Board thereafter shall have adequate cash reserves or other reasonable arrangements for the self-insurance of a larger deductible portion of any loss.

(c) Procedure in the Event of Damage or Destruction.

(1) Adjustment of Loss; Determination of Cost. Immediately after the damage or destruction by fire or other casualty to all or any part of the Condominium Property covered by the Master Policy, the Board or their duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Such costs may include professional fees and premiums for bonds. Repairs or reconstruction, as used in this subparagraph, means repairing or restoring the Common Area and that portion of the Unit and improvements therein required to be covered under the Master Policy to substantially the same condition in which it existed prior to the fire or other insured casualty. Each Unit Owner shall be deemed to have delegated, and does delegate upon acquisition of title to an Ownership Interest, to the Declarant prior to the formation of the Association and to the Board thereafter, or their agent, that person's right to adjust with insurance companies all losses under the Master Policy.

(2) Responsibility for Restoration. In the event all or any part of the property which is required to be insured by the Association under the Master Policy shall be damaged or destroyed, the Association shall cause the same to be restored substantially in accordance with the Drawings, as provided in subparagraph (d) below. Except as certain parts of a Unit may be insured by the Association, each Unit Owner shall promptly restore each affected Unit after any casualty causing damage thereto.

(d) Repairs and Restoration after Damage or Destruction. Insurance proceeds shall be used by the Association to defray the cost of repairs and restoration to the Common Area and those portions of the Unit and improvements therein required to be covered under the Master Policy. If the cost of such repairs is less than the amount of such insurance proceeds, the excess shall be distributed to the Unit Owners and their Mortgagees as their interests may appear in accordance with their percentage interest in the Common Area. If the cost of such repairs exceeds the amount of such insurance proceeds, then the proceeds shall be allocated to the Association and the Owners of damaged Units in proportion to the cost of repairing and restoring the damage suffered by the Association and by each Owner of a damaged Unit, as the same shall be determined by the Board of Directors. Any excess cost is to be borne by the Association and such excess may be provided either by means of a special assessment levied by the Board against all Unit Owners in proportion to each Unit Owner's share in the Common Area or by means of an appropriation from the reserve maintenance fund, if any, or such other fund as may be established for the purpose of providing for the maintenance, repair and replacement of the Common Area, as the Board in its sole discretion may determine.

(e) Responsibility of Unit Owner. Each Unit Owner shall repair and restore that portion of such Owner's Unit not covered under the Master Policy, provided, however, that the Board shall have the right to have the Association do (or have done) certain or all of the repair or restoration work with respect to all or any damaged or destroyed Units. In such event, the Unit owner shall make available to the Association insurance proceeds payable to the Unit Owner and any amounts in excess thereof necessary to complete said repair and restoration.

(f) Waiver of Subrogation. Each Unit Owner and Occupant as a condition of accepting title and possession, or either one of such, of a Unit, and the Association agree, provided such agreement does not invalidate or prejudice any policy of insurance, that in the event the Condominium Property (including the Units and improvements within the Units), any part of the Condominium Property, or the fixtures or personal property of anyone located therein or thereon are damaged or destroyed by fire or other casualty that is covered by insurance of any Unit Owner, Occupant, or the Association, and the lessees, sublessees of any one of them, or any Occupant the rights, if any, of any one of them against the other, or against the employees, agents, licensees or invitees of any one of them, with respect to such damage or destruction with respect to any loss resulting therefrom are hereby waived to the extent of the coverage of said insurance, notwithstanding the cause of such fire or other casualty, including negligence.

12. DUTIES OF UNIT OWNERS. Each Unit Owner shall at all times do as follows:

(a) Maintenance and Repair.

(i) Maintain, repair and replace at the Owner's expense in good working order, and in a safe, clean and sanitary condition and in conformity with all laws, ordinances and regulations applicable to the

Condominium Property all portions of that person's Unit, and the Limited Common Areas appurtenant thereto, and all internal installations of such Unit such as appliances, plumbing, electrical, heating and air conditioning fixtures or installations, the fan coil unit, and any portion of any other utility service facilities located within the Unit boundaries, service facilities located within the Unit boundaries, other than such utility facilities serving other Units, which require maintenance, repair, or replacement by reason of all breakage, damage, malfunction, and ordinary wear and tear; provided, however, each Unit Owner shall not be responsible to maintain, repair and replace at the Owner's expense hot and cold water lines located within his Unit all of which shall be the responsibility of the Association.

(2) Maintain, repair and replace at the Owner's expense all portions of the Condominium Property which may be damaged or destroyed by reason of the Owner(s) own act or neglect, the act or neglect of any Occupant of the Owner's Unit, or the act or neglect of any invitee, licensee or guest of such Owner or Occupant. Notwithstanding the foregoing obligation of the Unit Owner, the Association (or other Unit Owner in respect to that person's own Unit) may, but shall not be obligated, to repair and replace the property damaged or destroyed by reason of the act or neglect of a Unit Owner, an Occupant, or their invitee, licensee or guest, and charge and collect from such Unit Owner the cost and expense paid or incurred in making any such repair or replacement. If the repair or replacement is made by the Association, the cost and expense thereof shall be a lien against the Unit Owner's Ownership Interest which the Association may assert and collect as a lien against a Unit Owner's Ownership Interest for non-payment of that Owner's share of assessments for Common Expenses. The right herein of the Association to assert and collect upon a lien shall not be exclusive, but shall be in addition to all other rights and remedies available to the Association herein, in law and in equity for recovery of the cost and expense so incurred.

(3) All of the work required of the Unit Owner in this subparagraph (a) shall be performed promptly, properly, and in a good and workmanlike manner, using first-class materials of equivalent or better quality than those originally installed or incorporated into the Condominium Property, and using competent and qualified labor.

(b) Report Defects. Report promptly to the Board or any managing agent employed by the Association the need for any maintenance or repair to any portion of the Condominium Property which the Association is obligated to maintain or repair pursuant to the Declaration or the By-Laws.

(c) Nondisturbance of Others. Perform the Owner's duties and responsibilities in such manner so as not to unreasonably disturb other Unit Owners and Occupants.

(d) Pay for Utilities. Pay all costs for utility services (such as, without limitation, water, gas, electricity, telephone, sewage, rubbish and trash disposal or treatment and the like) furnished to the Unit, unless any or all of such services are provided or paid for by the Association and charged

to the Unit Owner as part of the Common Expenses, in which case all or any of such services so provided by the Association shall be paid for by the Unit Owner as part of the share of the Common Expenses.

(e) Comply with this Declaration. Faithfully and promptly pay all charges and assessments made against the Owner or the Owner's Ownership Interest in the Unit pursuant to this Declaration; and faithfully observe, fulfill and perform all of the covenants and restrictions herein contained and all other obligations of a Unit Owner as set forth in (or intended by) this Declaration, the By-Laws, the rules and regulations of the Association and the Act.

(f) Deeds, etc.. Include both the Owner's interest in the Unit and the corresponding percentage of interest in the Common Area in every deed, mortgage, lease or other instrument affecting title to the Unit, it being the intention hereof to prevent any severance of such combined ownership. In furtherance of the foregoing responsibility and obligation and not in limitation thereof or in limitation of the provisions of any other provision of this Declaration, any deed, mortgage, lease or other instrument purporting to affect the one without including also the other shall be deemed and taken to include the interest so omitted even though the latter is not expressly mentioned or described therein.

(g) Negative Covenants. Except as otherwise provided herein, each Unit Owner agrees not to:

(1) Paint or otherwise decorate, change the appearance of, landscape or adorn any part of the Common Areas or remove any portion thereof or make any additions thereto or make any improvements thereon or thereto or do anything which would or might jeopardize or impair the safety or soundness thereof without the prior written consent of the Board.

(2) Make or permit any structural alteration, change, improvement or addition in or to the Owner's Unit or in or to any other part of the Condominium Property without first obtaining the written consent of the Board; it being understood that any alteration, change or improvement or addition to any interior partition located in a Unit is not prohibited so long as the structural integrity of the Building is not adversely affected thereby. The Board shall be obligated to answer any written request by a Unit Owner for approval of a proposed structural addition, alteration or improvement in such Unit Owner's Unit within thirty (30) days after such request, and failure to do so within the stipulated time shall constitute a consent by the Board to the proposed structural addition, alteration or improvement. If any application to any governmental authority for a permit to make any such structural addition, alteration or improvement in or to any Unit requires execution by the Association, and provided consent has been actually given by the Board or is deemed to have been given by reason of the Board's failure to respond as aforesaid, then the application shall be executed on behalf of the Association by the Board only, without however incurring any liability on the part of the Board or any of them to any contractor, subcontractor or materialman on account of such

addition, alteration or improvement, or to any person having claim for injury to person or damage to property arising therefrom. The provisions of this subparagraph shall not apply to Units owned by the Declarant until deeds of conveyance of such Units shall have been recorded; provided, however, that Declarant's construction or alterations, if any, shall be architecturally compatible with existing Units. The Declarant shall have the right to make such alterations without the consent of the Board and the Board shall execute any application required.

13. DUTIES OF THE ASSOCIATION.

(a) Management. The administration, management, maintenance, repair, alteration and improvement of the Condominium Property shall be the responsibility of the Association; provided, however, that the Association may delegate all or any portion of its authority to discharge such responsibility as hereinafter provided.

(b) Common Area. Except as otherwise expressly provided herein, the Association shall maintain and keep the Common Area in a state of good working order, in clean, neat, safe condition and in conformity with all laws, ordinances and regulations applicable to the Condominium Property.

(c) Improvements Within Units. Except as may otherwise be expressly provided herein, the Association shall keep and maintain in a state of good condition and repair those parts of the Condominium Property within each Unit which contribute to the support of the Building, excluding, however, the surfaces of interior walls, ceilings and floors, by making all repairs, replacements, alterations and other improvements necessary to comply with the foregoing. The Association shall further, except as provided in this Declaration, maintain, repair, replace, alter and improve all conduits, ducts, plumbing, wiring, equipment, and other facilities for the furnishing of utility services which are used by or for or are common to two or more Units even though such facilities are located within the boundaries of a Unit. The Association shall also be responsible for repairing all damage to a Unit caused by the Association, including damage caused by performance by the Association of its obligations hereunder. If a Unit becomes impaired, in a neglected state or otherwise in need of repair or restoration, and if the Unit Owner fails after notice from the Association to repair, restore or otherwise correct the condition, the Association may, but shall not be obligated to, repair, restore or otherwise correct the condition. The Association shall charge and assess the cost and expense thereof to the Unit Owner(s).

(d) General Duties. The Association shall do any and all other things necessary and/or appropriate to carry out the duties and obligations reasonably intended to be required of it under this Declaration or the Act.

(e) Delegation of Authority. The Declarant, prior to formation of the Association, and the Association thereafter may, but shall not be required to, delegate all or any portion of its authority and responsibilities to a Manager, Managing Agent, or Management Company (herein "Managing Agent"). Such delegation may be evidenced by a Management Agreement which shall provide to the Managing Agent reasonable compensation for its duties as a

Common Expense. Upon the expiration of each Management Agreement, the Association may renew said agreement or enter into a different agreement with a different Managing Agent; provided, however, that no Management Agreement or Agency or renewal thereof shall be for term longer than two (2) years.

14. MECHANICS LIENS.

No labor performed or materials furnished for use in connection with any Unit with the consent or at the request of an Owner or the Owner's agent, contractor or subcontractor shall create any right to file a statement of mechanic's lien against the Unit of any other Owner not expressly consenting to or requesting the same or against any interest in the Common Area except as to the undivided interest therein appurtenant to the Unit of the Owner for whom such labor shall have been performed and such materials furnished. Every agreement for the performance of labor, or the furnishing of materials, to the Common Areas and Facilities 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 materials furnished is waived. Each Owner shall indemnify and hold harmless each of the other Owners from and against liability or loss arising from the claim of any lien against the Unit, or any part thereof, of any other Owner for labor performed or for materials furnished in connection with work on the first Owner's Unit. At the written request of any Owner, the Association shall enforce such indemnity by collecting from the Owner of the Unit on which the labor was performed and materials furnished the amount necessary to discharge any such lien, including all costs incidental thereto, and obtaining a discharge of the lien. Such collection shall be made by a special assessment.

15. EASEMENTS.

(a) Encroachments. In the event that, by reason of the construction, settlement, rising or shifting of the Building or by changes in position caused by repair or reconstruction of the Condominium Property or any part thereof, any part of the Common Areas and Facilities presently encroaches or shall hereafter encroach upon any part of a Unit or Units, or any part of a Unit presently encroaches or shall hereafter encroach upon any part of the Common Areas and Facilities, or if by reason of the design or construction of any Unit it shall be necessary or advantageous to an Owner to use or occupy, for formal uses and purposes any portion of the Common Areas and Facilities consisting of unoccupied space within the Building and adjoining such Owner's Unit, or, if by reason of the design or construction of utility systems, any main pipes, ducts or conduits serving either any other Unit or more than one Unit presently encroaches or shall hereafter encroach upon any part of any Unit, valid easements for such encroachment and for the maintenance of the same and for the use of such adjoining space shall and do hereby exist for the benefit of such Unit, and the Common Areas and Facilities, as the case may be, so long as all or any part of the Building containing such Unit shall remain standing; provided, however, that in no event shall a valid easement for any encroachment be created in favor of the Owner of any Unit or in favor of the Common Areas or Facilities if such encroachment occurred due to the willful conduct of said Owner.

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(b) Easement of Access for Repair, Maintenance and Emergencies.

Some of the Common Area is or may be located within the Units or may be conveniently accessible only through the Units. The Owners of other Units shall have the irrevocable right, to be exercised by the Declarant or the Board as their agent, to have access to each Unit and to all Common Areas from time to time during such reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Common Areas located therein or accessible therefrom or at any time for making emergency repairs therein necessary to prevent damage to the Common Areas or to another Unit or Units. The Declarant and Board shall also have such right independent of any agency relationship. Damage to the interior of any part of a Unit or Units resulting from the maintenance, repair, emergency repair or replacement of any of the Common Areas or as a result of emergency repairs within another Unit at the instance of the Association or the Owners shall be an expense of all the Owners; provided, however, that if such damage is the result of negligence of the Owner or of the Owner's guests, invitees, tenants or of an Occupant of a Unit, then such Owner shall be financially responsible for all such damage. Such damage shall be repaired and the property shall be restored substantially to the same condition as existed prior to damage. Amounts owing by Unit Owners pursuant hereto shall be collected by the Declarant prior to formation of the Association and the Board thereafter by assessment pursuant to this Declaration.

(c) Owner's Right to Ingress and Egress Support.

Each Owner shall have the right to ingress and egress over, upon and across the Common Areas necessary for access to such Owner's Unit, and shall have the right to the horizontal and lateral support of such Owner's Unit, and such rights shall be appurtenant to and pass with the title to each Unit.

(d) Association's Right to Use of Common Areas.

The Declarant and the Association shall have a nonexclusive easement to make such use of the Common Areas and the Limited Common Areas as may be necessary or appropriate to perform the duties and functions required or permitted pursuant to this Declaration, including the right to construct and maintain in the Common Areas mechanical, maintenance and storage facilities for use by the Association.

(e) Utility Easements.

The Association may hereafter grant easements for utility purposes for the benefit of the Condominium Property, including the right to install, lay, maintain, repair and replace water mains and pipes, sewer lines, gas mains, telephone wires and equipment, television cable lines and electrical conduits and wires over, under, along, on and through any portion of the Common Areas and Facilities and Limited Common Areas and Facilities; and each Unit Owner by acceptance of a deed to a Unit or Units agrees from time to time to execute, acknowledge, deliver and record, for and in the name of such Unit Owner, such instruments as may be necessary to effectuate the foregoing;

(f) Easements to Run with Land.

Each and every easement and right reserved, granted or described herein are easements appurtenant, running with the land, in perpetuity and at all times shall inure to the benefit of and be binding upon the Declarant, all Unit Owners, the Association, and each Person for whose respective benefit such easements have been created, their

respective heirs, administrators, executors, personal representatives, successors, assigns and grantees, and their respective tenants, subtenants, guests, visitors, and invitees. Each Unit Owner and each Unit Owner's respective Mortgagee by acceptance of a deed conveying the Ownership Interest and/or Unit, as the case may be, hereby irrevocably appoints the Association and/or the Declarant, its Attorney-in-Fact, or either one of them, to execute, acknowledge and record for and in the name of such Unit Owner and such Owner's Mortgagee, such easements or other instruments as may be necessary to effectuate the foregoing, and each Unit Owner and such Owner's Mortgagee agrees to execute, acknowledge and deliver any and all instruments in recordable form which may be necessary or desired by any beneficiary of any such easement to effectuate and/or further manifest the easements and intentions set forth in this Paragraph. In the event of the removal of the Condominium Property from the provisions of the Act, all rights and obligations under this Paragraph shall devolve pro-rata upon the Owners of the property so removed and their successors in title, as tenants in common and any notice or action which was required to be made through the Association shall henceforth be made to them individually and directly, it being the intent that removal of such property from the Act shall not terminate the easements and rights set forth herein.

(g) Reference to Easements in Deeds. Failure to refer specifically to any or all of the easements and/or rights described in this Declaration or in the Act, in any deed of conveyance or in any mortgage or trust deed or other evidence of obligation shall not constitute a default or failure to reserve said rights or easements but same shall be deemed conveyed or encumbered along with the Unit.

(h) Easement for Construction Purposes. The Declarant shall have full rights of ingress and egress to and through, over and about the Common Areas during such period of time as the Declarant is engaged in any construction or improvement work on or within the property described or additional property and, shall further have an easement for the purpose of storage of materials, vehicles, tools, equipment, etc. which are being utilized in such development or construction. No owner, his guests, licensees, clients or invitees shall in any way interfere or hamper Declarant, its employees, successors or assigns in connection with such construction.

16. ASSESSMENTS AND LIEN OF ASSOCIATION.

(a) General. Assessments for the maintenance, repair and insurance of the Common Areas and Facilities and for the insurance of the Units as hereinbefore provided, together with the payment of the Common Expenses, shall be made in the manner provided herein and in the By-Laws. Common Profits, including income from telephones and any other coin-operated facilities provided by the Association and from any other income-producing goods, services and/or facilities in excess of Common Expenses shall be used to defray the Assessments made or shall be used for reserves for the Association, as the Board may determine.

(b) Division of Common Profits and Common Expenses. The Common Profits shall be distributed and the Common Expenses shall be charged to each Unit Owner in accordance with the percentages of interest

in the Common Areas for each Unit as set forth in Exhibit "D" hereof.

(c) Non-Use of Facilities. No Owner of any Unit shall be exempt from liability for that person's contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Areas and Facilities or Limited Common Areas and Facilities or by the abandonment of the Unit.

(d) Lien of Association. The Association shall have a lien upon the estate or interest in any Unit of the Owner thereof and its percentage of interest in the Common Areas and Facilities, for the payment or the portion of the Common Expenses chargeable against such Unit which remain unpaid for thirty (30) days after the same have become due and payable when notice of the unpaid assessment is filed in the Office of the Clerk of Superior Court of Orange County in the manner provided by N.C. Gen. Stat. Chapter 44, Article 8. In addition, the Owner of the Unit and any occupant thereof shall be personally liable for such expenses chargeable for the period of that person's Ownership or occupancy. Any assessment not paid within thirty (30) days after the same shall have become due and payable shall bear interest at the maximum rate allowed by law.

(e) Priority of Association's Lien. The lien provided for in subparagraph (d) of this Paragraph shall take priority over any lien or encumbrance subsequently arising or created, except liens for real estate taxes and assessments, all sums unpaid on mortgages recorded prior to the assessment lien and all materialmen's and mechanic's liens recorded prior to the Association's lien, and may be foreclosed in the same manner as a mortgage on real property in an action brought by the Association or its President pursuant to authority given to the President by the Board. In any such foreclosure action, the Owner or Owners of the Unit affected shall be required to pay a reasonable rental for such Unit during the pendency of such action, and the plaintiff in such action shall be entitled to the appointment of a receiver to collect the same. In any such foreclosure action, the Association shall be entitled to become a purchaser at the foreclosure sale.

(f) Liability of Foreclosure Sale Purchaser for Past Due Common Expenses. Where the Mortgagee of a first mortgage of record acquires title to the Unit as a result of foreclosure of the first mortgage, such Mortgagee, its successors and assigns, shall not be liable for the share of the Common Expenses or other assessments by the Association chargeable to such Unit which became due prior to the acquisition of title to such Unit by said Mortgagee except as hereinafter provided. Such unpaid share of Common Expenses or Assessments shall be deemed to be Common Expenses collectable from all the Units, including that of such acquiring Mortgagee, its successors and assigns. The foregoing to the contrary notwithstanding, where a purchaser of a Unit, other than the acquiring Mortgagee as aforesaid, acquires title to the Unit as a result of foreclosure of the first mortgage, such acquirer of title, and the acquirer's successors and assigns, shall be liable for the share of the Common Expenses or other assessments by the Association chargeable to such Unit which became due prior to the acquisition of title to any such Unit by any such acquirer.

(g) Liability for Assessments Upon Voluntary Conveyance. In a

voluntary conveyance of a Unit, the grantee of the Unit shall be jointly and severally liable with the grantor for all unpaid assessments by the Association against the grantor and grantor's Unit for grantor's share of Common Expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any such grantee shall be entitled to a statement from the Board setting forth the amount of all unpaid assessments against the grantor due the Association within ten (10) days after receipt of a written request therefor, and such grantee shall not be liable for nor shall the Unit conveyed be subject to a lien for, any unpaid assessments made by the Association against the grantor in excess of the amount set forth in such statement for the period reflected in such statement. As used in this Paragraph, "grantor" shall include a decedent and "grantee" shall include a devisee or intestate heir of said decedent.

(h) Declarant's Obligation to Pay Assessments. Declarant will assume the rights and obligations of a Unit Owner for all unsold Units, including, without limitation, the obligation to pay Common Expenses attaching to each of such unsold Units owned by Declarant from and after the date this Declaration is filed for record; provided, however, that so long as Declarant remains vested with title to any Unit which remains vacant, the assessment to which Declarant is subject for such Unit shall be one-quarter (1/4) the assessment amount to which each remaining Unit Owner, other than Declarant, is subject.

17. CONDEMNATION.

In the event the entire Condominium Property is taken by eminent domain or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the Condominium Ownership shall terminate. The condemnation award shall be apportioned among the Owners in accordance with the percentages of interests shown in Exhibit "D" hereon. The Association shall as soon as practicable determine the share of the condemnation award to which each Owner is entitled and such shares shall be paid into separate accounts and disbursed as soon as practicable to the Unit Owners entitled to same.

In the event that less than the entire Condominium Property is taken over or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the Condominium Ownership hereunder shall not terminate. Each Owner shall be entitled to a share of the condemnation award to be determined in the following manner: As soon as practicable the Association shall, reasonably and in good faith, allocate the condemnation award between compensation, damages, or other proceeds, and shall apportion the amounts so allocated among the Owners, as follows: (a) the total amount allocated to taking of or injury to the Common Area shall be apportioned among Unit Owners in proportion to their respective undivided interests in the Common Area as shown in Exhibit "D" hereof, (b) the total amount allocated to severance damages shall be apportioned to those Units which were not taken or condemned, (c) the respective amounts allocated to the taking of or injury to a particular Unit and/or improvements an Owner has made within such Owner's Unit shall be apportioned to the particular Unit involved, and

(d) the total amount allocated to consequential damages and any other takings or injuries shall be apportioned as the Board determines to be equitable under the circumstances. If an allocation of the condemnation award is already established

in negotiation, judicial decree, or otherwise, then in allocating the condemnation award the Association shall employ such allocation to the extent it is relevant and applicable. Distribution of apportioned proceeds shall be made by checks payable jointly to the respective Owners and their respective Mortgagees.

In the event a partial taking results in the taking of a complete Unit, the Owner thereof automatically shall cease to be a member of the Association. Thereafter the Association shall reallocate the ownership, voting rights and assessment ratio determined in accordance with this Declaration according to the same principles employed in this Declaration at its inception and shall submit such reallocation to the Owners of remaining Units for amendment of this Declaration and the amended Declaration shall be filed as required by law.

Any reconstruction or repair necessitated by condemnation shall be governed by the procedures specified in Paragraph 11 hereinabove.

18. REHABILITATION AND RENEWAL OF OBSOLETE PROPERTY.

The Association may, by the affirmative vote of Unit Owners entitled to exercise not less than seventy-five percent (75%) of the voting power, determine that the Condominium Property is obsolete in whole or in part, and elect to have the same renewed and rehabilitated. The Board shall thereupon proceed with such renewal and rehabilitation and the cost thereof shall be a Common Expense.

19. REMEDIES FOR BREACH OF COVENANTS AND REGULATIONS.

The violation of any restriction or condition or regulation adopted by the Board or the breach of any covenant or provision contained in this Declaration or in the By-Laws shall give the Board the right:

(a) To enter upon the Unit or any portion thereof upon which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions of this Declaration and the By-Laws, and the Board, or its agents, shall not thereby be deemed guilty in any manner of trespass; or

(b) To enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach.

20. SALE, LEASING OR OTHER ALIENATION.

(a) Sale or Lease.

(i) Any Unit Owner, other than the Declarant, who wishes to sell or lease that person's ownership interest or any interest therein (or any lessee of any ownership interest wishing to assign or sublease such ownership interest) to any person shall give to the Board, not less than thirty (30) days prior to the date of the proposed sale or lease, written notice of the terms of any proposed sale or lease, together with the Owner's name and address, the Unit designation of the Unit which is to be the subject matter of the proposed sale or lease, the name and

address of the proposed purchaser or lessee, the amount deemed by the Owner to constitute the fair market value of such ownership interest, and the amount of liens and encumbrances thereon. The Members of the Board, acting on behalf of consenting Unit Owners as hereinafter provided, shall at all times have the first right and option to purchase or lease such ownership interest or interests therein upon the same terms, which option shall expire fifteen (15) days after the date of receipt by it of such notice; provided, however, that if the proposed purchase or lease shall be for a consideration which the Board does not deem to reflect the fair market value of such ownership interest or interest therein, the Board may elect to exercise such option in the manner, within the period, and on the terms set forth in subparagraph (b) of this Section 20. If said option is not exercised by the Board within the aforesaid option period, the owner or lessor may, upon the expiration of said option period, contract or sell or lease (or sublease or assign) such ownership interest or such other interest therein to the proposed purchaser or lessee named in such notice upon the terms specified therein, but no such lease shall be made for a term less than sixty (60) days.

The provisions of this paragraph (a) of Section 20 shall not apply to a mortgagee (under a first mortgage of record upon a Unit) who purchases such Unit as a result of a mortgage foreclosure sale judicially ordered or decreed in an action to which the Association has been made a party.

(2) The Declarant may without prior notice to the Association lease any Unit owned by it prior to the transfer of title thereto by the Declarant; provided, however, that the term of any such lease shall expire on or before the date title to such Unit is transferred by the Declarant. Within thirty (30) days after the execution of such lease, the Declarant shall give written notice to the Board as to the identity of any such lessee or lessees and the term of any such lease.

(b) Inter Vivos Gift. Any Owner, other than the Declarant, who wishes to make an intervivos gift of the ownership interest or any interest therein to any person or persons other than the Owner's spouse and lineal descendants or any one or more of them, shall give to the Board, not less than thirty (30) days prior to the date of the proposed gift, written notice of the Owner's intent to make such gift and shall specify in said notice the Owner's name and address, the Unit which is to be the subject matter of the proposed gift, the name and address of the intended donee, the contemplated date of said gift, the amount deemed by the Owner to constitute the fair market value of such ownership interest or interest therein, and the amount of any liens and encumbrances thereon. The members of the Board, acting on behalf of consenting Unit Owners as hereinafter provided, shall at all times have the first right and option to purchase or otherwise acquire such ownership interest or interest therein for cash at the fair market value thereof less the amount of any liens and encumbrances thereon. If the Board does not deem the amount so specified in said notice to be the fair market value of such ownership interest or interest therein, the Board may, within ten (10) days after the service of such written notice by the Unit Owner, so notify the Unit Owner in writing and specify a different amount

for the fair market value of said ownership interest or interest therein. The fair market value of the ownership interest or interest therein involved shall be deemed to be the amount specified by the Unit Owner, or if the Board as aforesaid has specified a different amount, then the amount specified by the Board, unless either:

(1) The Board and the Unit Owner at any time within twenty (20) days after the service of the notice of intent to make a gift by the Unit Owner agree upon a different amount; or

(2) Either the Unit Owner or the Board, within said twenty (20) days period (but not thereafter) serves a written notice on the other that the Owner or the Board desires that the determination of such fair market value shall be made by a board of appraisers, in which case such determination shall be made by a majority vote of a board of three (3) appraisers, one of whom shall be appointed by the Unit Owner and another of whom shall be appointed by the Board, each such appointment to be made within five (5) days after the receipt by the other party of the aforesaid notice, and the third of whom shall be appointed by the first two appraisers within five (5) days after the last of their respective appointments. Upon such determination said appraisers shall promptly give written notice thereof to the Unit Owner and the Board.

The Board's option to purchase or otherwise acquire said ownership interest or interest therein shall expire fifteen (15) days after the date the fair market value thereof becomes fixed as aforesaid.

(c) Devise and Inheritance. In the event any Unit Owner dies and the ownership interest or any interest therein passes by devise or under the laws of intestacy to any person or persons other than the Owner's spouse and lineal descendants or one or more or them, the members of the Board, acting on behalf of the consenting Unit Owners as hereinafter provided, shall have the first right and option (exercisable in the manner hereinafter set forth) to purchase said ownership interest or interest therein either from the devisee or devisees or the heir or heirs of the deceased Unit Owner or, if a power of sale is conferred by the Will of such Unit Owner upon the personal representative named therein, from such personal representative acting pursuant to said power, for cash at the fair market value thereof, less the amount of any liens or encumbrances thereon. Within sixty (60) days after the appointment of a personal representative of the deceased Unit Owner, the Board shall give notice of the option to said devisee or devisees heir or heirs, or personal representative, as the case may be, and shall specify therein an amount deemed by the Board to constitute the fair market value of such ownership interest or interest therein. If a person or persons to whom such notice is given do not deem the amount so specified in said notice to be the fair market value of such ownership interest or interest therein, such person or persons may within fifteen (15) days after the service of such written notice so notify the Board in writing and specify a different amount as the fair market value of said ownership interest or interest therein involved shall be deemed to be the amount specified by the Board or if such person or persons as aforesaid has or have specified a different amount, then the amount specified by such person or persons, unless either:

(1) The Board and such person or persons at any time within thirty (30) days after the service of such written notice by the Board agree upon a different amount, or

(2) Either such person or persons or the Board within said thirty (30) day period (but not thereafter) serves a written notice upon the other that the Owner or the Board desires that the determination of such fair market value shall be made by a board of appraisers, in which case such determination shall be made by the majority vote of a Board of three (3) appraisers, one of whom shall be appointed by such person or persons, each such appointment to be made within five (5) days after the receipt by the other party of the aforesaid notice, and the third of whom shall be appointed by the first two (2) appraisers within five (5) days after the last of their respective appointments. Upon such determination said appraisers shall promptly give written notice thereof to such person or persons and the Board.

The Board's option to purchase or otherwise acquire said ownership interest or interest therein shall expire thirty (30) days after the date the fair market value becomes fixed as aforesaid if the personal representative of the deceased Unit Owner is empowered to sell and shall expire six (6) months after said date if said personal representative is not empowered to sell. Nothing herein contained shall be deemed to restrict the right of the Board or its authorized representatives, pursuant to authority given to the Board by the Unit Owners as hereinafter provided, to bid at any sale of the ownership interest or interest therein of any deceased Unit Owner which sale is held pursuant to an order or direction of the Court having jurisdiction over that portion of the deceased Unit Owner's estate which contains his or her ownership interest or interest therein.

(d) Involuntary Sale.

(1) In the event any ownership interest or interest therein is sold at a judicial or execution sale (other than a mortgage foreclosure sale), the person acquiring title through such sale shall, before taking possession of the Unit so sold, give to the Board, not less than thirty (30) days prior to the date such person intends to take possession, written notice of such intention together with such person's name and address, the Unit purchased, and the purchase price, whereupon the Board, acting on behalf of the consenting Unit Owners as hereinafter provided, shall have the first right and option to purchase such ownership interest or interest therein at the same price for which it was sold at such sale, provided, however, that as to any mortgagee purchasing at such sale, the purchase price shall be the price for which it was sold at such sale, or the amount of the unpaid balance of the mortgage held by the mortgagee, whichever is higher.

The Board shall be deemed to have exercised its option if it tenders to an escrow agent selected by it the required sum of money for the account of the purchaser within said thirty (30) day period.

(2) In the event any Unit Owner shall default in the payment of any monies required to be paid under the provision of any mortgage or deed of trust on or against such person's ownership interest, the Board shall have the right to cure such default by paying the amount so owing to the party entitled thereto and shall thereupon have, in addition to any right of subrogation resulting from payment, a lien therefor against such ownership interest, which lien shall have the same force and effect and may be enforced in the same manner as a lien of the Association for unpaid Common Expenses.

(e) Consumation of Purchase. Any option exercisable by the Board hereunder may be exercised within the respective option period by delivery by the Board of written notice of such exercise to the person or persons required to sell any ownership interest or interest therein to the Board in accordance with the provisions of this Section 20. Any purchase effected pursuant to the provisions of this Section 20 shall be made by the payment of the purchase price by the Board, on behalf of the consenting Unit Owners, in return for a conveyance of the ownership interest or interest therein, subject to any liens and encumbrances thereon, to the President or chief officer of the Association as trustee for all consenting Unit Owners. Such conveyance and payment shall be made within thirty (30) days after the exercise of any option by the Board as in this Section 20 provided.

(f) Consent of Voting Members. The Board shall not exercise any option hereinabove set forth to purchase any ownership interest or interest therein unless it shall have been authorized to do so by the affirmative vote of Unit Owners entitled to exercise not less than fifty percent (50%) of the voting power and whose Units are not the subject matter of such option. The Board may bid and purchase at any sale of an ownership interest or interest therein which is held pursuant to any order or direction of a Court upon the prior authorization of the Unit Owners as aforesaid which authorization shall set forth a maximum price which the Board is authorized to bid and pay for said ownership interest or interest therein.

(g) Release, Waiver, and Exceptions to Option. The Board may waive or release any of the options contained in this Section 20 and in such event the ownership interest or interest therein which is subject to an option set forth in this Section 20 may be sold, conveyed, leased, given, devised or passed as contemplated in that instance without the requirements of the other paragraphs of this Section having been met. In addition, none of the options contained in this Section 20 shall be applicable to any sales, leases, or subleases of any ownership interest with respect to which the Declarant is the grantor, lessor or sublessor.

(h) Evidence of Termination of Option. A certificate executed and acknowledged by the chief officer or Secretary of the Association stating that the provisions of this Section 20 as hereinabove set forth have been met by a Unit Owner, or duly waived or released by the Board, and that the rights of the Board hereunder have terminated, shall be conclusive upon the Board and the Unit Owners in favor of all persons who rely thereon in good faith, and such certificate shall be furnished upon request by the Association to any person or persons who have in fact complied with the provisions of this Section or with respect to whom the provisions of this Section have

been waived or released, upon payment of a reasonable charge, not to exceed Ten Dollars (\$10.00) in any instance.

(i) Financing of Purchase Under Option.

(1) Acquisition of any ownership interest or interest therein under the provisions of this Section shall be made from the reserve, if any, for contingencies and replacements for the account of consenting Unit Owners. If said reserve is insufficient, the Association may levy a special assessment against each consenting Unit Owner in the proportion which the Owner's percentage of interest in the Common Areas and Facilities bears to the percentage of interest in the Common Areas and Facilities of all consenting Unit Owners, which assessment shall become a lien and be enforceable as a lien for Common Expenses.

(2) The Board, in its discretion, may borrow money to finance the acquisition of any ownership interest or interest therein authorized by this Section; provided, however, that no financing may be secured by any lien or encumbrance on any portion of the condominium property other than the ownership interest or interest therein to be acquired.

(j) Title to Acquired Interest. Ownership interests or interests therein acquired pursuant to the terms of this Section shall be held of record in the name of the President or other chief officer of the Association as trustee for all consenting Unit Owners or in the name of the Association. Such holding shall be for the benefit of all the Unit Owners consenting to and participating in such acquisition. Said ownership interests or interests therein shall be sold or leased by the Board for the benefit of such Unit Owners. All net proceeds of any such sale or leasing shall be deposited in the reserve fund and may thereafter be disbursed or credited at such time and in such manner as the Board may determine for the account of such consenting Unit Owners.

21. WAIVER.

The failure of the Declarant, the Board or its delegate to insist, in any instance, upon the strict performance of any of the terms, covenants, conditions or restrictions of this Declaration or of the By-Laws, or to exercise any right herein or therein contained, or to serve any notice or to institute any action shall not be construed as a waiver or relinquishment for the future, of such term, covenant, condition, restriction or right, but such term, covenant, restriction or right shall remain in full force and effect. The receipt by the Declarant, the Board or its delegate of any assessment from an Owner with knowledge of the breach of any covenant hereof shall not be deemed a waiver of such breach, and no waiver by the Declarant, the Board or its delegate or any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Declarant, the Board, or its delegate.

22. LIABILITY OF THE BOARD AND THE OFFICERS, EMPLOYEES AND AGENTS OF THE ASSOCIATION.

Neither the members of the Board nor the officers, employees or agents of the Association shall be liable to the Unit Owners for any mistake of

judgment, negligence, or otherwise, except for their own individual willful misconduct, gross negligence, or bad faith and except as provided hereinbelow or in the By-Laws. The Unit Owners and the Association shall indemnify and hold harmless each of the members of the Board and the officers, employees or agents of the Association from and against all contractual liability to others arising out of contracts made by the Board on behalf of the Association unless any such contract shall have been made in bad faith or contrary to the express provisions of the Declaration or of the By-Laws. It is intended that the members of the Board shall not have personal liability with respect to any contract made by them on behalf of the Association. It is also intended that the liability of any Unit Owner arising out of any contract made by the Board or out of the aforesaid indemnity in favor of the members of the Board shall be limited to such proportion of the total liability hereunder as that Owner's interest in the Common Area bears to the interests of all the Unit Owners in the Common Area. The provisions of this Paragraph do not apply to and shall not preclude claims for property damage and personal injury by Unit Owners against the Board or any other insured under the liability insurance required by Paragraph 11 hereinabove.

23. ENFORCEMENT.

Each Unit owner shall comply strictly with the provisions of this Declaration, the By-Laws and the Rules as the same may be lawfully amended from time to time and with decisions adopted pursuant to said Declaration, By-Laws or Rules, and failure to comply shall be grounds for an action to recover sums due for damages or injunctive relief, or both, maintainable by the Declarant, the Board or its delegate on behalf of the Unit Owners, or in a proper case, by an aggrieved Unit Owner.

24. PROPERTY.

The Board may acquire and hold, for the benefit of the Owners, real property and tangible and intangible personal property and may dispose of the same by sale or otherwise; and the beneficial interest in such personal property shall be owned by the Unit Owners in the same proportion as their respective interests in the Common Area. A transfer of a Unit shall transfer to the transferee ownership of the transferor's beneficial interest in such personal property, whether or not such personal property is specifically mentioned therein.

25. AMENDMENT OF DECLARATION AND BY-LAWS.

This Declaration and the By-Laws attached hereto as Exhibit "C" may be amended, and such amendment(s) shall be effective, upon the filing for record with the Register of Deeds of Orange County, North Carolina, of an instrument in writing setting forth specifically the item or items to be amended and/or any new matter to be added, which instrument shall have been duly executed by the Unit Owners entitled to exercise at least seventy-five percent (75%) of the voting power of the Association. Such amendment must be executed with the same formalities as this instrument and must refer to the book and page in which this instrument and its attached exhibits are recorded and must contain an affidavit by the President of the Association that a copy of the amendment has been mailed by certified mail or hand delivered or sent by telegram to all first mortgagees having bona fide liens of record against any Unit Ownership. No

amendment shall have effect, however, upon a bona fide first mortgagee until the written consent to such amendment of such mortgagee has been secured. Such consents shall be retained by the Secretary of the Association and the Secretary's certification in the instrument of amendment as to the names of the consenting and nonconsenting mortgagees of the various Units shall be sufficient for reliance by the general public. If less than all Mortgagees consent to an amendment to this Declaration and/or the By-Laws, said amendment or modification shall nevertheless be valid among the Unit Owners, inter se, provided that the rights of nonconsenting Mortgagees shall not be derogated thereby.

Notwithstanding anything contained herein to the contrary, no provision in this Declaration or the By-Laws may be changed, modified or rescinded, which, after such change, modification or rescission would conflict with the provisions of the Act or the general law, nor may any amendment be made to the percentage of interest in the Common Areas and Facilities of each Unit as set forth in Exhibit "D" hereof except by an amendment to this Declaration unanimously approved by all Unit Owners affected.

The Declarant prior to the formation of the Association and the Board thereafter each reserve the right to amend the Declaration and/or By-Laws and/or the Drawings without having to observe the foregoing formalities (other than the legal formalities for the recording of such amendment) so long as the substance of such amendment is to correct minor errors of omission or commission or by changed circumstances which are not foreseen herein or throughout this Declaration, the By-Laws or the Drawings, as the case may be, or any rights or obligations of any of the Unit Owners or Mortgagees thereunder.

In consideration of the foregoing submission to Condominium Ownership, the Association and each Unit Owner does for that person, his, her or its heirs, executors, administrators, successors and assigns, irrevocably appoint the Declarant, or the Association, as the case may be, as attorney-in-fact which shall be deemed to be effective concurrently with the transfer of title to any Unit from the Declarant to the Unit Owner. Further, and for like consideration, the foregoing do authorize and approve any Amended Declaration, its exhibits, appendices or By-Laws of the Association as may be necessitated by errors or by changed circumstances as aforesaid and that each of the foregoing does authorize such amendment. The Association and/or each Unit Owner shall, if requested, take such further action and execute such further documents as may be required, desirable or necessary to effect any amendment or modification. The Association and each Unit Owner shall approve, cause to be voted or vote in favor of and adopt such amendment if so required by the Declarant. The separate power of attorney aforesaid, if requested, shall be by separate instrument executed by each Unit Owner prior or subsequent to transfer of title.

26. NOTICES.

All notices required or permitted hereunder, and under the By-Laws and the Act, to the Declarant, the Association, the Board and its delegates shall be in writing and shall be sent by registered or certified mail, return receipt requested, to the Board or its delegates at the address of the Condominium Property or to such other address as the Board may designate from time to time by notice in writing to all Unit Owners. All notices to the Declarant shall be sent by registered or certified mail, return receipt requested, to: Sidney A. Martin, c/o Richard J. Snider, Jr., Coleman, Bernholz, Dickerson, Bernholz,

Gladhill & Hargrave, Suite 20, Franklin Building, 137 East Franklin Street, Chapel Hill, North Carolina 27514, or to such other address as the Declarant or its counsel may designate from time to time by notice in writing to all Unit Owners. All notices to any Unit Owner shall be sent by registered or certified mail to such Unit Owner's address or to such other address as may be designated by a Unit Owner from time to time, in writing, to the Board. All notices shall be deemed to have been given and therefore effective not later than forty-eight (48) hours after the date that such notice is deposited in the United States Mails, except notices of change of address which shall be deemed to have been given when received, and except as otherwise provided herein. Any notice required or permitted to be given to any Occupant shall effectively be given if hand delivered to such Occupant or placed in the Occupant's mail box or placed under the door to such Occupant's Unit.

27. INVALIDITY.

The invalidity of any part of this Declaration shall not impair or affect in any manner the validity, enforceability or effect of the balance of the Declaration.

28. PERPETUITIES.

If any of the options, privileges, covenants or rights created by this Declaration or in the By-Laws shall be unlawful or void for violation of any rule against perpetuities or any analogous statutory provision or any rule restricting restraints on alienation or any other statutory or common law rules imposing time limitations, then such provision shall continue in effect for only twenty-one (21) years after the death of the survivor of the now living descendants of Ronald Reagan, President of the United States of America.

29. COVENANTS TO RUN WITH THE LAND.

All easements, rights, covenants, conditions and restrictions set forth in this Declaration run with the land perpetually in full force and effect and at all times inure to the benefit of and are binding upon the Declarant, its lessees, Mortgagees or other Persons having any interest in the Condominium Property or some portion thereof.

30. MISCELLANEOUS PROVISIONS.

(a) Each grantee of Declarant, by the acceptance of a deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared, and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land, and shall inure to the benefit of such Owner in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance.


(b) Except as otherwise provided in the Act, neither Declarant nor its representatives, successors or assigns shall be liable for any claim whatsoever arising out of or by reason of any actions performed pursuant to any

authorities granted or delegated to it by or pursuant to this Declaration or the By-Laws in Declarant's (or its representatives) capacity as Owner, manager or seller of the Condominium Property whether or not such claim (1) shall be asserted by any Unit Owner, Occupant, the Association, or by any person or entity claiming through any of them; or (2) shall be on account of injury to person or damage to or loss of property wherever located and however caused; or (3) shall arise ex contractu or (except in the case of gross negligence) ex delictu. Without limiting the generality of the foregoing, the foregoing enumeration includes all claims for, or arising by reason of, the Condominium Property or any part thereof being or becoming out of repair or containing any patent or latent defects, or by reason of any act or neglect of any Unit Owner, Occupant, the Association, and their respective agents, employees, guests and invitees, or by reason of any neighboring property or personal property located on or about the Condominium Property, or by reason of the failure to function or disrepair of any utility services (heat, air conditioning, electricity, gas, telephone, water or sewage).

(e) The heading of each Paragraph and of each Section in this Declaration and in the By-Laws is inserted only as a matter of convenience and for reference and in no way defines, limits or describes the scope or intent of this Declaration or by By-Laws nor in any way affects this Declaration or the By-Laws.

IN WITNESS WHEREOF, Sidney A. Martin has caused this instrument to be executed this the 29th day of JULY, 1986.

 (SEAL)
Sidney A. Martin

 (SEAL)
Sue J. Martin

COLLEMAN BERNHARTZ, DANIELSON, BERNIKOW, GLECHIK & HARGRAVE, ATTORNEYS AT LAW

NORTH CAROLINA, ORANGE COUNTY

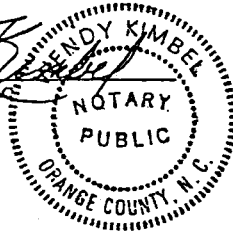
I, a Notary Public for said County and State, do hereby certify that Sidney A. Martin, personally appeared before me this day and acknowledged the due execution of the foregoing and attached Declaration of Condominium Ownership.

WITNESS my hand and notarial seal, this the 29th day of JULY, 1986.

My Commission Expires:

7-4-88

Wendy Kimbel
Notary Public



NORTH CAROLINA, ORANGE COUNTY

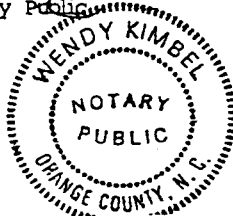
I, a Notary Public for said County and State, do hereby certify that Sue J. Martin, personally appeared before me this day and acknowledged the due execution of the foregoing and attached Declaration of Condominium Ownership.

WITNESS my hand and notarial seal, this the 29th day of JULY, 1986.

My Commission Expires:

7-4-88

Wendy Kimbel
Notary Public



COLEMAN, BARNHARTZ, DEKROON, BARNHARTZ, OLSEN, OLSEN & HARRIS, ATTORNEYS AT LAW

NORTH CAROLINA - ORANGE COUNTY

The foregoing certificate(s) of _____

Wendy Kimbel,

A Notary ~~Public~~ of the designated Governmental units ~~is~~ (are) certified to be correct. Filed for registra-

tion this the 30th day of September 19 86, at 1:53 o'clock, PM

in Record Book 605 Page 316

Return: _____

Betty Jane Hayes, Register of Deeds

By: *Delviah B. Brant*
Assistant/Deputy
Register of Deeds

EXHIBIT A

BEGINNING at a point in the eastern edge of Airport Road (which road is 100 feet wide) which point is the southwest corner of the property of Randolph Segar (Townhouse Apts.) and the northwest corner of the property described herein; running thence along and with the southern and eastern lines of the Segar (Townhouse) property the following courses and distances: South $86^{\circ} 06' 27''$ East 126.31 feet; South $25^{\circ} 54' 46''$ West 67.65 feet; South $88^{\circ} 36' 14''$ East 150.48 feet to a point in or near a branch; running thence generally along and with said branch South $04^{\circ} 15' 13''$ West 105.88 feet to a point located in Segar's line which point is the northeast corner of the property of Richard Birgel (Northampton Apts.); running thence with the northern line of the Birgel property the following courses and distances: South $70^{\circ} 03' 27''$ West 74.07 feet; South $52^{\circ} 44' 30''$ West 63.80 feet; South $61^{\circ} 34' 30''$ West 118.90 feet; and South $71^{\circ} 24' 30''$ West 111.90 feet to a point in Airport Road; running thence parallel to the eastern line of the 100 foot right of way for Airport Road North $09^{\circ} 49' 30''$ East 342.15 feet to a point; turning and running thence South $86^{\circ} 06' 27''$ East 33.69 feet to a point in the eastern edge of Airport Road, the point and place of BEGINNING, and being the same properties described in the deed to Dannie J. Moffie and wife, Jeanette B. Moffie recorded in Book 317, Page 527, Orange County Registry, deed to Nanette Merle Taylor Strowd (a/k/a Nanette M. Taylor Strowd) recorded in Book 242, Page 1152, Orange County Registry, and deed to Nanette Taylor recorded in Book 126, Page 492, Orange County Registry (conveyed by Will to Nanette Merle Taylor Strowd, daughter of Nanette Taylor, in Estate file 80 E 135 after the death of Nanette Taylor on November 21, 1979), and containing 1.6 acres, more or less, as shown on survey by Freehold Land Surveys, Inc., dated January 9, 1984, entitled "Property of Dr. Sidney A. Martin," Job #8092, to which survey reference is hereby made for a more particular description of same.