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WAKE COUNTY, NC 619
LAURA M RIDDICK
REGISTER OF DEEDS
PRESENTED & RECORDED ON
11/10/2005 AT 15:45:24

BOOK:011680 PAGE:00298 - 00319

PREPARED BY & Hold For: Burns, Day & Presnell, P.A. (JMD)

NORTH CAROLINA
WAKE COUNTY

CONDOMINIUM DECLARATION FOR
PARK 540 BUILDING I

THIS CONDOMINIUM DECLARATION FOR PARK 540 BUILDING I (the "Declaration"), made on NOVEMBER 9, 2005 by PARK 540 I, LLC, a North Carolina limited liability company, (the "Declarant").

RECITALS

Declarant owns the Property (defined below). Declarant intends to subdivide the Property into condominium units and desires, by the recording of this Declaration, to submit that Property, together with the improvements to be located thereon and all of the appurtenances thereto, to the provisions of the Act (as defined below). The Property is made subject to the Declaration for the purpose of insuring its best use and most appropriate development and improvement; to protect the Owners against such improper development as will depreciate its value; to preserve, so far as practicable; to guard against the erection of unattractive or poorly designed or proportioned structures and structures built of improper and unsuitable materials; and in general to provide adequately for a high type and quality of improvements and thereby to enhance the values of investments made by the Owners. **THEREFORE**, Declarant, pursuant to the Act, declares that all of the Property together with such additions subsequently made shall be held, transferred and used subject to the Declaration which shall run with the land and be binding on all parties having any right, title, or interest in the Property or any part thereof, their heirs, successors, and assigns and shall inure to the benefit of each Owner thereof.

1. DEFINITIONS. Unless the context clearly indicates otherwise, the following capitalized words and phrases shall have the indicated meanings when used in this instrument:

"Act" means the North Carolina Condominium Act (Chapter 47C of the North Carolina General Statutes), as amended from time to time, or any corresponding provisions of succeeding law.

"Allocated Interests" means the undivided interests in the Common Elements allocated to each Unit as initially set forth on Exhibit B, attached and as otherwise determined in accordance with this Declaration. The Allocated Interests shall be expressed as a numerical percentage and, except for minor variations due to rounding, the aggregate percentages for all of the Units at any one time shall equal 100%.

"Annual Assessments" means the assessments described in *Section 8.4*.

"Approved Budget" means the budget approved by the Association pursuant to *Section 8.4.2*.

"**Articles**" means the Association's Articles of Incorporation.

"**Assessment**" means an owner's share of the Common Expenses or other charges from time to time assessed against an Owner by the Association pursuant to the terms of this Declaration; including, but not limited to the Annual Assessments, the Special Assessments, and other assessments authorized by *Section 8.1.1*.

"**Association**" means Park 540 Building I Owners Association, Inc., a nonprofit North Carolina corporation.

"**Association Board**" means the Board of Directors for the Association.

"**Building**" means the building (including all fixtures and improvements contained within it) located on the Property in which the individual Units are located.

"**Bylaws**" means the Association's Bylaws.

"**Common Elements**" means all portions of the Condominium other than the Units, all the easements granted for the common use and enjoyment of the Owners which are not otherwise dedicated to a governmental entity, and generally includes all property and rights owned by, leased to, or licensed to the Association for the common use and enjoyment of the Owners. Common Elements are more specifically described in *Section 4.1*.

"**Common Expense Liability**" means the pro rata liability for Common Expenses allocated to each Unit and shall equal that Unit's Allocated Interest as determined from time to time in accordance with this Declaration.

"**Common Expenses**" means all expenditures lawfully made or incurred by or on behalf of the Association and as otherwise described in *Section 8.2*.

"**Condominium**" means the Property and all improvements and structures located thereon, including, without limitation, the Units and the Common Elements, and all easements, rights and appurtenances belonging thereto, collectively known as the Park 540 Building I (as more specifically described in the Plats), and as further defined in this Declaration, all of which are intended to be submitted to the provisions of the Act.

"**Condominium Documents**" means this Declaration, the Articles, the Bylaws, and the Act, collectively and individually.

"**County**" means Wake County.

"**County Registry**" refers to the County Register of Deeds.

"**Declarant**" means Park 540 I, LLC and its successors and assigns to which Declarant has expressly transferred its rights as Declarant.

"**Declarant Control Period**" means the period commencing on the date of recordation of this Declaration with the County Registry and continuing until the earlier of: (a) 120 days after conveyance of seventy-five percent (75%) of the Units (including any Units which may be created pursuant to Development Rights) to Unit Owners other than Declarant; (b) two years after Declarant has ceased to offer Units for sale in the ordinary course of business; (c) two years after any development right to add new Units was last exercised; or (d) the date Declarant waives, in writing, the right to appoint and remove

officers and directors of the Association and the right to approve actions by the Association and/or Association Board.

"Declaration" means this document and all subsequent amendments, if any.

"Development Rights" all rights of control and/or approval granted to Declarant, as Declarant, under this Declaration (including, but not limited to, the rights granted under *Articles 5 & 6*) and all rights under Sec. 1-103(23) of the Act.

"Development Rights Period" means the period commencing on the date of recordation of this Declaration with the County Registry and continuing until the earlier of: (a) December 31, 2015; (b) the Declarant or its successors no longer owns any of the Property (provided that the Declarant Control Period shall be reinstated with all rights and privileges if the Condominium is expanded as provided in this Declaration); and (c) the date Declarant transfers, in writing, the Development Rights to the Association.

"Foreclosure" means, without limitation, the judicial foreclosure of a Mortgage or the conveyance of the secured property by a deed in lieu of foreclosure of a Mortgage.

"Improvements" means any structure of any type or kind, including, but not limited to buildings, outbuildings, parking areas, loading areas, screening walls, retaining walls, fences, hedges, mass plantings, lawns, sidewalks, poles, signs, and utility lines and facilities.

"Law" shall mean any local, state or federal rules, regulations or laws which may apply to the Condominium or any Person who maintains an interest in the Condominium or a Unit, including, but not limited to, the Zoning Entity's ordinances, codes, and regulations.

"Limited Common Element" means a portion of the Common Elements allocated by this Declaration for the exclusive use of one or more, but fewer than all, of the Units and as more specifically described in *Section 3.2*.

"Majority in Interest" means, with respect to any referenced group of Owners, a combination of any of those Owners who, in the aggregate, own more than fifty percent (50%) of the Allocated Interests owned by all of that referenced group of Owners.

"Member" means every Person who holds membership in the Association.

"Mortgage" means a mortgage, deed of trust, installment land sales contract, security agreement or other similar security instrument granting, creating or conveying a first lien upon a Unit.

"Mortgagee" means the holder, insurer or guarantor of a Mortgage.

"Occupants" means any individual(s) in possession of a Unit, including Owners, tenants, guests and invitees of such.

"Owner" or "Unit Owner" means the record owner, whether one or more Persons, of a fee simple title to any Unit, except those having an interest merely as security for the performance of an obligation, and will include Declarant for so long as it owns one or more Units.

"Person" means an individual, a trust, an estate, or a domestic corporation, a foreign corporation, a professional corporation, a partnership, a limited partnership, a limited liability company, a foreign limited liability company, an unincorporated association, or other entity.

"Plat" refers to that plat and plans for the Condominium recorded with the Wake County Registry, including those recorded plats describing or identifying the Units of the Condominium, all of which plat(s) are incorporated into this Declaration by this reference.

"Private Streets" means any streets located within the Property which are designated as "private" on the Plat(s).

"Property" refers to that land located in Wake County, North Carolina and, at least initially, as described on *Exhibit A* attached and otherwise described on the Plat(s), together with the improvements constructed thereon and all appurtenant easements, rights and privileges.

"Rules & Regulations" means the rules and regulations governing the Project as adopted by the Association Board from time to time.

"Special Assessments" means the assessments described in *Section 8.5*.

"Surplus Funds" means funds collected by the Association pursuant to this Declaration or otherwise which are not needed to pay current Common Expenses or reserves provided for in this Declaration.

"Unit" means a physical portion of the Condominium designated for separate ownership, together with its percentage of undivided interest in the Common Elements, as further described in this Declaration and the applicable Plat.

"Zoning Entity" means the governmental entity having zoning jurisdiction over the Property as of the date of determination.

Except as specifically provided to the contrary above, these defined terms shall be construed in a manner consistent with the comparable definitions included in the Act.

2. GENERAL

2.1. Submission to Act. Declarant submits the Property to the provisions of the Act. The Property will be administered in accordance with the provisions of the Condominium Documents. The Act contemplates that certain of its provisions may be superseded by provisions of Articles of Incorporation, bylaws, a declaration, or other agreement of the Members. It is the intent of the parties that in the event of a conflict among the Condominium Documents, the Condominium Documents (other than the Act) shall control and supersede the Act where permitted by law.

2.2. Condominium. The name of the condominium is "Park 540 Building I". Declarant initially establishes thirteen (13) Units within the Property and designates all such Units for separate ownership. Reference is made to the Plat for a separate description of the boundaries of each Unit, identified by number. The maximum number of Units which Declarant reserves the right to create as a part of the Condominium is thirteen (13) Units. Initially, there are no Limited Common Elements with the exception of the Limited Common Elements described in G.S. §47C-2-102(2) & (4) and the Plat(s).

2.3. Property. The Property is located in Wake County, North Carolina and, at least initially, is that real estate described on *Exhibit A* attached and otherwise described on the Plat(s). There are no appurtenant Easements included in the condominium.

3. UNITS

3.1. Identification. Identification of each Unit is set out in ***Exhibit B*** attached and includes: (i) its designation number with a separate street address; and (ii) the Allocated Interests appurtenant to that Unit. The precise location of each Unit is shown on the Plats.

3.2. Boundaries. The space making up a Unit shall consist of the perimeter for each Unit as shown on the Plat for that Unit as bounded by the unfinished perimeter walls, ceilings, floors, doors, and windows thereof. For this purpose "unfinished" refers to the sheetrock, concrete slab or other structural materials which constitutes the interior face of that surface. A Unit shall nevertheless include: (i) the interior surface of the sheetrock, concrete slab or other structural materials and any coverings (i.e., paneling, wood, tile, paint, paper, carpeting) of those surfaces; (ii) exterior windows, window frames and glass, and interior doors and door frames within or appurtenant to the Unit; (iii) all fixtures and hardware and all improvements contained within the unfinished perimeter walls, ceilings, and floors; and (iv) any heating and refrigerating elements or related equipment, utility lines and outlets, electrical and plumbing fixtures, pipes, and all other related equipment required to provide heating, air conditioning, hot and cold water, electrical, or other utility services to the Unit and located within the unfinished surfaces; provided, however, that a Unit shall not include any of the structural components of the Building or utility or service lines located within the Unit but serving more than one Unit; i.e., Common Elements located within a Unit shall not, however, be considered a part of that Unit.

3.3. Interior Alterations. Except as may otherwise be provided in the Condominium Documents, each Owner shall have the right, exercisable at any time and from time to time, to install, at that Owner's sole cost and expense, those decorations, fixtures, and coverings (including, without limitation, painting, finishing, wall papering, carpeting, pictures, mirrors, shelving, and lighting fixtures) on the surfaces of the walls, ceilings, and floors that face the interior of that Owner's Unit and to a depth of one inch behind such surfaces for the purposes of installing nails, screws, bolts and the like, and to alter or remove interior walls, in whole or in part, in order to change that Unit's layout, or to improve the Unit, provided that no such installation, alteration, removal, or change shall impair the structural integrity of that Unit or of the Building of which it is a part or violate any Law. The Association reserves the right to regulate the exterior appearance of the window coverings and treatments installed on all Unit windows.

3.4. Association Access. The Association or its designee shall have the right of access to any Unit during reasonable hours of the day and, in the event of emergencies, at any time: (i) to make inspections, repairs, replacements, or improvements to the Common Elements within a Unit; (ii) to remedy conditions of the Unit itself which could result in damage to other portions of the Building of which the Unit is a part; (iii) to abate any violation of Law or applicable Rules & Regulations; or (iv) to otherwise perform its obligations under this Declaration.

4. COMMON ELEMENTS/LIMITED COMMON ELEMENTS.

4.1. Common Elements. The "Common Elements" consist of all other parts of the Building and Property, exclusive of the Units, including, but not limited to, the parking areas (which are, however, subject to allocation by the Declarant or the Association Board); all areas and facilities shown on a Plat as "Common Elements"; and all easements, licenses, and the like granted to the Association and all the Owners for the common use of the Owners.

4.2. Limited Common Elements. The Limited Common Elements are those Common Elements designated as such on a Plat and such others as are agreed upon to be reserved for the exclusive use of one or more, but less than all, of the Unit Owners. All Limited Common Elements are reserved for the exclusive use of the Owner(s) of the Unit(s) which they serve or to which they are declared to be appurtenant by appropriate designation on a Plat. Where a Limited Common is reserved for a single Unit,

that Unit Owner is granted an exclusive and irrevocable license to use and occupy those Limited Common Elements associated with its Unit. Where a Limited Common is reserved for more than one (1) Unit, those Unit Owners are granted an exclusive and irrevocable license to use and occupy those Limited Common Elements associated with its Units.

4.3. Title to the Common Elements. Every Owner shall own an undivided interest in the Common Elements (i.e., its Allocated Interests) which shall be appurtenant to and shall pass with the title to every Unit.

4.4. Transfer of Common Elements. The Common Elements shall remain undivided, and no Unit Owner or any other Person shall bring, or shall have the right to bring, any action for partition or division thereof, except as is expressly permitted pursuant to the terms of this Declaration and/or the Bylaws. Further, any conveyance, encumbrance, judicial sale, or other transfer (voluntary or involuntary) of an individual interest in the Common Elements will be void unless the Unit to which such interest is allocated is also transferred.

4.5. Allocated Interests. The Allocated Interests for the Units are shown on Exhibit B. In the event of a subdivision, recombination, withdrawal, or addition of Unit(s) from/to the Condominium as permitted by the Condominium Documents, the Allocated Interests for all of the Units shall be recalculated as contemplated in Exhibit B. Except for such reallocations, the Allocated Interests in the Common Elements allotted to each Unit shall not be changed except with the unanimous consent of all of the Owners of all of the Units and with the consent of all of the Mortgagees.

4.6. Parking Areas/Parking Spaces. Each Owner and its tenants and invitees, in common with the other Owners and their tenants and invitees, shall be entitled to the non-exclusive use of the automobile parking space(s), if any, located within the Common Elements, together with the right of ingress and egress in and to those parking space(s). The Declarant or Association reserves the right to assign parking spaces for each Unit. Subject to all applicable governmental ordinances, during the Development Rights Period, Declarant reserves the right to establish additional areas of parking within the Common Elements as Declarant, in its discretion, may determine are needed.

4.7. Owners' Easement of Enjoyment. Every Owner shall have a right and easement of use and enjoyment in and to the Common Elements (the "Owners' Easement"), including specifically an easement for access, ingress and egress from and to public streets, common parking, and walkways. The Owners' Easement shall be appurtenant to and shall pass with the title to every Unit. The Owners' Easement and an Owner's undivided interest in the Common Elements are subject to the following:

4.7.1. Subject to all applicable governmental ordinances, the Association's right to dedicate or transfer all or any part of the Common Elements to any public agency, authority, utility, or non-profit corporation. No such dedication or transfer shall be effective unless an instrument signed by eighty percent (80%) of the Allocated Interests agreeing to the dedication or transfer has been recorded in the County Registry. Any dedication or transfer shall be made subject to that portion of the Owners' Easement providing for access, ingress and egress to public streets and walkways.

4.7.2. The Association's right, in accordance with the Condominium Documents, to borrow money for the purpose of improving the Common Elements and to mortgage those properties to secure those borrowings; provided the mortgage is subordinate to the Owners' Easement.

4.7.3. The Association's right to impose and enforce its Rules & Regulations which may restrict the use and enjoyment of the Common Elements.

4.7.4. The Association and Declarant shall have the authority to grant and/or establish upon, over, under and across the Common Elements further easements (including, but not limited to those provided in this Declaration) as are required for the convenient use and enjoyment of the Property.

4.7.5. The Association's right to suspend the voting rights by any Owner for any period during which any assessment against its Unit remains unpaid.

4.8. **Delegation of Use.** Any Owner may delegate, in accordance with the Condominium Documents, its right of enjoyment to the Common Elements to Occupants who lease its Unit and, subject to any applicable Rules & Regulations, to its guests.

4.9. **Private Streets.** The Private Streets have not been accepted for maintenance by the Zoning Entity and their maintenance shall be the sole responsibility of the Association. The Private Streets shall be maintained in good condition and no obstruction shall be erected or permitted to remain on such streets. All such maintenance costs shall be a Common Expense.

5. DEVELOPMENT RIGHTS.

5.1. **Declarant's Development Rights.** During the Development Rights Period, the Declarant reserves the following development rights for the entire Property: (a) to add real estate to the Property; (b) to add Common Elements; (c) to withdraw real estate from this Declaration; (d) to construct and maintain any sales office, management office, or model in any of the Units or on any of the Common Elements shown on the Plats; (e) prior to a conveyance of the applicable Unit to an Owner, to relocate that Unit within the Property, to alter the size of that Unit, to combine or merge two or more that Unit with other Units, and/or subdivide that Unit; (f) Subject to the provisions of NCGS §47C-3-103 and the terms of the Bylaws, to appoint and remove any Association Board member; and (g) other rights described in NCGS §47C-1-103(11). Declarant, in its sole discretion, and from time to time during the Development Rights Period, may exercise any or all of the Development Rights. During the Development Rights Period, no amendment to or modification of the Development Rights may be made without the Declarant's prior, written consent, which it may arbitrarily withhold. If a Development Right is exercised by Declarant as to a portion of the Units, there shall be no obligation for Declarant to exercise any such Development Right on the remainder of the Units.

5.2. **Assignment/Delegation.** Declarant reserves the right to assign the Development Rights to any Person which acquires title to all or any portion of the Property. The assignment shall not be effective unless it is in writing (specifically describing the Development Rights being assigned), signed by the Declarant, is accepted, in writing, by the assignee, and recorded with the County Registry. The Declarant may, from time to time, delegate any or all of its Development Rights to such agents as it may nominate and on such terms as it chooses.

6. **SUBDIVISION/RECOMBINATION RIGHTS.** The Declarant, during the Development Rights Period, and thereafter, an Owner may exercise this right to subdivide or recombine all or a portion of its Unit as it, in its sole discretion determines, as provided under the provisions of G.S. 47C-2-109, 110, 112 & 113 of the Act. The Association, at the expense of the Owner(s) requesting the subdivision/recombination, shall prepare and file an Amendment to this Declaration in compliance with the Condominium Documents and a Plat showing the reallocation of the Unit boundaries. Such Amendment and/or Plat shall: (a) assign an identifying number to each new Unit created; (b) reallocate the Allocated Interests based on the formula set forth in **Exhibit B** of the Units among the Units; (c) describe all Common Elements and Limited Common Elements thereby created; and (d) designate the Unit(s) to which each Limited Common Element is allocated. All additional Units created on the Property will be restricted exclusively for the uses permitted in this Declaration, and all restrictions, terms, covenants and conditions of the Condominium Documents shall apply to any and all additional Units that may be created within the Property. Any Improvements that may be erected upon the Property, or a

portion thereof, will be generally similar in quality to the other, already constructed, Improvements in the Condominium and shall be compatible in terms of architectural style, quality of construction and principal materials.

7. MEMBERSHIP AND VOTING RIGHTS. Ownership of a Unit shall be the sole qualification for membership in the Association. Each Unit shall have a vote equal to its Allocated Interest. Members shall be entitled to exercise the vote for each Unit owned. When more than one Person holds an interest in any one Unit, all such Persons shall be Members. The vote of that Unit shall be exercised as provided in the Bylaws. Fractional voting of a Unit's vote is prohibited. The Association's Board may make reasonable rules relating to the proof of ownership of a Unit. Membership shall be appurtenant to and may not be separated from ownership of any Unit.

8. COVENANT FOR ASSESSMENTS.

8.1. Lien of Assessments.

8.1.1. Each Owner of a Unit by acceptance of a deed therefor (whether or not it shall be so expressed in such deed) is deemed to: (i) agree to pay to the Association the Assessments as provided in this Declaration; and (ii) to have waived any right to receive a Public Offering Statement .. In addition to the Annual Assessments and the Special Assessments, the Association shall have the authority, through the Association's Board, to establish, fix and levy an individual assessment on any Unit to secure the liability of that Owner to the Association arising from Owner's breach of any of the provisions of this Declaration.

8.1.2. The Assessments shall be set on a calendar year basis (the "Annual Assessment Period") and may be collected on a monthly, quarterly or yearly basis as determined by the Association Board. Assessments shall be charged to each Unit and, together with interest thereon and the costs of collection (including reasonable attorney fees), shall be a lien on the applicable Unit from the due date for the Assessment as provided under the Act, continuing until paid in full, as well as a personal obligation of the person who was the Owner of the Unit at the time when the Assessment became due. While any unpaid amounts shall remain a lien on the applicable Unit, the personal obligation shall not pass to that Owner's successors in title unless expressly assumed by the successor.

8.1.3. No Owner shall be exempted from liability for the payment of Assessments by waiving the use or enjoyment of any or all of the Common Elements or by abandoning its Unit. No Owner shall be entitled to a diminution or abatement in the Assessments for any inconvenience or discomfort arising from: (i) the failure or interruption of any utility or other services; (ii) the making of repairs or improvements to the Common Elements or any Unit; or (iii) any action taken by the Association Board or the officers of the Association to comply with Law.

8.1.4. All Units dedicated to and accepted by a local public authority and the Common Elements shall be exempt from the Assessments.

8.2. Purpose of Assessments. The Assessments shall be used exclusively for funding all Common Expenses, costs, expenses, damages, repairs and liabilities reasonably incurred by the Association in fulfilling the purposes of this Declaration, other expenses agreed by the Members to be "Common Expenses", and reserves for these purposes.

8.3. Notice/Due Dates. Written notice of a Special Assessment or a change in the Annual Assessment shall be sent to every Owner subject thereto at least fifteen (15) days in advance of its due date. The due date for an Assessment shall be established by the Association Board, in the case of an Annual Assessment, or by the Owners, in the case of a Special Assessment. The Association shall, within

ten (10) business days of a written demand for such, furnish a certificate in writing signed by an officer of the Association setting forth whether the Assessments on a specified Unit have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. These certificates shall be conclusive evidence of payment of any Assessment as to third parties acting in reliance on the statement.

8.4. Annual Assessments.

8.4.1. The Annual Assessments shall commence as of the date of the Declaration (the "Commencement Date"). All Units created as of that date shall begin paying Annual Assessments in proportion to their Common Expense Liability. As to Units created thereafter, Annual Assessments shall commence on the first day of the month following the date it becomes a Unit; i.e., the date the applicable Amendment to the Declaration is recorded. The Annual Assessment for the first calendar year for a Unit shall be adjusted according to the number of months remaining in that calendar year.

8.4.2. On or before January 1st of each year, the Association Board shall adopt a proposed budget. This proposed budget shall include all anticipated revenues (including revenues from Annual Assessments to be charged in the next Annual Assessment Period), the anticipated Common Expenses for the Association for that same period, and any surplus or deficit in the Annual Assessments from the prior years. Within thirty (30) days after adoption of any proposed budget, the Association Board shall send each Owner a copy of that proposed budget and notice of a scheduled meeting of Owners to consider its ratification. The date of that meeting shall be not less than fourteen (14) nor more than thirty (30) days following the notice of the meeting. The proposed budget shall be deemed ratified unless a Majority in Interest of all of the Owners rejects the proposed budget. There shall be no requirement that a quorum be present at the meeting. The Approved Budget shall be the basis for calculating the Annual Assessment to be charged for each Unit for the upcoming Annual Assessment Period. Upon adoption of the Approved Budget, the Association Board shall calculate the amount of the Annual Assessments for each Owner of a Unit and send a notice of that amount to each Owner of a Unit as required under this Declaration. The failure or delay of the Association Board to prepare or adopt a budget or to determine the Common Expenses for any Assessment Period shall not be deemed a waiver, modification or release of the Owners' obligation to pay Assessments. In such event, the Annual Assessments that were computed on the basis of the Common Expenses for the last Assessment Period shall continue to be the Annual Assessments payable by the Owners until a new Approved Budget is adopted. The initial Annual Assessment shall be \$.43 per square foot for the number of square feet in the Unit and shall be paid in monthly installments.

8.4.3. After the Commencement Date, Declarant may, but shall not be obligated to, loan the Association money to the extent that Annual Assessments paid by the Owners are inadequate. This advance shall be to the Association and on terms generally available to Declarant from its lending institution. Declarant, if also an Owner, shall also be responsible for the payment of Assessments as otherwise required by this Article.

8.5. Special Assessments. In addition to the Annual Assessments, the Association may, from time to time, levy a special assessment (the "Special Assessment") for the purpose of defraying in whole or in part the cost of any unexpected expense. A Special Assessment shall require the assent of the Owners holding not less than sixty-six percent (66%) of the Allocated Interest of all of the Units. An Owner's pro rata share of each Special Assessment shall equal its Common Expense Liability percentage. A Special Assessment shall be collected from those Owners of Units which exist as of the date the Special Assessment is approved by the Members.

8.6. Fines/Suspensions. The Association Board, after a hearing as required under the Act and/or Bylaws, may impose fines against any Unit and/or suspend a Member's voting privileges for a failure to comply with the Declaration or Rules & Regulations. These fines shall be collected and enforced as an

Assessment otherwise due to the Association from that Owner. Fines shall be paid not later than thirty (30) days after notice of the fine is given to the offending Owner. These fines shall not be construed to be exclusive and shall be in addition to all other rights and remedies to which the Association may be otherwise legally entitled. The amount of any fine imposed shall be determined by the Association Board; but, shall not, in any event, exceed One Hundred Fifty Dollars (\$150.00) per day for each day of continued violation or non-compliance. Such fines shall be assessments secured by liens as provided under the Act.

8.7. Uniform Rate of Assessment. The Common Expense Liability allocated to each Unit shall be equal to its Allocated Interest. Notwithstanding the preceding to the contrary:

(a) the Association Board may levy an individual assessment on any Unit to secure the liability of that Owner to the Association arising from that Owner's breach of any of the provisions of this Declaration or the Rules and Regulations.

(b) Any Common Expense or portion thereof benefiting fewer than all of the Units (e.g., the maintenance, repair, or replacement of a Limited Common Element) shall be assessed, on an equal basis, exclusively against those Units benefited.

(c) Assessments to pay a judgment against the Association may be made only against the Units in the Planned Community at the time the judgment was entered, in proportion to their Allocated Interests.

(d) If any Common Expense is caused by the negligence or misconduct of any Owner or Occupant, the Association may assess that expense exclusively against that Owner's Unit.

(e) If Allocated Interests are reallocated, Assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated Allocated Interests.

8.8. Non-Payment of Assessment Remedies of the Association. Any Assessments which are not paid when due shall be delinquent. The Association shall have the option to declare the entire outstanding balance of any Assessment immediately due and payable if any installment thereof becomes delinquent. If the Assessment is not paid within thirty (30) days after the due date, the assessment shall incur a late charge in the then applicable amount fixed by the Association Board, shall bear interest from the date of delinquency at the lesser of the rate set by the Association Board (if one has been set) or eighteen percent (18%) per annum, and shall constitute a lien on that Unit when a claim of lien is filed of record as provided under the Act. The Association may bring an action at law against the responsible Owner and/or foreclose the lien against the applicable Unit in like manner as a mortgage on real estate under power of sale under Article 2A of Chapter 45 of the General Statutes. Interest, costs, late charges, fines, and reasonable attorney fees incurred in enforcement of the lien shall be added to the amount of the delinquent Assessment. Each Owner, by the acceptance of a deed to a Unit, expressly vests in the Association, its agents or assigns, the right and power to bring all actions against the Owner, personally, for the collection of all debts due by it to the Association and to enforce the lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage or a deed of trust lien on real property in accordance with Article 2A of Chapter 45 of the General Statutes. Each Owner also expressly grants to the Association a power of sale in connection with foreclosure of a lien for Assessments. The lien provided for in this Article shall be in favor of the Association acting on behalf of the Owners, which shall have the power to bid in at foreclosure and to acquire and hold, lease, mortgage and convey the foreclosed Unit. No Owner may waive or otherwise escape liability for Assessments by non-use of the Common Elements or abandonment of his Unit. This Section does not prohibit other actions to recover the sums due from an Owner nor prohibit the Association from taking a deed in lieu of foreclosure.

8.9. Subordination of the Lien. The lien of the Assessments shall be subordinated to the lien of the Mortgage on a Unit. Provided the Association is given prior written notice of such, the sale or transfer of a Unit pursuant to a Foreclosure shall extinguish the lien of the delinquent Assessments for that Unit. Otherwise, the sale or transfer of a Unit shall not release or otherwise affect the lien of delinquent Assessments; provided, that no Owner shall be liable for the payment of any part of any Assessments assessed against its Unit subsequent to a sale, transfer, or other conveyance by it of that Unit. In no event, however, shall any sale or transfer, whether pursuant to a Foreclosure or not, relieve the prior Owner from personal liability for the delinquent Assessments or the Unit from liability for any Assessments subsequently becoming due or from the lien therefor.

8.10. Exempt Property. All Units dedicated to and accepted by a local public authority and the Common Elements shall be exempt from the Assessments.

8.11. Surplus Funds. Except as determined by the Association Board from time to time, Surplus funds shall not be distributed to the Owners, pro rata, in accordance with their respective Allocated Interests or be used as a credit against each Owner's future Assessments.

9. MAINTENANCE/REPAIR.

9.1. Common Elements. The Association shall be responsible for the repair, maintenance and upkeep of the Common Elements, wherever located, and, except as expressly provided otherwise in this Declaration, the costs of such shall be deemed a Common Expense of the Association. All private utility systems located outside the exterior walls of a Unit shall be maintained by the Association. All public utility systems located on the Property shall be maintained by the appropriate utility company or governmental authority.

9.2. Limited Common Elements. Where a Limited Common is reserved for a single Unit, that Unit Owner shall, at its own expense, be responsible for the maintenance and repair of its Limited Common Element. Where a Limited Common is reserved for more than one (1) Unit, the Association shall be responsible for the maintenance and repair of those Limited Common Elements and shall assess the applicable Unit Owners, accordingly.

9.3. Units. The Owner, at its expense, shall maintain and keep in repair the interior of the Unit, including the fixtures and utilities located in the Unit to the extent current repair shall be necessary in order to avoid damaging other Units or the Common Elements. No Owner shall alter any Common Elements without the prior written consent of the Association. All fixtures and equipment installed with a Unit commencing at a point where the utility lines, pipes, wires, conduits, or systems are within the Unit's boundaries shall be maintained and kept in repair by its Owner. An Owner shall not, however, do anything or allow any condition to exist which will impair the structural soundness or integrity of another Unit, impair any easement or hereditament, or will adversely affect the other Units or their Owners. Nothing shall be done in any Unit which will structurally change the Building, except as is otherwise provided in this Declaration. In no event shall interior partitions contributing to the support of any Unit, the Common Elements, or the Limited Common Elements be altered or removed.

10. INSURANCE/CONDEMNATION.

10.1. Association Coverage.

10.1.1. The Association Board shall obtain and maintain, to the extent available, casualty insurance (ISO special for or its equivalent) for the Common Elements covering the interest of the Association, the Association Board, and all Owners and their mortgagees, as their interests may appear. Such coverage shall: (a) be in an amount equal to 100% of replacement value; (b) have a commercially

reasonable deductible not in excess of \$10,000.00; and (c) afford protection against loss or damage by fire or other hazards covered by the standard extended coverage endorsement and such other risks as from time to time customarily shall be covered with respect to similar construction, location, and use, including, without limitation, vandalism and malicious mischief. This coverage shall not, however, include the Units or any improvements or betterments installed by an Owner or any of the personal property belonging to an Owner whether or not located inside a Unit.

10.1.2. To the extent obtainable, the Association Board may also obtain and maintain (in amounts to be determined by it): (1) fidelity insurance covering all members of the Association Board, officers, or employees of the Association who handle funds of the Association; (2) workmen's compensation insurance; (3) commercial general liability insurance covering all damage or injury caused by the Association, any of its agents, or Owners (as a group) and all liabilities associated with the ownership of the Common Elements; and (4) such other insurance coverages as it deems desirable and necessary. The commercial general liability insurance shall not, however, cover the liability of an Owner arising from an occurrence within its own Unit.

10.1.3. The proceeds of all policies of physical damage insurance shall be payable to the Association to be applied for the purpose of repairing, restoring, or rebuilding the Common Elements unless otherwise determined by the Owners, as provided below, and the Association Board shall arrange for such repair or work. If the insurance proceeds are insufficient to cover the cost of such work, the balance of the cost will be assessed among all Owners in proportion to their respective interests in the Common Elements.

10.1.4. All policies of physical damage insurance shall contain waivers of subrogation and of any reduction of prorata liability of the insurer as a result of any insurance carried by Owners or of any invalidity arising from any acts of the insured or any Owners and shall provide that such policies may not be canceled or substantially modified without at least thirty (30) days' prior written notice to the named insured, including all first mortgagees of Units.

10.2. Owner's Coverage. Each Owner, at its own expense, shall carry full replacement cost indexed to the replacement cost at the time of the annual renewal of the policy, all risk property damage and hazard/casualty insurance for its Unit and all property and improvements located within its Unit, and commercial general liability insurance in an amount reasonably determined, from time to time, by the Association's Board. The liability insurance shall be with a company, in an amount, and in a form which is acceptable to the Association's Board and shall include a loss payable clause listing the Association as an additional insured. Each Owner shall satisfy the Association's Board that at all times it carries the required insurance by providing a certificate of insurance to the Association.

10.3. Repair/Reconstruction.

10.3.1. In the event of damage to or destruction of any Common Elements as a result of fire or other casualty, the Association shall arrange for the prompt repair, replacement, and restoration of the Common Elements. The Association Board or the insurance trustee, as the case may be, shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments. The cost of repair, replacement, and restoration in excess of the insurance proceeds, if any, shall constitute a Common Expense and the Association Board may assess all the Owners for such deficit as a Special Assessment.

10.3.2. Notwithstanding the preceding to the contrary, such repair or replacement shall not be undertaken if: (i) the Condominium is terminated as provided under the Condominium Documents; (ii) repair/replacement would be prohibited by any Law; or (iii) if eighty percent (80%) or more of the

Owners vote not to repair/replace the damage. In that event the Common Elements are not repaired/replaced, the insurance proceeds shall be used/distributed in accordance with the requirements of the Act.

10.3.3. Each Owner shall nevertheless be liable for the expense of any maintenance, repair, or replacement rendered necessary by its act, neglect, or carelessness, to the extent that such expense is not met by the proceeds of insurance carried by the Association Board. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy, or abandonment of a Unit or its appurtenances. This subsection shall not, however, be construed so as to modify any waiver by insurance companies of rights of subrogation.

10.4. Ownership/Proceeds. All contracts of insurance purchased by the Association shall be for the benefit of the Association, the Owners, and their respective mortgagees, if any, as their interests may appear, and shall provide that all proceeds thereof shall be payable to the Association as insurance trustee. The sole duty of the Association as insurance trustee shall be to receive any proceeds as are paid and to hold them in trust for the purposes stated in this Declaration. The proceeds received by the insurance trustee shall be distributed to or for the benefit of the appropriate beneficiary(ies) as required by the Condominium Documents.

10.5. Premiums. Premiums for contracts of insurance purchased by the Association shall be paid by the Association and shall be included in Common Expenses.

10.6. Prohibited Acts. No Owner shall do or keep anything on the Property which shall cause an increase in the premiums for or the cancellation of any insurance maintained by the Association.

10.7. Condemnation. In the event of a taking in condemnation or by eminent domain of part or all of the Common Elements, the award made for such taking shall be payable to the Association. Unless eighty percent (80%) or more of the Allocated Interests of all Units (with the written approval of the applicable Mortgagees) object to the repair and restoration of such Common Elements, the Association Board shall arrange for the repair and restoration of such Common Elements and shall disburse the proceeds of such award to the contractors engaged in such repair and restoration in appropriate progress payments. In the event that a valid objection is made to repair/restoration of such Common Elements, or if the award exceeds the cost of such repair or restoration, the Association Board shall disburse the net proceeds among all Owners in proportion to their respective Allocated Interests. As used in this Section, the words "promptly approve" shall mean not more than sixty (60) days from the date of such taking.

11. EASEMENTS.

11.1. Easements. An easement is granted to the Association and its designees to enter in or to cross over the Common Areas and Units to the extent reasonably necessary to perform its obligations under this Declaration or the Act. Every Unit shall be subject to an easement for entry by the Association and its designees for the purpose of correcting, repairing, or alleviating any emergency condition which arises upon any Unit and that endangers any improvement or portion of the Common Elements. In addition to those easements described in the following subsections, the Declarant (during the Development Rights Period) and the Association shall have the right to subject the Property to easements which it reasonably deems beneficial to the development and/or operation of the Condominiums. The cost of maintaining these easements shall be a Common Expense.

11.2. Utility Easements. The Declarant reserves unto itself and the Association a perpetual, nonexclusive alienable, and releasable easement and right, on, over and under the Property to erect, maintain, and use poles, wires, cables, conduits, lines, drainage ways, sewers, water mains, and other

suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water drainage, cablevision, or other public conveniences or utilities on, in or over those portions of the Property as may be reasonably required to serve the Units. Notwithstanding such, no sewers, electrical lines, water lines, or other utility equipment or facilities may be installed or relocated in the Common Elements except as approved by the Declarant or, after the end of the Development Rights Period, the Association. Should any utility furnishing a service covered by this general easement request a specific easement by separate recordable documents, Declarant or, after the end of the Development Rights Period, the Association will have the right and authority to grant such easement. These easements and rights expressly include the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation to maintain reasonable standards of health, safety, and appearance. Such rights may be exercised by any licensee of the Declarant. This reservation shall not create any obligation on the part of the Declarant to provide or maintain any such utility or service. Whenever possible, utilities within the Property, whether located within the Common Elements or not, shall be installed and maintained underground. The easement provided for in this Article shall in no way affect other recorded easements on the Property.

11.3. Temporary Construction Access and Disturbance Easement. An easement over, through and to the Common Elements is reserved and established in favor of Declarant and the Association for purposes of ingress, egress, regress, conduct of construction activity, storage of construction materials and the necessary disturbance of land for construction of any Unit. This easement shall be used only as and when necessary to facilitate the construction of improvements at any time of a Unit by Declarant or Association as well as the extension of driveways, sidewalks, underground drainage and utility conduit and hookups to any dwelling structure in the Condominium.

11.4. Repair, Maintenance and Reconstruction Easement. The Association shall have a perpetual access easement over the Common Elements and Units to the extent reasonably necessary to perform repair, maintenance or reconstruction obligations under this Declaration or the Act. The repair, maintenance or reconstruction shall be done expeditiously and, upon completion of the work, the Association shall restore, to the extent reasonably practical, the Unit and adjoining Units to as near the same condition as that which existed prior to the commencement of the work. Should the Association fail to restore the Units as required, the Owner may, at the Association's expense, complete the required restoration.

11.5. Declarant reserves an easement for the benefit of the appropriate governmental entity over the Common Elements, existing now or in the future, for the setting, removal, and reading of water meters, the maintenance and replacement of water, sewage, and drainage facilities and the collection of garbage. An easement is also granted to all police, fire protection, garbage, mail delivery, ambulance, and all similar persons to enter upon the Condominium's streets and the Common Elements in the performance of their duties.

12. LAND USE REGULATIONS.

12.1. Uses. Notwithstanding the uses otherwise permitted by the Zoning Entity's applicable zoning code and unless otherwise permitted by this Declaration, use of each Unit shall be strictly limited to commercial office purposes and those other purposes expressly permitted by this Declaration.

12.2. Animals. Except as permitted by the Rules & Regulations, if any, adopted by the Association Board, no animals, livestock or poultry of any kind shall be raised, bred or kept in the Units.

12.3. Garbage. All garbage, trash, or rubbish shall be regularly removed from the Unit and shall not be allowed to unreasonably accumulate.

12.4. Utility Devices. Except as required by law, no exterior television or radio antennas, satellite dishes or solar panels or other utility devices, of any sort shall be placed, allowed or permitted upon any portion of the exterior of the Units without the prior written approval and the authorization of the Declarant (during the Development Rights Period) or the Association Board.

12.5. Obnoxious Activity. No unreasonably obnoxious or offensive activity shall be carried on the Property, nor shall anything be done which may be or may become a nuisance or unreasonable annoyance. Nor shall the Property be used in any way or for any purpose which may endanger the health or unreasonably disturb an Owner or its Occupants. No "For Sale" signs (except as otherwise specifically authorized by the Association), advertising signs or rent signs, bill boards, unsightly objects or nuisances shall be erected, placed or permitted to remain on the Property, and in no event in the Common Elements. Notwithstanding any provision in this Article to the contrary, during the period of development and sale of the Units, Declarant is permitted, subject to the Laws, to maintain such facilities and conduct such sales activities as Declarant deems reasonably required, convenient, or incidental to, (including "For Sale" signs), the development and sale of the Units. These facilities/activities shall include but not be limited to sales tours, sales parties and promotions, a business/sales office, storage area, construction yards, and signs. During the Control Period, this provision shall not be amended or revoked without the Declarant's written consent.

12.6. Exposed Surfaces. The Association Board may adopt regulations regulating the exterior decor and exposed sides of drapes, blinds, shutters, and other window treatments of a Unit. Any variations from those regulations will require the Association Board's prior written approval.

12.7. Subdivision/Recombination. Except as otherwise provided in this Declaration, Units may not be subdivided or combined where otherwise prohibited by the Laws and, in any event, without the Association Board's prior written approval.

12.8. Governmental Regulations. Each Owner shall comply with all laws, ordinances, governmental building codes, health regulations, zoning restrictions and the like applicable to its Units and/or Common Elements. In the event of any conflict between any provision of such governmental code, regulation or restriction and any provision of this Declaration, the more restrictive provision shall apply.

12.9. Additional Restrictions. The Declarant (during the Development Rights Period) and thereafter, the Association or the Association's Board shall have the power to formulate, amend, publish and enforce other reasonable rules and regulations concerning the architectural control and use of the Property.

12.10. Use of Common Elements. The Common Elements shall be used only for the furnishing of the services and facilities and for the other uses for which they are reasonably intended and which are incident to the use and occupancy of the Units. No Owner may construct, install, place, store or otherwise maintain any improvements or personal property on or within the Common Elements. Notwithstanding the preceding or anything in this Declaration to the contrary, Declarant shall have the right, without charge or limitation, do all things necessary or appropriate, including the use of the Common Elements, to complete the development of the Property and sale/leasing of the Units, to complete any work or repairs to a Building expressly undertaken by Declarant, and to comply with Declarant's obligations under the Condominium Documents. In no event, however, shall Declarant be entitled to use any Common Elements in such a manner as will unreasonably interfere with the use of any Unit for its permitted purposes.

12.11. Waiver. Notwithstanding anything above to the contrary, the Declarant (during the Development Rights Period) or the Association Board shall have the right, in the exercise of their reasonable discretion, to waive one or more violations of the requirements of this Article. No waiver shall be effective unless in writing and nevertheless shall not operate as a waiver of any other requirement respecting the Unit in question or any other Units subject to this Declaration. No waiver shall be effective if it shall cause the Unit or structures thereon to be in non-conformance with any Law.

13. ARCHITECTURAL COMMITTEE/ARCHITECTURAL CONTROL.

13.1. Members. Unless otherwise determined by the Association Board, the Architectural Committee shall consist of the members of the Association Board.

13.2. Powers.

13.2.1. The Architectural Committee shall review, study and either approve or reject proposed Improvements in the Unit, all in compliance with this Declaration and as further set forth in the rules and regulations the Association Board may establish from time to time to govern its proceedings. The Architectural Committee shall have the right to refuse to approve any plans and specifications for Improvements proposed to be constructed in a Unit (the "Plans & Specifications") which are not suitable or desirable, in its sole discretion, for aesthetic or any other reasons, provided such approval is not unreasonably withheld. The actions of the Architectural Committee in the exercise of its discretion by its approval or disapproval of plans and other information submitted to it, or with respect to any other matter before it, shall be conclusive and binding on all interested Parties. In approving or disapproving Plans & Specifications, the Architectural Committee shall consider the purposes of the Declaration as discussed in the Recitals, including the suitability of the proposed Improvements and materials to be used in those Improvements, the Unit in which it is proposed to be erected, and the effect of the Improvements on adjacent or neighboring Units and/or the Building.

13.2.2. The Architectural Committee and the Association Board is specifically empowered to enforce the provisions of this Declaration by any legal or equitable remedy. In the event it becomes necessary to resort to litigation to determine the propriety of any constructed Improvement, or to remove any unapproved Improvements, the prevailing party shall be entitled to recovery of all court costs and expenses (including reasonable attorney's fees).

13.2.3. The Association and its agents shall have the right, but not the obligation, to enter and inspect, without being deemed guilty of trespass, any Unit for the purpose of determining whether the Improvements have been or are being built in compliance with the Plans & Specifications approved by the Architectural Committee or whether there exists any construction of any Improvements which violates the terms of any approval by the Architectural Committee, or the terms of this Declaration or of any other applicable regulations or ordinances.

13.2.4. The Association, upon request of the Architectural Committee and after reasonable notice to the offending Owner, may enter upon any Unit at any reasonable time, without being deemed guilty of trespass, and remove any Improvement constructed, reconstructed, refinished, altered or maintained in violation of this Declaration and, as necessary, repair the Unit. The Owner of the Improvement shall immediately reimburse the Association for all expenses incurred in connection with such removal/repair (the "Removal/Repair Costs"). If the Owner fails to reimburse the Association within thirty (30) days after the due date, the Removal/Repair Costs shall incur a late charge in the then applicable amount fixed by the Association Board, shall bear interest from the date of delinquency at the lesser of the rate set by the Association Board (if one has been set) or eighteen percent (18%) per annum, and shall constitute a

lien on that Unit when a claim of lien is filed of record as provided under the Act. This lien shall be enforceable by the Association as provided in **Section 8.8**.

13.3. Approval of Plans & Specs. No Improvement shall be commenced, erected, or maintained in a Unit or on the Building or the Property, nor shall an Improvement be repaired or rebuilt after destruction by any hazard, until completed Plans & Specifications, showing the nature, kind, space, height, materials, and location of the Improvement shall have been submitted to and approved in writing by the Architectural Committee. Notwithstanding the preceding to the contrary, minor cosmetic improvements (such as painting of interior walls or wallpapering) that are not visible from the outside of the Building, that do not affect any of the Common Elements or the Limited Common Elements, and that do not cause any undue noise or other disturbance may be undertaken without such approval. A failure to approve or disapprove completed Plans & Specifications within forty-five (45) days after they have been submitted shall be deemed to be an approval of those Plans & Specifications. The actions of the Board in the exercise of its discretion by its approval or disapproval of plans and other information submitted to it, or with respect to any other matter before it, shall be conclusive and binding on all interested parties.

13.4. Expenses. Except as provided below, all expenses of the Architectural Committee shall be paid by the Association and shall constitute a Common Expense. The Architectural Committee shall have the right to charge a fee for each application submitted to it for review, in an amount which may be established by the Association Board from time to time, and such fees shall be collected by the Architectural Committee and remitted to the Association to help defray the expenses of the Architectural Committee's operation.

13.5. Other Requirements.

13.5.1. Compliance with the Architectural Committee's process is not a substitute for compliance with the Zoning Entity's building, zoning and subdivision regulations, and each Owner is responsible for obtaining all approvals, licenses and permits as may be required prior to commencing construction of any Improvements. Approval by the Architectural Committee does not necessarily assure approval by the Zoning Entity.

13.5.2. All Approved Improvements commenced on the Property shall be prosecuted diligently to completion and shall be completed within the time period specified in the Architectural Committee's approval or, if no time period is specified, a reasonable time. If an Improvement is commenced and construction is then abandoned for more than ten (10) days, or if construction is not completed within the required time period, then after notice and opportunity for hearing, the Association may impose a fine in an amount established from time to time by the Architectural Committee to be charged against the Owner of the Unit until construction is resumed, or the Improvement is completed, as applicable, unless the Owner can prove to the satisfaction of the Architectural Committee that such abandonment is for circumstances beyond the Owner's control, other than the Owner's failure or refusal to pay money. Such charges shall be a fine as contemplated under **Section 8.6**.

13.6. Limitation of Liability. Neither the Association, the Association Board, the Declarant, the Architectural Committee or any officer, employee, director or members thereof (the "Indemnified Parties") shall be liable for damages to any persons by reason of: (i) mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval, disapproval or failure to approve any Plans & Specifications; (ii) any defects in any Plans & Specifications submitted, revised or approved by the Architectural Committee; or (iii) any structural or other defects in any work done according to such Plans and Specifications. Every person who submits Plans & Specifications for approval agrees, by submission of such Plans & Specifications, that it will not bring any action or suit to recover any such damages. In all events the Indemnified Parties shall be defended and indemnified by the Association in any such suit or proceeding which may arise by reason of the Architectural Committee's decision; provided that the

Association shall not be obligated to indemnify any Person to the extent any such Person is adjudged to be liable for gross negligence or misconduct in the performance of its duties.

14. DEFAULTS/REMEDIES.

14.1. Default. Failure of the Association Board, or Owner, or Occupant to comply with the terms of the Condominium Documents or any Rules & Regulations, as they may be amended from time to time, shall be a default and grounds for an action to recover sums due, damages, and/or injunctive relief by the Association Board (on behalf of the Association or one or more of the Owners) or by an Owner in its own behalf. In the case of flagrant or repeated violations by an Owner, that Owner may be required by the Association Board to give sufficient surety or sureties for its future compliance.

14.2. Remedies. In the event of any default in and/or breach of any of the terms, conditions and provisions of the Condominium Documents or the Rules & Regulations (either actual or threatened) the aggrieved party shall have the right to specific performance and/or injunction in addition to any and all other rights and remedies at law or in equity. In any proceeding arising because of an alleged default by an Owner or by the Association Board, the prevailing party shall be entitled to recover the costs of the proceedings, including, but not limited to, reasonable attorneys' fees. The right and remedies provided by this Declaration are distinct and cumulative and the use of any one right or remedy by any party shall not preclude or waive its right to use any or all other remedies. No delay or omission of a party to exercise any right or power arising from another's default shall impair any such right or power, or shall be construed to be a waiver of any such default or an acquiescence therein. The rights and remedies provided in this Declaration are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

15. MISCELLANEOUS.

15.1. Anti-Discrimination. No action in the enforcement or interpretation of these Protective Covenants shall at any time be taken by the Declarant, the Association or the Association Board which in any manner would unfairly discriminate against any Owner in favor of any of the other Owners.

15.2. Waiver. The Declarant (during the Development Rights Period) and thereafter the Association or the Association Board shall have the right, in the exercise of their reasonable discretion, to waive one or more violations of the requirements of this Declaration. No waiver shall be effective unless in writing and nevertheless shall not operate as a waiver of any other requirement respecting the Unit in question or any other Units subject to this Declaration. No waiver shall be effective if it shall cause the Unit or its Improvements to be in non-conformance with any applicable Law.

15.3. Enforcement. The Declarant (during the Development Rights Period), the Association or any Owner shall have the right to enforce, by a proceeding at law or in equity, the terms of the Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein shall in no event be deemed a waiver of the right to do so thereafter. The court may award the prevailing party its reasonable attorneys fees incurred in such enforcement action.

15.4. Severability. Invalidation of any one or more of these covenants or restrictions by judgment or court order shall in no way affect any other provision which shall remain in full force and effect.

15.5. Amendment. Except as specifically otherwise provided in the Condominium Documents, the Declaration may be amended by a vote of Owners holding not less than sixty-seven percent (67%) of all of the Allocated Interests. If an amendment is properly adopted, the Board shall, within thirty (30)

days cause the amendment to be recorded with the County Registry. All amendments shall be effective from the date of recordation in the appropriate Register of Deeds. Notwithstanding the above provisions to the contrary, during the Development Control Period, an amendment, to be effective, must also obtain the Declarant's written approval. No amendment shall affect the use of a Unit which was approved pursuant to the terms of this Declaration prior to the effective date of the Amendment.

15.6. Disputes. In the event of any dispute concerning a provision of this Declaration, such dispute shall be settled by legal proceedings or the parties may, by mutual agreement, submit the dispute to a committee appointed by the Association for this purpose, and once submitted, the parties agree to be bound by the decision of that committee.

15.7. Owner Addresses. Each Owner agrees to keep the Association informed of its address at any time and any notice sent or delivered to that address shall be sufficient. Each new Owner agrees to provide the Association with evidence of its ownership for preparation of an Owner roster and the roster as so completed shall be sufficient evidence as to the ownership of each Unit.

15.8. Notice. All notices under this Declaration shall be in writing. Unless delivered personally, all notices shall either be delivered by a nationally recognized overnight express delivery service or be given by first class mail, postage prepaid, addressed to the addresses maintained pursuant to *Section 15.7* or, if none, to the address noted on the most recent Wake County tax records for the Owner of the Unit.

15.9. Gender and Grammar. All words and phrases in this Declaration shall be construed to include the singular or plural number, and the masculine, feminine, or neuter gender, as the context requires.

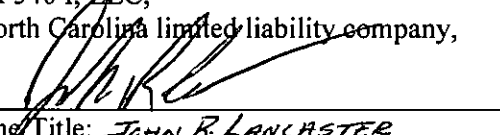
15.10. Owner Responsibility. Notwithstanding anything in this Declaration to the contrary, an Owner shall be responsible for any and all violations of this Declarations by its employees, agents, tenants, guests and invitees. When a party to this Declaration consists of more than one individual or entity, such party's liability shall be joint and several.

15.11. Construction. This Declaration shall be construed in accordance with the laws of North Carolina without giving effect to its conflict of laws principles. In the event of a conflict between the provisions of this Declaration and the provisions of the Articles of Incorporation or the Bylaws of the Association, the provisions of this Declaration shall control.

15.12. Exhibits. All Exhibits and Schedules, if any, attached to this Declaration are incorporated by reference and made a part of this Declaration. The term "Declaration" as used in this document shall include all such Exhibits and Schedules.

IN WITNESS WHEREOF, the undersigned have executed, sealed and delivered this Declaration be signed in the Company name, sealed, and delivered, all as the act of the Company, on the date first above written.

Park 540 I, LLC,
a North Carolina limited liability company,

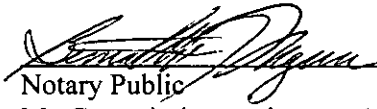
By: 
Name/Title: JOHN R. LANCASTER
MANAGER

EXHIBITS: *A - Property*
B - Allocated Interests

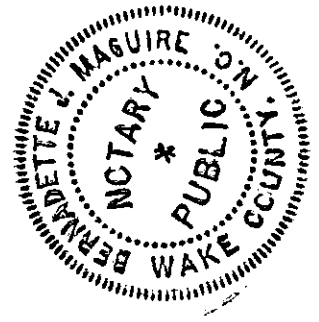
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**NORTH CAROLINA
WAKE COUNTY**

I, the undersigned Notary Public in and for the aforesaid County and State, certify that John R. Lancaster, as Manager of Park 540 I, LLC, personally came before me this day and acknowledged the due execution of the foregoing instrument on behalf of and as the act of the company. Witness my hand and notarial seal this November 9, 2005.



Notary Public
My Commission expires: March 2, 2008



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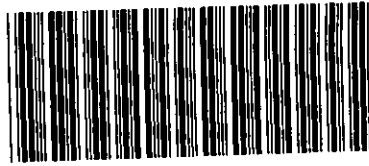
EXHIBIT A
PROPERTY

BEING all of Lot 1, Perry Creek Park, as shown on plat recorded in Book of Maps 2002, Pages 2133 and 2134 of the Wake County Registry.

EXHIBIT B
UNIT IDENTIFICATION

<u>UNIT NO.</u>	<u>STREET ADDRESS</u>	<u>ALLOCATED INTERESTS*</u>
101	4900 - 101 Thornton Road	7.69%
103	4900 - 103 Thornton Road	7.69%
105	4900 - 105 Thornton Road	7.69%
107	4900 - 107 Thornton Road	7.69%
109	4900 - 109 Thornton Road	7.69%
111	4900 - 111 Thornton Road	7.69%
113	4900 - 113 Thornton Road	7.69%
115	4900 - 115 Thornton Road	7.69%
117	4900 - 117 Thornton Road	7.69%
119	4900 - 119 Thornton Road	7.69%
121	4900 - 121 Thornton Road	7.69%
123	4900 - 123 Thornton Road	7.69%
125	4900 - 125 Thornton Road	7.69%

*The indicated percentages were determined, in each case, by dividing the number of square feet in the Unit in question by the number of square feet in all Units contained within the Building as of the date of this Declaration. These percentages shall be adjusted, as necessary, as those figures may vary from time to time resulting from physical changes in the character of a Unit and/or Building.



BOOK:011680 PAGE:00298 - 00319

Yellow probate sheet is a vital part of your recorded document.
Please retain with original document and submit for rerecording.



Wake County Register of Deeds
Laura M. Riddick
Register of Deeds

North Carolina - Wake County

The foregoing certificate ___ of _____

_____ Notary(ies) Public is (are) certified to be correct. This instrument and this certificate are duly registered at the date and time and in the book and page shown on the first page hereof.

Laura M. Riddick, Register of Deeds

By: _____
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