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REGISTER OF DEEDS
MECKLENBURG COUNTY, NC
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CAUDLE & SPEARS, P.A.
2600 INTERSTATE TOWER
121 WEST TRADE STREET
CHARLOTTE, NC 28202
(MECK R/D BOX #64)

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

DECLARATION OF CONDOMINIUM FOR
JEFFERSON SQUARE CONDOMINIUM

This Declaration of Condominium (this "Declaration") is made this 11th day of January, 2002, by Jefferson Square Condominiums, LLC, a North Carolina limited liability company ("Declarant"), pursuant to the provisions of Chapter 47C of the North Carolina General Statutes, entitled the "North Carolina Condominium Act."

BACKGROUND STATEMENT

Declarant is the owner of the following real property (collectively, the "Property") located at 401 North Church Street (six-story building and garage) and 415 North Church Street (three-story building) in the City of Charlotte, Mecklenburg County, North Carolina, 28281:

A. A 1.196-acre parcel more particularly described on Exhibit "A" attached hereto (the "Real Property").

B. Two buildings located upon the Property containing seventy-two (72) residential condominium units and certain common amenities, such as an underground parking area, entrances and lobbies, elevators and stairways, hallways, mechanical rooms, and utility systems (the "Buildings").

Declarant desires to submit the Property to the terms and provisions of the North Carolina Condominium Act. In addition, Declarant has deemed it desirable to create a nonprofit, incorporated owners' association that will be delegated and assigned powers of maintaining and administering the common areas and facilities located within the Property, of administering and enforcing the covenants and restrictions created in this Declaration, of levying, collecting and disbursing the assessments and charges created in this Declaration, and of taking any steps or performing any acts deemed necessary or appropriate to preserve the values of condominium units within the Property and to promote the recreation, health, safety and welfare of the unit owners. In order to accomplish the foregoing, Declarant is entering into this Declaration.

STATEMENT OF DECLARATION

NOW, THEREFORE, Declarant hereby declares that all of the Property shall be held, transferred, sold, conveyed, occupied and used subject to the following covenants, conditions,

easements, uses, limitations, obligations, and restrictions, all of which are declared and agreed to be in furtherance of a plan for the division of the Property into condominium units, and shall be deemed to run with the land and shall be a burden and benefit to Declarant, its successors and assigns, and any person or entity acquiring or owning an interest in the Property, and their grantees, successors, heirs, executors, administrators, devisees and assigns.

ARTICLE I **DEFINITIONS**

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

Section 1.1. Association. "Association" shall mean and refer to Jefferson Square Condominium Owners Association, Inc., a corporation organized and existing under the North Carolina Non-Profit Corporation Act pursuant to and in accordance with this Declaration, the Bylaws, and the North Carolina Condominium Act.

Section 1.2. Buildings. "Buildings" shall mean and refer to the two (2) buildings located within the Real Property, which contain seventy-two (72) Units, a shared underground parking area, entrance lobbies, elevators, and certain other Common Elements.

Section 1.3. Bylaws. "Bylaws" shall mean and refer to the bylaws of the Association, a copy of which is attached hereto as Exhibit "C", and all amendments to such bylaws which may from time to time be adopted.

Section 1.4. Common Elements. "Common Elements" shall mean and refer to all portions of the Condominium other than the Units, as depicted on the Plans, and as more particularly described in **Section 5.1** of this Declaration.

Section 1.5. Common Elements Interest. "Common Elements Interest" shall mean and refer to the undivided percentage interest in the Common Elements allocated to each Unit, as set forth on Exhibit "B" attached hereto. The Common Elements Interest shall be used to determine each Unit's share of Common Expenses and voting rights in the Association, and to allocate the division of proceeds, if any, resulting from any casualty loss or eminent domain proceedings.

Section 1.6. Common Expenses. "Common Expenses" shall mean and refer to any and all expenditures made by or financial liabilities of the Association, together with any allocations to reserves, pursuant to and in accordance with this Declaration, the Bylaws, and N.C.G.S. §47C-1-103(5).

Section 1.7. Condominium. "Condominium" shall mean and refer to the Jefferson Square Condominium, as established by the submission of the Property to the terms of the North Carolina Condominium Act by this Declaration.

Section 1.8. Condominium Documents. "Condominium Documents" shall mean and refer to this Declaration, the Articles of Incorporation of the Association, the Bylaws, and the rules and regulations governing the use of the Property, as amended and supplemented from time to time, and all attachments and exhibits thereto.

Section 1.9. Declarant. "Declarant" shall mean and refer to JEFFERSON SQUARE CONDOMINIUMS, LLC, a North Carolina limited liability company, its successors, or any party to which it assigns its rights as Declarant under this Declaration.

Section 1.10. Declarant Control Period. "Declarant Control Period" shall mean and refer to the period commencing on the date hereof and continuing until the earlier of: (i) three (3) years after the date of the first conveyance of a Unit to an Owner other than Declarant; (ii) one hundred twenty (120) days after conveyance of seventy-five percent (75%) of the Units to an Owner other than Declarant; (iii) two (2) years after Declarant ceases to offer Units for sale in the ordinary course of business; or (iv) the date upon which Declarant voluntarily surrenders control of the Condominium in writing.

Section 1.11. Declaration. "Declaration" shall mean and refer to this Declaration of Condominium, as it may be amended in the future.

Section 1.12. Executive Board. "Executive Board" shall mean and refer to the governing body from time to time of the Association, as constituted in accordance with the Articles of Incorporation of the Association, the Bylaws and the North Carolina Condominium Act.

Section 1.13. Limited Common Elements. "Limited Common Elements" shall mean and refer to those portions of the Common Elements allocated by this Declaration, or by the terms of N.C.G.S. §47C-2-102(2) or (4), for the exclusive use and benefit of one or more, but fewer than all, of the Units, to the exclusion of all other Units, as more fully described in Section 5.2 of this Declaration, and as depicted on the Plans.

Section 1.14. Mortgage. "Mortgage" shall mean and refer to a mortgage or deed of trust constituting a lien on a Unit.

Section 1.15. Mortgagee. "Mortgagee" shall mean and refer to the owner and holder of the indebtedness secured by a Mortgage that has notified the Association in writing of its name and address, and that it holds a Mortgage on a Unit. Such notice will be deemed to include a request that the Mortgagee be given the notices and other rights described in Article XV.

Section 1.16. North Carolina Condominium Act. "North Carolina Condominium Act" shall mean and refer to Chapter 47C of the North Carolina General Statutes, as it may be amended from time to time.

Section 1.17. Owner. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Unit, but shall exclude those persons or entities having an interest in any Unit as merely security for the payment or performance of an obligation.

Section 1.18. Plans. "Plans" shall mean and refer to the plans and specifications for the Buildings and Property, including any amendments thereto, recorded under the name of the Condominium in the Unit Ownership File in the Office of the Register of Deeds of Mecklenburg County.

Section 1.19. Property. "Property" shall mean and refer to the Real Property and Buildings subjected to this Declaration, more particularly described in Paragraphs A through B of the Background Statement.

Section 1.20. Real Property. "Real Property" shall have the meaning provided in Paragraph A of the Background Statement.

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

ARTICLE II **DESIGNATION OF CONDOMINIUM**

The Property is located entirely in Mecklenburg County, North Carolina. The Property is subjected to the terms of the North Carolina Condominium Act by this Declaration. The name of the Condominium is Jefferson Square Condominium.

ARTICLE III **DESCRIPTION OF BUILDINGS**

The Buildings include a three (3)-story and a six (6)-story steel stud-framed building with epicore engineered concrete flooring system, brick and masonry exteriors, containing a two level shared underground parking garage and seventy-two (72) residential condominium units. The Buildings are more particularly described in the Plans, which show all particulars of the Buildings. The Plans contain a certification by a North Carolina Registered Land Surveyor, and by a North Carolina Licensed Architect, that the Plans contain all the information required by N.C.G.S.

§47C-2-109, and have been recorded under the name of the Condominium in the Unit Ownership File of the Mecklenburg County Public Registry.

ARTICLE IV DESCRIPTION OF UNITS

Section 4.1. Location of Buildings. The location and dimensions of the Buildings are shown on the Plans.

Section 4.2. Units. The location of Units within the Buildings, their dimensions, and their floor and ceiling elevations, are shown on the Plans. There are a total of seventy-two (72) Units in the Buildings. The identification number for each Unit is set forth on the Plans.

Section 4.3. Unit Boundaries. The boundaries of each Unit are as follows:

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

(b) Lower Boundary: The horizontal plane of the top surface of the subflooring within the Unit. In certain Units, as depicted on the Plans, the floors within different portions of the Unit may be at different elevations; in such cases the lower boundary of a Unit shall not be a single plane, but shall vary with the differing finished floor elevations within different portions of the Unit. In addition, certain Units may contain two levels connected by an interior stairway. In such cases, the definitions of upper and lower boundaries set forth in this Section 4.3 apply with respect to each level within the Unit; the horizontal structural elements dividing the levels of such a Unit are part of the Common Elements.

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

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

ARTICLE V
COMMON ELEMENTS

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

- (a) All easement rights and other property rights appurtenant to the Property.
- (b) All improvements located upon the Property outside of the Buildings, such as sidewalks, entrances, and driveways and landscaping.
- (c) All portions of the Buildings located outside of the Units, including without limitation the entrances and lobbies, mailbox areas, elevators, all elevator equipment rooms and other mechanical rooms, all other portions of the common mechanical systems for the Buildings, all interior hallways and corridors, all stairwells, trash chutes and the common trash compactors on the upper garage levels, and the underground parking area (other than designated spaces which are assigned to Units as Limited Common Elements pursuant to Section 8.8 below), and the common courtyard between the Buildings.
- (d) The foundations, roofs, columns, girders, beams, supports, exterior and interior load-bearing walls, floors within and between Units, and all other structural elements of the Buildings.
- (e) Any public connections and meters for utility services that are not owned by the public utility or municipal agency providing such services.
- (f) All tangible personal property required for the operation and maintenance of the Condominium that may be owned by the Association.
- (g) The Limited Common Elements described in Section 5.2 below.

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

- (a) Those portions of any chute, flue, duct, wire, pipe for water or sewer, conduit, bearing wall, bearing column, or any other fixture lying partially within and partially outside the designated boundaries of a Unit, but serving exclusively that Unit, which shall be Limited Common Elements allocated exclusively to that Unit.
- (b) Any shutters, awnings, window boxes, porches, garden terraces on the plaza level, rooftop terraces, balconies, patios, and all exterior doors and windows or other fixtures designed to serve a single Unit, but located outside that Unit's boundaries, which shall be Limited Common Elements allocated exclusively to that Unit.

(c) Any portions of the heating, ventilating, and air conditioning systems, including fans, compressors, return air grills, heat pump compressor and thermostats, whether located inside or located outside the designated boundaries of a Unit, but serving less than all of the Units in the Buildings, which shall be Limited Common Elements allocated exclusively to the Unit or Units that they serve.

(d) Those areas indicated as Limited Common Elements on the Plans, including but not limited to the terraces adjacent to the Units, such parking spaces as are assigned to the each Unit pursuant to Section 8.8 and storage closets designated by unit number as shown on the Plans.

The cleanliness and orderliness of the Limited Common Elements, including balconies and terraces and storage closets, but excluding the parking spaces, shall be the responsibility of the individual Owner having the right to the use and enjoyment of such Limited Common Elements. Notwithstanding any other provisions of this Declaration, or any provision of the Bylaws or the North Carolina Condominium Act, the obligation for maintenance, repair, or replacement of any portions of the heating, ventilating, and air conditioning systems that are Limited Common Elements shall be the sole responsibility of the Owner(s) of the Unit(s) to which such Limited Common Elements are allocated. References in this Declaration to the Common Elements shall include the Limited Common Elements unless the context clearly indicates otherwise. The allocation of use of Limited Common Elements to the Units as provided for in this Declaration shall not be altered without the unanimous consent of the Owners whose Limited Common Elements are reallocated.

Section 5.3. Undivided Interests of Owners in Common Elements. The percentage interest in the Common Elements allocated to each Unit shall be the Common Elements Interest for that Unit as set forth on Exhibit "B" attached hereto. The Common Elements Interest allocated to each Unit shall not be changed except with the unanimous consent of all the Owners of all the Units and with the consent of all the Mortgagees, except as may be specifically authorized by the Condominium Act or elsewhere in this Declaration.

Section 5.4. Maintenance of Common Elements. The Association shall be responsible for the maintenance and repair of the parking spaces located beneath the Buildings and all Common Elements, except for the Limited Common Elements (other than parking spaces), and except for maintenance or repairs caused by the negligence or intentional misconduct of any Owner, his agents, invitees or family members, which shall be the responsibility of that Owner. The foregoing notwithstanding, for so long as Declarant reserves the development rights in Section 8.8, Declarant shall be responsible for maintenance, repair and all other expenses in connection with the parking areas subject to the development rights reserved in Section 8.8 below. Declarant's liability hereunder shall be calculated by multiplying the total of such costs and expenses multiplied by the quotient of the total number of spaces retained by Declarant which are subject to being converted (but have not yet been converted) to Limited Common Elements, divided by the number of spaces which have been converted to Limited Common Elements hereunder.

ARTICLE VI

RESTRICTIONS ON USE

Section 6.1. Residential Use. All Units shall be used for residential purposes only. Ownership of one or more Units by a corporation or other business entity is allowed, provided, however that the Unit is only used for residential purposes by its occupants (for example, a business entity may allow its employees or guests to occupy its unit as a temporary or permanent residence, but not as a place of business). Additionally, so long as a Unit is used primarily as a residence, its occupant may telecommute or otherwise transact business from the Unit as a "home office" provided that no business may be operated within any Unit which involves customers or other persons entering any portion of the Condominium. Notwithstanding the foregoing, Declarant may maintain any Unit owned by Declarant as a sales office or model Unit.

Section 6.2. Nuisance. No obnoxious, offensive or unlawful activity shall be conducted within any Unit, or on or about the Common Elements, nor shall anything be done thereon or therein which may be or which may become an annoyance or nuisance to the other Owners, or endanger the health and safety of any Owner. Nothing shall be done or kept in any Unit or in the Common Elements that will result in the termination of, or an increase in the premium for, the policy of property insurance for the Property.

Section 6.3. Noise and Disorderly Conduct. No Owner shall engage in any disorderly conduct on the Property, or cause or allow any disturbance, including, but not limited to, shouting, singing or playing any musical instruments or electronic equipment (including radios, stereos, televisions, and computer equipment) in a manner that unreasonably disturbs other Owners. The Owner of an Unit shall be responsible for the conduct of his family members, guests and tenants. It shall be the responsibility of an individual Owner causing unreasonable sound transmissions to remedy the disturbance. For example, the installation of floor covering may minimize sound transmissions to adjacent Units. In cases where a justifiable complaint exists and is confirmed by the Association, the Association is authorized to engage the services of a qualified engineer to recommend a solution, and the Owner causing the unreasonable sound transmission shall be responsible for the reasonable expenses of the engineer, as well as for the expense of implementing the solution recommended by the engineer.

Section 6.4. Prohibitions on Use of Common Elements. The Common Elements (other than the Limited Common Elements and storage areas, if any, designated by the Association) shall not be used for storage of personal property of any kind. Entrances, lobbies, elevators, stairwells, corridors, hallways, sidewalks, driveways, and parking areas shall not be obstructed in any way, or used for other than their intended purposes. In general, no activity shall be carried on nor conditions maintained by any Owner either in his Unit or upon the Common Elements which despoils the appearance of the Property.

Section 6.5. Garbage. Trash, garbage and other waste shall be kept in sanitary containers within each Unit, or deposited in the common trash receptacles in the Buildings. No trash or garbage shall be kept or stored on patios, balconies or terraces.

Section 6.6. Parking. No owner or any employee, agent, or invitee of any Owner, shall park, store or keep any vehicle on the Property except wholly within designated parking areas, and in particular shall not block any entrances, drive aisles, or fire lanes. Each parking space may be used only by the Owner of the Unit to which such space is allocated as Limited Common Elements in accordance with Section 8.8 below. Those spaces which are not designated as Limited Common Elements in accordance with Section 8.8 may be used on a first-come, first-served basis by Owners and their guests, subject to the terms of this Declaration and such rules and regulations as may be established by the Executive Board from time to time. No boat, boat trailer, motor home, travel trailer, camper or other recreational vehicle may be stored overnight in the parking areas. No significant automobile repair shall be allowed in the parking areas. The Association shall have the right to tow any vehicle in violation of this Section 6.6 at its owner's expense.

Section 6.7. Leases of Units. Any lease of a Unit or portion thereof shall be in writing and shall provide that the terms of the lease shall be subject in all respects to the Condominium Documents and that any failure by the lessee to comply with all of the terms of such Condominium Documents shall constitute a default under the lease. No Unit may be leased for a period shorter than one (1) year without the express written consent of the Executive Board, which may be withheld for any reason. This restriction shall not prevent a person or entity from allowing a guest or employee to occupy the Unit as a temporary residence for less than one year provided that such guest or employee does not pay rent and further provided that such occupant complies with all of the terms of the Condominium Documents.

Section 6.8. No Timeshares. No interest in any Unit may be subjected to a time share program, as that term is defined in N.C.G.S. §93A-41(10).

Section 6.9. Animals. No animals, livestock, or poultry of any kind shall be kept or maintained on the Property or in any Unit, except for common household pets, provided they are not kept or maintained for commercial purposes. No pet shall be permitted upon the Common Elements unless carried or leashed by a person that can control the pet. All pets shall be controlled so as not to create a nuisance or unreasonable disturbance (including loud and excessive barking) on the Property. Pets shall not be permitted to urinate or defecate in the Common Elements and each Owner shall clean up immediately after his pet if an accident occurs. All pets shall be registered or inoculated as required by law. Each Owner shall hold the Association harmless from any claim resulting from any action of his pet, and shall repair, at his expense, any damage to the Common Elements caused by his pet. If any Owner violates these rules more than twice in any twelve (12) month period, then in addition to any fines provided in the Bylaws, the Executive Board shall have the right to require the owner to remove the pet permanently from the Property upon not less than ten (10) days' written notice.

Section 6.10. Utilities. Total electrical usage in any Unit shall not exceed the capacity of the circuits for that Unit as labeled on the circuit breaker boxes, and no electrical device causing overloading of the standard circuits may be used in any Unit without permission of the Executive Board. All clothes dryers will have lint filters, and all stove hoods will have grease screens, and such

screens and filters shall be used at all times and kept clean, and in good order and repair, by the Owner of the Unit in which they are located.

Section 6.11. Floor Load. There shall be no floor load in any Unit in excess of forty (40) pounds per square feet, unless an engineering determination of the floor load capacity in the area of heavy use is approved by the Executive Board.

Section 6.12. Windows. No curtains or draperies shall be installed or hung in any window of any Unit unless they have a white lining or backing on the side exposed to the window. No storm windows or screens not supplied with the original building shall be installed in any Unit.

Section 6.13. Architectural Control. No building, landscaping, fence, wall or other structure shall be commenced, erected or maintained upon the Property, nor shall any exterior addition to or change or alteration to either the Unit or the Common Elements be made, until the plans and specification showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by Executive Board.

Section 6.14. Signs. No signs or other advertising devices shall be displayed on or about the exterior of any Unit (or within the Unit but visible from the exterior of the Unit), or in the Common Elements, except for a name plate or sign not exceeding twenty-four (24) square inches in area on the main door to each Unit. Notwithstanding the foregoing, Declarant shall have the right to maintain upon the Property advertising signs during the Declarant Control Period, provided those signs comply with applicable governmental regulations.

Section 6.15. Balconies, Patios and Terraces. The balconies, patios and terrace areas shall be kept in a clean, neat and orderly condition at all times, and shall not be used for the overnight storage of garbage, or the drying of laundry. No floor covering of any sort (including but not limited to indoor/outdoor carpeting) may be installed on any balcony, patio or terrace. No hot tub or above-ground pool may be installed on any balcony, patio or terrace. Towels or banners shall not be hung on the balcony, patio or terrace railings, and any dead plants shall be removed promptly. The balconies shall not be used for the storage of bicycles or exercise equipment, or the storage or use of cooking grills except for natural gas powered cooking grills located upon balconies or terraces of the Buildings approved in accordance with Section 6.13 above and which are maintained and operated in accordance with applicable laws, ordinances and regulations.

Section 6.16. Maintenance. Each Owner shall keep his respective Unit and its appurtenant Limited Common Elements in a clean, neat and orderly condition and in a good state of maintenance and repair. If an Owner fails to comply with the standards or requirements of the Association relative thereto, the Association shall assess the defaulting Owner the cost thereof and shall undertake to effect said compliance.

Section 6.17. Rules and Regulations. In addition to the use restrictions set forth in this Declaration, reasonable rules and regulations governing the use of the Property may be made and amended from time to time by the Executive Board. Copies of such regulations and amendments thereto shall be posted prominently prior to their effective date, and shall be furnished by the Association to all Owners upon request.

Section 6.18. Antennas. No exterior satellite dish or antenna may be placed on the exterior of any Unit or in the Common Elements without the prior written approval of the Executive Board, which may be withheld in its sole discretion and which, in any event, shall be less than eighteen inches (18") in diameter; in any event, for so long as the Association provides access to satellite television service upon the roof of the Condominium which may be accessed by each Unit Owner who elects to subscribe to and pay for such service, the Executive Board shall not approve the installation of any exterior satellite dish or other antenna unless it is required to do so by law. Furthermore, in order to maintain the safety of the Owner's and occupants of the Condominium, all connections to any antenna, satellite dish or other reception device shall be handled only through properly qualified and insured contractors approved in advance by the Executive Board.

ARTICLE VII THE ASSOCIATION

Section 7.1. Organization of Association. A nonprofit North Carolina corporation known and designated as Jefferson Square Condominium Association, Inc. (the "Association") has been organized to provide for the administration of the Property, and the Association shall administer the operation and maintenance of the Property and undertake and perform all acts and duties incident thereto in accordance with the terms of its Articles of Incorporation, the Bylaws, and the North Carolina Condominium Act. A true copy of the Bylaws of the Association is attached hereto as **Exhibit "C"**. Every Owner shall be required to be and shall automatically be a member of the Association by virtue of his ownership interest in a Unit.

Section 7.2 Powers: Lien for Assessment. In the administration of the operation and management of the Property, the Association shall have and it is hereby granted the authority and power to enforce the provisions of this Declaration, to levy and collect assessments in the manner provided in **Article IX** below and in **Section 8** of the Bylaws, and adopt, promulgate and enforce such rules and regulations governing the use of the Units and Common Elements as the Executive Board may deem to be in the best interest of the Association in accordance with the Bylaws. Any sum assessed by the Association remaining unpaid for a period of thirty (30) days or longer shall constitute a lien on the Unit with respect to which such sum was assessed upon filing in accordance with N.C.G.S. §47C-3-116, and shall be enforceable by the Association in accordance with N.C.G.S. §47C-3-116 and **Section 8** of the Bylaws. Any lien established pursuant to this **Section 7.2** shall not be affected by the transfer of the Unit other than a transfer as a result of the foreclosure of a first lien deed of trust pursuant to N.C.G.S. § 47C-3-116 (f).

Section 7.3. Declarant Control Period. During the Declarant Control Period, Declarant reserves the right to appoint and remove any Executive Board members; provided, however, (i) that not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Units to Owners other than Declarant, at least one member and not less than twenty-five percent (25%) of the members of the Executive Board shall be elected by Owners other than Declarant; and (ii) that not later than sixty (60) days after conveyance of fifty percent (50%) of the Units to Owners other than Declarant, not less than thirty-three percent (33%) of the members of the Executive Board shall be elected by Owners other than Declarant.

Section 7.4. Books and Records. The Association shall maintain current copies of: (a) the Condominium Documents, as they may be amended from time to time, (b) any rules and regulations adopted under Section 6.17 from time to time; and (c) all financial records of the Association, as required by N.C.G.S. §47C-3-118. These items shall be available for inspection, during normal business hours and upon reasonable advance notice, by any Owner, any Mortgagee, and any insurer or guarantor of a loan secured by a Mortgage. Any Owner or Mortgagee may have audited financial statements prepared at its own expense.

ARTICLE VIII

EASEMENTS AND PROPERTY RIGHTS

Section 8.1. Access by the Association. The Association, or any person authorized by the Executive Board, shall have the right of access to each Unit and to the Limited Common Elements to the extent necessary for performance by the Association of its obligations of maintenance, repair, or replacement of the Common Elements.

Section 8.2. Encroachment Easements. If any portion of the Common Elements now encroaches upon any Unit, or if any Unit now encroaches upon any other Unit or upon any portion of the Common Elements, or if such encroachment shall occur hereafter as a result of the settling or shifting of the Buildings, there shall exist a valid easement for the encroachment and for the maintenance of same for so long as the Buildings shall stand. If the Buildings, any Unit, or any portion of the Common Elements is partially or totally destroyed by fire or other casualty or as a result of condemnation or eminent domain proceedings, and subsequently is rebuilt, encroachments of parts of the Common Elements upon any Unit, or of any Unit upon any other Unit or parts of the Common Elements due to such rebuilding shall be permitted, and valid easements for such encroachments and the maintenance thereof shall exist so long as the Buildings shall stand.

Section 8.3. Easements over Common Elements. Declarant, during the Declarant Control Period, and the Executive Board, at any time, may grant easements for utility purposes for the benefit of the Property, including the right to install, lay, maintain, repair and replace water lines; pipes; ducts; sewer lines; gas mains; telephone and television or cable television wires, cables and equipment; electrical conduits; and wires over, under, along and on any portion of the Common Elements (other than the Limited Common Elements); and each Owner hereby grants to Declarant or the Executive Board, as applicable, an irrevocable power of attorney to execute, acknowledge and

record for and in the name of each Owner such instruments as may be necessary to effectuate the foregoing. During the Declarant Control Period, Declarant shall have an easement over the Common Elements as may be reasonably necessary to complete the construction of the Buildings and the other improvements within the Property.

Section 8.4. Emergency Access. In case of any emergency originating in or threatening any Unit or the Common Elements, regardless of whether the Owner is present at the time of such emergency, the Association, or any other person authorized by the Executive Board, shall have the right to enter any Unit for the purpose of remedying or abating the cause of such emergency and making any other necessary repairs not performed by the Owners, and such right of entry shall be immediate.

Section 8.5. Relocation of Boundaries: Subdivision; Partitioning.

(a) **Relocation of Boundaries Between Adjoining Units.** Following the recordation of this Declaration, the boundaries between adjoining Units may be relocated only upon application to the Executive Board by the Owners of such adjoining Units ("Adjoining Owners") and upon approval by the Executive Board of such application; provided, however, that no such relocation of boundaries shall be binding upon any mortgagee holding a Mortgage on any Unit whose boundaries are relocated, unless consented to in writing by such Mortgagee and, further provided, that no such relocation may result in any Unit containing less than 1000 heated square feet (other than the one (1) bedroom unit located on the first floor of the six (6) story building) unless otherwise approved by the Executive Board in its discretion and by Declarant for so long as it owns any Units.

Any such application to the Executive Board must be in such form and contain such information as may be reasonably required by the Executive Board, and shall be accompanied by, a plat detailing the proposed relocation of boundaries and plans prepared at the sole expense of the Adjoining Owners and sealed by the licensed architect and engineer that originally designed and engineered the building (or such other architect and engineer as reasonably acceptable to the Executive Board). Unless the Executive Board determines within thirty (30) days after submission to it of the application that the proposed relocation of boundaries is unreasonable, the application shall be deemed approved. Upon approval of the proposed relocation of boundaries, the Executive Board, on behalf of the Association shall cause to be prepared and filed, at the Adjoining Owners' expense, an amendment to this Declaration and a plat which identifies the Units involved, describes and depicts the altered boundaries, and gives the dimensions of the altered Units and reallocates among the Adjoining Owners (based upon the resulting square footage of the altered Units) the interests in the Common Elements which were formerly allocated to each affected Unit. Such amendment shall also contain operative words of conveyance and be signed by the Adjoining Owners and consented to by their mortgagees, if any, and shall be indexed by the Register of Deeds in the names of the Adjoining Owners.

(b) **Subdivision of Units.** Following the recordation of this Declaration, Units may be subdivided only upon application to the Executive Board by the Owner of the Unit to be subdivided

("Subdividing Owner") and upon approval by the Executive Board of such application; provided, however, that no such subdivision shall be binding upon any mortgagee holding a Mortgage on any subdivided Unit, unless consented to in writing by such Mortgagee and, further provided, that no such subdivision may result in any Unit containing less than 1000 heated square feet (other than the one (1) bedroom unit located on the first floor of the six (6) story building) unless otherwise approved by the Executive Board in its discretion and by Declarant for so long as it owns any Units.

Any such application to the Executive Board must be in such form and contain such information as may be reasonably required by the Executive Board, and shall be accompanied by a plat detailing the proposed relocation of boundaries and plans prepared at the expense of the Subdividing Owner and sealed by the licensed architect and engineer that originally designed and engineered the building (or such other architect and engineer as reasonably acceptable to the Executive Board) and an opinion letter from an attorney, acceptable to the Executive Board, confirming that the proposed subdivision and the resulting Units shall comply with the terms of the Declaration and applicable zoning and subdivision ordinances, including any applicable laws regarding minimum parking requirements. Unless the Executive Board determines within thirty (30) days after submission to it of the application that the proposed subdivision is unreasonable, the application shall be deemed approved. Upon approval of the subdivision, the Executive Board on behalf of the Association, shall cause to be prepared and filed, at the Subdividing Owner's expense, an amendment to this Declaration and a plat which identifies the Unit involved, describes and depicts the new Units created, and gives the dimensions of the altered Units and reallocates among the created units the parking spaces and the interests in the Common Elements (based upon the resulting square footage of the created Units) which were formerly allocated to the subdivided Unit. Such amendment shall also contain operative words of conveyance and be signed by the Subdividing Owner and consented to by its mortgagee, if any, and shall be indexed by the Register of Deeds in the name of the Subdividing Owner.

(c) Partitioning. The interests in the Common Elements allocated to each Unit shall not be conveyed, devised, encumbered, partitioned or otherwise dealt with separately from said Unit, and the interests in the Common Elements allocated to each Unit shall be deemed conveyed, devised, encumbered or otherwise included with the Unit even though such interests are not expressly mentioned or described in the instrument conveying, devising, encumbering or otherwise dealing with such Unit. Any conveyance, mortgage or other instrument which purports to grant any right, interest or lien in, to or upon the Unit, shall be null, void and of no effect insofar as the same purports to affect any interest in a Unit's Limited Common Elements or allocated interests in the Common Elements unless the same purports to convey, devise, encumber or otherwise deal with the entire Unit. Any instrument conveying, devising, encumbering or otherwise dealing with any Unit, which describes said Unit by the identifying number assigned thereto on the Plans and herein without limitation or exception shall be deemed and construed to affect the entire Unit and its allocated interest in the Common Elements. Nothing herein contained shall be construed as limiting or preventing the exercise of the development rights in Section 8.8 below ownership of any Unit and its allocated interest in the Common Elements by more than one person or entity as tenants in common, joint tenants, or as tenants by the entirety or any other form by law permitted.

Section 8.6. Conveyance or Encumbrance of Common Elements. While the Property remains subject to this Declaration and to the provisions of the North Carolina Condominium Act, with the exception of Declarant's exercise of the development rights reserved in Section 8.8 below, no conveyances of or security interests or liens of any nature shall arise or be created against the Common Elements without the prior written consent of at least eighty percent (80%) of all Owners, including at least eighty percent (80%) of all Owners other than Declarant, and at least eighty percent (80%) of all Mortgagees. Every agreement for the performance of labor or the furnishing of materials to the Common Elements, whether oral or in writing, must provide that it is subject to the provisions of this Declaration and that the right to file a mechanic's lien or other similar lien by reason of labor performed or material furnished is subordinated to this Declaration and to the lien of assessments for Common Expenses provided for in Section 7.2 of this Declaration. Nothing in this Section 8.6 shall be construed to limit the right of any Owner to convey or to encumber his allocated interest in the Common Elements (or any parking spaces or other Limited Common Elements appurtenant to his Unit) as an appurtenance to and in connection with the conveyance or mortgaging of his Unit. Additionally, Limited Common Elements may be reallocated among Units in accordance with the North Carolina Condominium Act.

Section 8.7. Nature of Interest in Unit. Every Unit, together with its allocated interest in the Common Elements, shall for all purposes be and it is hereby declared to be and to constitute a separate parcel of real property. The Owner of each Unit shall be entitled to the exclusive fee simple ownership and possession of his Unit subject only to the covenants, conditions, restrictions, easements, uses, limitations, obligations, rules and regulations set forth in the Condominium Documents, or adopted by the Executive Board.

Section 8.8. Reservation of Development Rights; Conveyance of Parking Spaces. During the seven (7) year period following the recordation of this Declaration, Declarant may convert all or part of the surface portions of the two (2) level parking garage designated on the Plans as "Subject to Development Rights Reserved by Declarant" from Common Elements to Limited Common Elements for the exclusive use of Units designated by Declarant. Specifically, Declarant shall have the right to establish parking spaces upon such property which may be allocated to Units within the Condominium as Limited Common Elements appurtenant to such Units as Declarant designates, including, without limitation, Units owned by Declarant. The Declarant may assign such parking spaces as Limited Common Elements pursuant to the provisions of The North Carolina Condominium Act (i) by making such an allocation in a recorded instrument signed by Declarant and the designated Unit Owner, or (ii) in the deed conveying the Unit to which such parking space shall be appurtenant or (iii) by recording an appropriate amendment to this Declaration. Once a parking space is converted to a Limited Common Element and made appurtenant to a Unit as set forth above, all subsequent conveyances (or mortgages) of the Unit shall automatically include the Limited Common Element parking space(s) appurtenant thereto, whether or not such space(s) is/are specifically referenced in the deed or mortgage. Declarant may unilaterally relinquish its development rights reserved hereunder at anytime prior to the end of the seven (7) year period referenced above by recording a written memorandum of termination of such rights in the Mecklenburg Public Registry at which time Declarant shall be relieved of all maintenance, repair

and other obligations with respect to the property which are imposed upon Declarant by virtue of the rights reserved hereunder. Declarant hereby reserves for itself and its successors and assigns in title to the development rights reserved hereunder, non-exclusive easements for vehicular and pedestrian ingress, egress, regress, installation, maintenance and repair of utilities, construction, maintenance and repair of improvements and all such other purposes as it deems reasonable in order to exercise its rights hereunder. Specifically, and without limiting the foregoing, Declarant shall have the right, but not the obligation, to re-stripe spaces, redirect traffic patterns and to install, construct, maintain, repair and replace medians, sidewalks and other improvements customarily associated with parking garages.

ARTICLE IX ASSESSMENTS

Section 9.1. Taxes. Every Unit, together with its allocated interest in the Common Elements, shall be separately assessed and taxed by each assessing authority for all types of taxes authorized by law. Each Owner shall be liable solely for the amount taxed against his individual Unit, provided, however, the Units will not be separately assessed for Mecklenburg County ad valorem property taxes until January 1 of the first calendar year following recordation of the Declaration, and any real property ad valorem taxes for calendar year's prior to the separate assessment of each Unit shall be paid by Declarant (subject to reimbursement from each Owner for its pro rata share at closing). Additionally, any portion of the Common Elements over which Declarant has reserved development rights pursuant to **Section 8.8** shall be separately taxed in accordance with Section 47C-1-105 of the North Carolina Condominium Act.

Section 9.2 Common Expenses. Except as otherwise provided in this Declaration or in the Bylaws, each Owner shall contribute its percentage share (i.e. based upon its allocated Common Elements Interests) of the Common Expenses, all in accordance with the definition of "Common Expenses" set forth in **Section 1.7** above, the Bylaws, and the provisions of the North Carolina Condominium Act. Assessments for all Units may begin as of the date of the first conveyance of a Unit to an Owner other than Declarant, or at anytime thereafter as determined by the Declarant; provided that until the Association levies a Common Expense Assessment, Declarant shall be solely responsible for the Common Expenses. The due dates for payment of such Common Expenses shall be established by the Executive Board and shall be collected at least monthly. The Bylaws grant the Association the right to impose additional fixed (or variable, based upon metered usage) monthly assessments for Units with respect to common utilities (such as gas and water).

Section 9.3. Common Surplus. The term "Common Surplus" means and refers to all funds and other assets of the Association, including excess of receipts of the Association from assessments, rents, profits and revenues from whatever source, over the amount of Common Expenses. The Common Surplus shall be owned by the Owners in proportion to their respective allocated Common Elements Interests; provided, however, that the Common Surplus shall be held by the Association in the manner and subject to the terms, provisions and conditions of this Declaration imposing certain limitations and restrictions upon the use and distribution thereof. Except for distribution of

any insurance proceeds, which shall be made in the manner provided in Section 10.6, or upon termination of the Condominium, any attribution or distribution of Common Surplus which may be made from time to time shall be made to the then Owners in proportion to their respective allocated Common Elements Interests.

ARTICLE X INSURANCE

Section 10.1. Property Insurance. The Association shall obtain and maintain at all times a policy of property insurance on the Buildings (ISO special causes of loss form or its equivalent) in an amount not less than one hundred percent (100%) of the replacement cost of the Buildings at the time such insurance is purchased and at the time of each renewal thereof (excluding the cost of foundations and footings, and any improvements located within the Units and the cost of any personal property supplied or installed by Owners), with a commercially reasonable deductible not in excess of \$10,000.00. The policy shall be issued by an insurance company properly licensed to do business in the State of North Carolina, with a general policyholder's rating of at least "A" and a financial size category of "VII" or better in the most recent edition of the Best's Key Rating Guide. The policy shall provide that each Owner is an insured person with respect to his Unit and his allocated interest in the Common Elements. The policy shall contain an inflation guard endorsement, if available, a building ordinance or law endorsement, if available, a construction code endorsement, if available, a standard mortgage clause, as well as a special condominium endorsement providing as follows: for any insurance trust agreement to be recognized; for waiver of subrogation against any Owner, and any Owner's employees or agents; that it may not be canceled or substantially modified without at least thirty (30) days' prior written notice to the Association and all insureds, including all Owners and mortgagees named in the mortgage clause; that no act or omission by any Owner will preclude recovery upon such policy; and that if, at the time of a loss under the policy, there is other insurance in the name of an Owner covering the same risk covered by the policy, the Association's policy provides primary insurance. Each property insurance policy shall list the Association as a named insured and provide that adjustment of loss shall be made by the Association as insurance trustee for each Owner and his mortgagee. Each property insurance policy shall provide for the issuance of certificates or mortgagee endorsements to mortgagees. Each Owner shall be responsible for insuring the improvements and personal property located within his or her Unit (including, without limitation, all non-loadbearing walls, countertops, fixtures and other items located within the Unit at the time of purchase or installed thereafter).

Section 10.2. Liability Insurance. The Association shall obtain and maintain one or more policies of commercial general liability insurance in such limits as the Executive Board may, from time to time, determine, covering each member of the Executive Board, the managing agent, if any, and each Owner with respect to liability arising out of the use, ownership, maintenance, or repair of the Common Elements; provided, however, that in no event shall the limits of such policy ever be less than \$5,000,000 per occurrence. The Association may satisfy its liability insurance coverage requirements under this Section 10.2 by means of a primary policy with per occurrence coverage limits of less than \$1,000,000 so long as it also maintains one or more "umbrella" or excess liability

policies sufficient to provide total coverage in excess of \$ 5,000,000 per occurrence. The liability insurance policies shall include endorsements covering cross liability claims of one insured against another, including the liability of the Association or the Owners as a group to one or more Owners, and shall provide that it may not be canceled or substantially modified without at least thirty (30) days' prior written notice to the Association and to all insureds, including all Owners and mortgagees. The Executive Board shall review such limits annually.

Section 10.3. Fidelity Coverage. The Association may obtain such fidelity coverage against dishonest acts on the part of all persons handling, or responsible for handling funds belonging to or administered by the Association as it may deem necessary. Any such fidelity insurance policy must name the Association as the named insured and shall be written in an amount as may be determined by the Executive Board, but in no event less than one-half the annual budgeted amount of Common Expenses, or the amount required by any Mortgagee, whichever is greater. Additionally, the policy must include a provision that calls for no less than ten (10) days' written notice to the Association prior to cancellation or substantial modification. Any manager hired by the Association shall be required to provide its own fidelity insurance policy which must provide the same coverage and contain the same terms as required by this Section 10.3.

Section 10.4. Other Insurance Policies. The Association shall be authorized to obtain such other insurance coverage, including workman's compensation, as the Executive Board shall determine from time to time desirable or necessary.

Section 10.5. Premiums & Deductibles. Premiums upon insurance policies purchased by the Association, and any amounts paid as a result of a deductible, shall be paid by the Association and charged as a Common Expense. The Association shall maintain at all times sufficient funds in its reserve account in order to cover the cost of any deductible amounts required under the property insurance policy maintained pursuant to Section 10.1.

Section 10.6. Distribution of Insurance Proceeds. All insurance policies procured by the Association shall provide that all losses shall be adjusted with and all proceeds shall be payable to the Association as insurance trustee, and each Owner irrevocably appoints the Association as its attorney-in-fact for that purpose. The sole duty of the Association as insurance trustee shall be to receive such proceeds as are paid and deposit the same with a bank or trust company pursuant to Section 6.6 of the Master Declaration to be held in trust for the purposes set forth in the Master Declaration and herein and for the benefit of the Owners and their mortgagees in the following shares:

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

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

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

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

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

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

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

(A) the proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition compatible with the rest of the Condominium or to raze the remaining damaged property to a clean and safe condition;

(B) the insurance proceeds attributable to Units and Limited Common Elements which are not rebuilt shall be distributed to the owners of the Units and Units to which those Limited Common Elements were allocated or to their mortgagees, in proportion to their respective Common Elements Interests; and

(C) the remainder of the proceeds shall be distributed to all Owners or mortgagees, as their interests may appear, in proportion to their respective Common Elements Interests.

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

Section 10.7. Insurance Obtained by Owners. Each Owner shall obtain and keep continuously in force additional fire and casualty and extended coverage insurance upon his Unit, the improvements therein, and his personal property as well as public liability insurance, and such other insurance coverage as he may desire. Each Owner shall obtain and maintain public liability insurance coverage in the amount of at least \$100,000.00 for bodily injury, including deaths of persons and property damage, arising out of a single occurrence. Each Owner shall file a copy of each such individual policy with the Association within thirty (30) days after purchase of a Unit.

ARTICLE XI
DUTY TO REPAIR OR RECONSTRUCT

Section 11.1. Reconstruction and Repair. In the event of damage to or destruction of the Buildings as a result of fire or other casualty, the Executive Board shall arrange for the prompt restoration and replacement of the damaged or destroyed Buildings unless (1) the Condominium is terminated in accordance with the provisions of **Article XIV** below, or (2) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or (3) the Owners decided not to rebuild by an eighty percent (80%) vote, including one hundred percent (100%) of owners of Units not to be rebuilt and one hundred percent (100%) of Owners of Units to which are assigned Limited Common Elements not to be rebuilt. Unless one of the preceding three conditions occurs, the Executive Board shall arrange for the prompt repair and restoration of the damaged or destroyed Buildings, not including any decoration or covering for walls, ceilings, or floors, or furniture, furnishings, fixtures or equipment (unless the subject insurance policy covers a portion or all of such loss, in which event the Executive Board shall repair or replace such damaged property), and the Executive Board shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments and in accordance with the provisions of **Section 10.6(d)(2)** of this Declaration. Any payment for repair and restoration in excess of the insurance proceeds shall constitute a Common Expense. Any reconstruction or repair shall be in accordance with the Plans. If the Unit Owners vote not to rebuild any Unit, that Unit's allocated interests are automatically reallocated upon the vote as if the Unit had been condemned under N.C.G.S. §47C-1-107(a).

Section 11.2. Obligations of Owners. Each Owner will, at his sole cost and expense, keep and maintain his Unit and the Limited Common Elements allocated thereto in good order and repair in accordance with the Plans, and will make no structural addition, alteration or improvement to his Unit without the prior written consent of the Executive Board, except as authorized under N.C.G.S. §47C-2-111. Upon the failure of an Owner to so maintain his Unit, the Executive Board shall be authorized to maintain, repair or restore such Unit, and the cost thereof shall be charged to such Owner and constitute a lien on the Unit until paid.

ARTICLE XII
UNITS SUBJECT TO CONDOMINIUM DOCUMENTS

All present and future Owners, tenants, and occupants of the Units shall be subject to and shall comply with the provisions of this Declaration, the Bylaws, and any rules and regulations as may be adopted in accordance with the Bylaws, as all of the foregoing may be amended and supplemented from time to time. The acceptance of a deed of conveyance or the entering into of a lease or the entering into occupancy of any Unit shall constitute an agreement that the provisions of this Declaration, the Bylaws and any rules and regulations which may be adopted are accepted and ratified by such Owner, tenant or occupant, and an agreement that such provisions shall be deemed and taken to be covenants running with the Land and shall bind any person having at any time any

interest or estate in such Unit as though such provisions were made a part of each and every deed of conveyance or lease.

ARTICLE XIII
AMENDMENT TO AND SUPPLEMENT OF DECLARATION

Except as is otherwise specifically authorized herein, this Declaration may be amended only by the vote not less than sixty-seven percent (67%) of the Owners of Units, and not less than fifty-one percent (51%) of the Mortgagees, cast in person or by proxy at a meeting duly held in accordance with the provisions of the Bylaws. Except to the extent expressly permitted by the other provisions of this Declaration, any amendment which amends or alters the percentage of allocated interests of any Unit in the Common Elements, increases the number of Units, changes the boundaries of any Unit, changes the use to which any Unit is restricted, or modifies the terms of this Article XIII, shall require the written approval of all Owners, together with the consent of all their respective Mortgagees. No amendment to the Declaration shall be effective until executed on behalf of the Association by any officer designated for that purpose and recorded in the office of the Register of Deeds of Mecklenburg County, North Carolina. No amendment to this Declaration shall be adopted or passed which shall impair or prejudice the rights and priorities of any Mortgagee without the written consent of such Mortgagee. During the Declarant Control Period, no amendment to this Declaration shall be effective without the written consent of Declarant.

ARTICLE XIV
TERMINATION

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

The failure of any Mortgagee to respond within thirty (30) days to any written request of the Association, sent by registered or certified mail, return receipt requested, for consent to termination of the condominium shall constitute an implied approval by that Mortgagee of the proposed termination.

ARTICLE XV
RIGHTS RESERVED TO MORTGAGEES

Section 15.1. General Provisions. This Article XV establishes certain standards and covenants for the benefit of Mortgagees. This Article XV is supplemental to, and not in substitution for, any other provisions of the Condominium Documents, but in the event of any conflict between the provisions of the Condominium Documents and the provisions of this Article XV, the provisions of this Article XV shall control.

Section 15.2. Percentage of Mortgagees. Wherever in the Condominium Documents the approval or consent of a specified percentage of Mortgagees is required, it shall mean the approval or consent of Mortgagees holding Mortgages on Units which have allocated to them that specified percentage of votes in the Association, as compared to the total votes in the Association allocated to all Units then subject to Mortgages held by Mortgagees.

Section 15.3. Rights of Mortgages to Examine Books and Records. Any Mortgagee, and any insurer or guarantor of a loan secured by a Mortgage, shall have the right to examine, during normal business hours and upon reasonable notice, the books and records of the Association, including copies of the Condominium Documents, as amended, and the financial statements of the Association, and to be furnished, upon written request, at least one copy of the annual audited financial statement and report of the Association, such audited annual financial statement and report to be furnished within one hundred twenty (120) days following the end of each fiscal year.

Section 15.4. Mortgagee's Rights to Notice. Any Mortgage (including, for purposes of this Section 15.4, any insurer or guarantor of a loan secured by a Mortgage that has notified the Association in writing of its name and address, the address and Unit number of the Unit encumbered by the Mortgage, and that it holds, insures or guarantees a Mortgage on the specified Unit) shall have the right to receive from the Association prompt written notice of the following:

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

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

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

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

The failure of any Mortgagee to respond within thirty (30) days to any written request of the Association, sent by registered or certified mail, return receipt requested, for approval of an addition or amendment to the Condominium Documents wherever Mortgagee approval is required shall constitute an implied approval by that Mortgagee of the proposed addition or amendment.

Section 15.5. Other Mortgagee Rights. Notwithstanding any other provision of this Declaration or the Bylaws, the Association may not change the period for collection of regularly budgeted Common Expenses to other than monthly without the consent of all Mortgagees that have served written notice to the Association as provided in Section 15.2 above. Any representative of a Mortgagee may attend and address any meeting that an Owner may attend.

Section 15.6. Consent and Notice Required. Notwithstanding any other provision of this Declaration or the Condominium Documents, no amendment of any material provision of the Condominium Documents described in this Section 15.6 shall be effective without notice to all Mortgagees, as required by Section 15.4, the vote of at least sixty-seven percent (67%) of the Owners (or any greater percentage required by the terms of the Condominium Documents), and the approval of at least fifty-one percent (51%) of the Mortgagees (or any greater percentage required by the terms of the Condominium Documents). A change to any of the following items will be considered material:

- (a) Voting rights.
- (b) Increases in assessments that raise the previously assessed amount by more than twenty-five percent (25%), assessment liens, or the priority of assessment liens.
- (c) Reductions in reserves for maintenance, repair, and replacement of the Common Elements.
- (d) Responsibility for maintenance and repairs of the Units, the Limited Common Elements, or the Common Elements.
- (e) Reallocation of interests in the Common Elements or the Limited Common Elements, except that when Limited Common Elements are reallocated by agreement between Owners of Units, then only those Owners and only the Mortgagees holding Mortgages on those Units need approve such reallocations.
- (f) Redefinition of boundaries of Units, except that when the boundaries of only adjoining Units are involved, then only the Owners of those Units and the Mortgagees holding Mortgages on those Units must approve such action.

- (g) Convertibility of Units into Common Elements, or Common Elements into Units.
- (h) The expansion or contraction of Condominium, or the addition, annexation or withdrawal of property to or from the Condominium.
- (i) The requirements for insurance and fidelity bonds.
- (j) The imposition of any restrictions on the leasing of Units.
- (k) The imposition of any restrictions on an Owner's right to sell or transfer his Unit.
- (l) The restoration or repair of the Property after casualty damage or partial condemnation in a manner other than that specified in the Condominium Documents.
- (m) Any termination of the Condominium after occurrence of substantial destruction or condemnation.
- (n) Any provision that expressly benefits the Mortgagees.

Section 15.7. Enforcement. The provisions of this Article XV are for the benefit of all Mortgagees and their successors, and may be enforced by any of them by any available means.

ARTICLE XVI CONDEMNATION

If all or any part of the Property is taken in condemnation or by eminent domain, the award for such taking shall be distributed in accordance with the procedure set forth in N.C.G.S. §47C-1-107. Provided, however that the proceeds of any award payable to the Association as a result of condemnation of all or a portion of the Common Elements shall first be used to restore the damaged area to a condition compatible with the rest of the Condominium or to raze the remaining damaged "Improvements" as set forth in Section 3.4 of the Master Declaration and thereafter, any remaining proceeds shall be distributed as set forth above.

ARTICLE XVII MISCELLANEOUS PROVISIONS

Section 17.1. Invalidity. The invalidity of any provision of this Declaration shall not be deemed to impair or affect in any manner the validity and enforceability of the remainder of this Declaration, and in such event, all the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included herein.

Section 17.2. Waiver. No provisions contained in the Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

Section 17.3. Captions. The captions herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Declaration or the intent of any provision hereof.

Section 17.4. Law Controlling. This Declaration and the Condominium Documents shall be construed and controlled by and under the laws of the State of North Carolina.

Section 17.5. Liberal Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan of condominium ownership as provided in the North Carolina Condominium Act. Throughout this Declaration wherever appropriate, the singular shall include the plural and the masculine gender the feminine or neuter as the context permits or requires.

Section 17.6. Notice Address. Each Owner upon acquisition of its Unit shall be responsible for providing written notice to the Association or any manager hired by the Association, which notice shall specify the name of the Owner and such Owner's Unit number address and phone number (which may or may not be the address and phone number of the Unit). The Association and the manager shall be entitled to rely upon such notices for the purpose of all correspondence or notices to such Owner until such Owner provides the Association or its manager with a subsequent written notice which amends the previous notice.

ARTICLE XVIII **ENFORCEMENT**

Section 18.1. Each Owner shall comply strictly with the provisions of this Declaration, the Bylaws and the rules, regulations and decisions issued pursuant thereto and as the same may be lawfully amended from time to time. Failure to do so shall be grounds for establishment and enforcement of liens on one individual Unit (including, without limitation, the establishment and enforcement of a lien pursuant to N.C.G.S. § 47C-3-116, the terms of which are incorporated herein by reference), an action to recover sums due for damages, injunctive relief, foreclosure of lien, or a combination of remedies, maintainable by the Executive Board or managing agent on behalf of the Association or, by an aggrieved Owner. Any Unit Owner having a claim against the Association shall be entitled to any right or remedy it may have at law against the Association subject to the terms and conditions set forth in the Bylaws of the Association.

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

JEFFERSON SQUARE CONDOMINIUMS, LLC
(SEAL)

By: David W. Royster, III (SEAL)
David W. Royster, III
Its: Manager

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

I, Lydia E. Farnsworth, a Notary Public of Mecklenburg, County and State of North Carolina, do hereby certify that David W. Royster, III, Manager of JEFFERSON SQUARE CONDOMINIUMS, LLC personally appeared before me this day and acknowledged the due execution of the foregoing instrument as Manager of the aforesaid limited liability company..

Witness my hand and official stamp or seal this 11th day of January, 2002

Lydia E. Farnsworth
Notary Public

My commission expires: 09/28/05

[NOTARIAL SEAL]



CONSENT, JOINDER AND SUBORDINATION AGREEMENT

WHEREAS, Jefferson Square Condominiums, LLC, Declarant, executed a Deed of Trust dated June 29, 2000, recorded on June 29, 2000, in Book 11387 at Page 833, as modified by that certain Modification To Loan Documents, recorded on January 5, 2001, in Book 11845 at Page 395, and executed an Assignment of Leases, recorded in Book 11387 at Page 826 in the Mecklenburg County Public Registry (the "Loan Documents") to PRLAP, INC., a North Carolina corporation ("Trustee") to secure the payment of a loan to Bank of America, N.A. ("Beneficiary"), which Loan Documents constitute a lien on the property described in the Declaration of Condominium for Jefferson Square Condominium (the "Declaration"); and

WHEREAS, Trustee and Beneficiary have agreed, at the request of Declarant, to consent to the provisions of the Declaration.

NOW, THEREFORE, Trustee and Beneficiary, by joining herein, hereby:

1. Consent to the execution, delivery and recording of the Declaration and related plat and maps being recorded simultaneously with the Declaration, pursuant to the North Carolina Condominium Act, Chapter 47C of the North Carolina General Statutes;
2. Subordinate the Loan Documents to the Declaration and plat and maps; and
3. Agree, notwithstanding the foreclosure of the Deed of Trust (or a conveyance in lieu thereof), that the Declaration and plat and maps and all rights therein described shall continue unabated, in full force and effect.

Executed on this the 14 day of January, 2002.

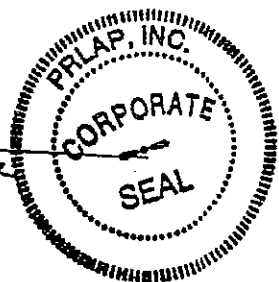
TRUSTEE:

PRLAP, INC.,
a North Carolina corporation

ATTEST:

By: Lee E. Booth
Printed Name:
Title: Asst Secretary

By: Judy D. Byrne
Printed Name: Judy D. Byrne
Title: Vice President



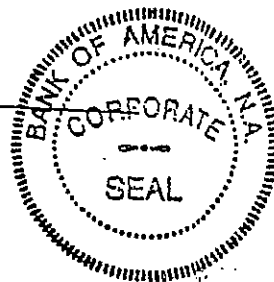
BENEFICIARY:

BANK OF AMERICA, N.A.,
a national banking association

ATTEST:

By: Lee E. Booth
Printed Name:
Title: Asst Secretary

By: Ronald E. Beard
Printed Name: Ronald E. Beard
Title: Asst Vice President



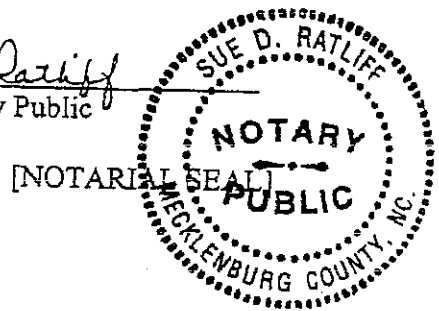
STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

I, Sue D. Ratliff, a Notary Public of the County and State
aforesaid, certify that Lee F. Booth personally came before me this day and
acknowledged that he/she is Asst. Secretary of PRLAP, INC., a North Carolina corporation, ~~Trustee~~
and that by authority duly given and as the act of the corporation, the foregoing instrument was
signed in its name by its Asst. Vice President, sealed with its corporate seal and attested by
Lee F. Booth as its Asst. Secretary.

WITNESS my hand and official seal, this the 14th day of January, 2002.

My commission expires: 11/11/2005

Sue D. Ratliff
Notary Public



STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

I, Sue D. Ratliff, a Notary Public of the County and State
aforesaid, certify that Lee F. Booth personally came before me this day and
acknowledged that he/she is Asst. Secretary of BANK OF AMERICA, N.A., a national
banking association, and that by authority duly given and as the act of the corporation, the
foregoing instrument was signed in its name by its Asst. Vice President, sealed with its corporate
seal and attested by Lee F. Booth as its Asst. Secretary.

WITNESS my hand and official stamp or seal, this 14th day of January, 2002.

My Commission Expires: 11/11/2005

Sue D. Ratliff
Notary Public

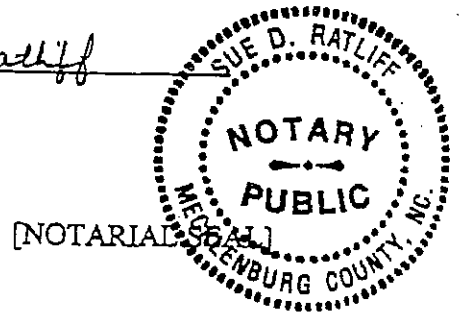


EXHIBIT A
TO
DECLARATION OF CONDOMINIUM

"Real Property"

1.196 Acres on 7th and Church Streets

Being a parcel of property located in Charlotte, Mecklenburg County, North Carolina, and being more particularly described as follows:

BEGINNING at an existing nail marking the intersection of the westerly margin of North Church Street (variable right-of-way) with the northerly margin of West 7th Street (variable right-of-way), and runs thence with the northerly margin of West 7th Street the following two (2) courses and distances: 1.) North 41-07-27 West 186.60 feet to an existing iron rod; 2.) North 40-52-00 West 81.93 feet to an existing iron pipe at the corner of the T. A. Dwyer Property as described in Deed Book 7648, Page 974 of the Mecklenburg County Public Registry; thence with Dwyer's easterly line, and continuing along the easterly line of the T. A. Kennon Property as described in Deed Book 4251, Page 559 of said Registry, North 50-45-29 East, passing an existing iron rod at 45.90 feet, for a total distance of 94.17 feet to an existing nail in a cable T.V. box in the southerly line of the F. L. Taylor, II, Property as described in Deed Book 5321, Page 144 of said Registry; thence with Taylor's line the following three (3) courses and distances: 1.) South 35-10-40 East 4.90 feet to an existing iron rod; 2.) North 51-57-29 East 46.97 feet to an existing iron rod; 3.) North 45-20-08 West 5.74 feet to an existing iron rod at the southwesterly corner of another parcel owned by F. L. Taylor, II, as described in Deed Book 6808, Page 659 of said Registry; thence with the line of this second parcel owned by Taylor North 51-39-52 East 53.68 feet to a new nail in the wall on the southwesterly line of the P. F. Chiles Property as described in Deed Book 4303, page 44 of said Registry; thence with Chiles' southwesterly line, and continuing along the southwesterly lines of the Afsaneh Mazandarani Property as described in Deed Book 10132, Page 571 and the Davidson Square Condominium Property as recorded in Unit Ownership File 111, Page 1 of said Registry, South 40-54-09 East, passing an existing nail at 9.86 feet and a paint mark in the wall at 81.75 feet, a total distance of 92.78 feet to an existing iron rod in the southerly line of the aforesaid Davidson Square Condominium Property; thence with another line of the Davidson Square Condominium Property South 41-50-15 East 176.39 feet to an existing nail on the westerly margin of North Church Street; thence with the westerly margin of Church Street, South 51-12-55 West 196.08 feet to the point and place of BEGINNING.

EXHIBIT B
TO
DECLARATION OF CONDOMINIUM

Allocation of Common Element Interests

Unit Number	Heated Square Footage (Calculated by Architect and Rounded to the nearest 1/10th foot)	Common Element Interest
101	766.4	0.75%
102	1218.4	1.20%
103	1400.6	1.38%
104	1224.6	1.20%
105	1537.3	1.51%
106	1218.9	1.20%
107	1204	1.18%
108	1417.3	1.39%
109	1436.2	1.41%
110	1435.2	1.41%
111	1246	1.22%
112	1228.9	1.21%
113	1417.7	1.39%
114	1224	1.20%
115	1532.5	1.51%
116	2459.2	2.42%
201	1569.7	1.54%
202	1227.2	1.21%
203	1412.8	1.39%
204	1223.8	1.20%
205	1529	1.50%
206	1209.8	1.19%
207	1217.9	1.20%

EXHIBIT B
TO
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Allocation of Common Element Interests

Unit Number	Heated Square Footage (Calculated by Architect and Rounded to the nearest 1/10th foot)	Common Element Interest
208	1390.9	1.37%
209	1437.5	1.41%
210	1434.4	1.41%
211	1231.8	1.21%
212	1226.9	1.21%
213	1424.6	1.40%
214	1231.2	1.21%
215	1525	1.50%
216	2446.9	2.40%
301	1571	1.54%
302	1222.3	1.20%
303	1407.9	1.38%
304	1224.3	1.20%
305	1525.6	1.50%
306	1218.2	1.20%
307	1220.4	1.20%
308	1408.1	1.38%
309	1565.8	1.54%
310	1577.8	1.55%
311	1338.1	1.31%
312	1367.7	1.34%
313	1548.7	1.52%
314	1363.2	1.34%
315	1703.3	1.67%
316	2457.4	2.41%

EXHIBIT B
TO
DECLARATION OF CONDOMINIUM

Allocation of Common Element Interests

Unit Number	Heated Square Footage (Calculated by Architect and Rounded to the nearest 1/10th foot)	Common Element Interest
401	1563.5	1.54%
402	1221.9	1.20%
403	1405.8	1.38%
404	1231	1.21%
405	1537.7	1.51%
406	1219.1	1.20%
407	1218.9	1.20%
408	1411	1.39%
501	1561.4	1.53%
502	1215.4	1.19%
503	1418.2	1.39%
504	1227.1	1.21%
505	1526.5	1.50%
506	1201.7	1.18%
507	1216.8	1.20%
508	1431.6	1.41%
601	1764.7	1.73%
602	1359.9	1.34%
603	1563.4	1.54%
604	1369.6	1.35%
605	1733.1	1.70%
606	1226.9	1.21%
607	1225.1	1.20%
608	1513	1.49%
TOTAL	101,789.70	100.00%