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CLERK OF SUPERIOR COURT
REGISTER OF DEEDS
MECKLENBURG CO. N.C.

Unit File No. 88 Page _____

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NORTH CAROLINA
MECKLENBURG COUNTY

DECLARATION OF
FRANCISCAN TERRACE CONDOMINIUMS

THE LEXINGTON GROUP, INC., a North Carolina corporation (herein "Developer"), does hereby make, declare and establish this Declaration of Condominium as and for the plan of dwelling ownership of FRANCISCAN TERRACE CONDOMINIUMS being the property and improvements hereinafter described.

1. **ESTABLISHMENT OF CONDOMINIUM.** Developer is the owner of the fee simple title to that certain real property situate in the City of Charlotte, Mecklenburg County, State of North Carolina, and which property is more particularly described in Exhibit "A" attached hereto and incorporated herein by reference, and on which property there have been constructed eight (8) buildings containing a total of one hundred twenty-six (126) condominium living units and their supporting facilities and other appurtenant improvements.

The present improvements on the property consist of seven (7) two and three story apartment buildings containing a total of one hundred twenty-six (126) one, two, and three bedroom units, together with a two story office, recreational and utility-laundry building, swimming pool, deck and accessories.

The buildings have reinforced concrete footings with reinforced monolithic concrete slabs on ground floor areas, 2"x10" floor and ceiling joists with lightweight concrete floors above. Foundation walls consist of brick and concrete block with brick veneer and wood stud exterior walls. The roofs are flat, covered with 5/8" sheeting, two-ply felt, tar and gravel; they have gutters and parapet walls. The interior walls are wood stud with 5/8" sheetrock. Certain buildings have basements as more particularly set forth in the Unit Ownership File mentioned hereinbelow.

The property contains sufficient parking space to accommodate at least one automobile for each Condominium Unit. Each Unit Owner has the right to the use, for at least one automobile, of such space. Developer does hereby submit the above described property and improvements to condominium ownership under the provisions of Chapter 47A of the General Statutes of North Carolina (Unit Ownership Act), and hereby declares the same to be a condominium to be known and identified as FRANCISCAN TERRACE CONDOMINIUMS (herein "Condominium").

2. **SURVEY AND DESCRIPTION OF IMPROVEMENTS.** Filed simultaneously herewith and expressly made a part hereof as Unit Ownership File No. 88 (herein "Unit Ownership File"), consisting of 10 pages, is a Survey of the land and graphic descriptions and plans of the improvements constituting the Condominium, identifying the Condominium Units and Common Areas and Facilities, as said terms are hereinafter defined, and their respective locations and approximate dimensions. Each Condominium Unit is identified by specific numerical designation on said Unit Ownership File, and no Condominium Unit bears the same designation as any other Condominium Unit.

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

A. Condominium Units as defined herein shall comprise the one hundred twenty-six (126) separate numerically identified Dwelling Units which are designated in said Unit Ownership File, excluding all spaces and improvements lying:

- (1) Beneath the surface of the concrete flooring material of all floors.
- (2) Beneath the interior surfacing material of all perimeter walls, interior bearing walls and/or bearing partitions;
- (3) Above the interior surfacing material of the ceilings;

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

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

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

Patio or balcony adjoining each unit as shown on plans and surveys of the dwelling units.

The terms "Association of Unit Owners", "Building", "Common Areas and Facilities", "Common Expenses", "Common Profit", "Condominium", "Declaration", "Majority" or "Majority of Unit Owners", "Person", "Property", "Recordation", "Unit" or "Condominium Unit", "Unit Designation", and "Unit Owner", unless it is plainly evident from the context of this Declaration that a different meaning is intended, shall have the meaning set out in Section 3 of Chapter 47A of the General Statutes of North Carolina.

4. **OWNERSHIP OF CONDOMINIUM UNITS AND APPURTENANT INTERESTS IN COMMON PROPERTY.** Each Condominium Unit shall be conveyed and treated as an individual property capable of independent use and fee simple ownership, and the Owner of each Unit shall also own, as an appurtenance to the ownership of each said Condominium Unit, an undivided interest in the Common Property. The undivided interest appurtenant to each Condominium Unit shall be as set out in Exhibit "B" attached hereto and made a part hereof. The proportional interest in the Common Property that is appurtenant to each Condominium Unit has been determined by a ratio formulated upon the approximate relation that the fair market value of each Unit at the date of the Declaration bears to the then aggregate fair market value of all of the Units having an interest in the Common Property. The fair market value of each Unit and the aggregate fair market value of all the Units

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have been determined by the Developer, and are binding upon all Unit Owners. The percentage of undivided interest in the Common Property assigned to each Condominium Unit shall not be changed except with the unanimous consent of all the Owners of the Condominium Units and with the consent of all of the lenders holding first mortgages or deeds of trust on the Condominium Units.

5. RESTRICTIONS AGAINST FURTHER SUBDIVISION OF CONDOMINIUM UNITS; SEPARATE CONVEYANCE OF APPURTENANT COMMON PROPERTY PROHIBITED. No Condominium Unit may be divided or subdivided into a smaller Unit or Units than as shown in the Unit Ownership File nor shall any Condominium Unit or portion thereof be added to or incorporated into any other Condominium Unit. The undivided interest in the Common Property declared to be appurtenant to each Condominium Unit shall not be conveyed, devised, encumbered or otherwise dealt with separately from said Condominium Unit, and the undivided interest in Common Property appurtenant to each Condominium Unit shall be deemed conveyed, devised, encumbered or otherwise included with the Condominium Unit even though such undivided interest is not expressly mentioned or described in the instrument conveying, devising, encumbering or otherwise dealing with such Condominium Unit. Any conveyance, mortgage or other instrument which purports to grant any right, interest or lien in, to or upon a Condominium Unit, shall be null and void insofar as it purports to affect any interest in a Condominium Unit and its appurtenant undivided interest in Common Property, unless it purports to convey, devise, or encumber the entire Condominium Unit. Any instrument conveying, devising, or encumbering any Condominium Unit, which describes said Condominium Unit by the numerical designation assigned thereto in the Unit Ownership File shall be construed to affect the entire Condominium Unit and its appurtenant undivided interest in the Common Property. No limitation is placed on the ownership of any Condominium Unit by any person as tenants in common, joint tenants, or as tenants by the entirety.

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

7. PERPETUAL NON-EXCLUSIVE EASEMENT IN COMMON PROPERTY. The Common Property is hereby declared to be subject to a perpetual non-exclusive easement in favor of all of the Owners of Condominium Units for their use and the use of their immediate families, guests and invitees, for all property purposes, and for the furnishing of services and facilities for which they are intended, and for the enjoyment of the Owners. Notwithstanding the foregoing, the Association, hereinafter defined, shall have the exclusive right to establish the rules and regulations pursuant to which the Owner of any Condominium Unit, his family, guests and invitees, may be entitled to use the Common Property, including the right to assign parking spaces, and to establish regulations concerning their use.

8. EASEMENT FOR UNINTENTIONAL AND NON-NEGLIGENT ENCROACHMENTS. In the event that any Condominium Unit shall encroach upon any Common Property, or any other Condominium Unit for any reason not caused by the purposeful or negligent act of the Condominium Unit Owner, or agents of such Owners, then an easement appurtenant to such Condominium Unit shall exist for the continuance of such encroachment upon the Common Property or upon a Condominium Unit for as long as such encroachment shall naturally exist; and, in the event that any portion of the Common Property shall encroach upon any Condominium Unit, then an easement shall exist for the continuance of such encroachment of the Common Property upon any Condominium Unit for as long as such encroachment shall naturally exist. If any Condominium Unit or Common Property shall be partially or totally destroyed as a result of fire or other casualty, or as a result of condemnation or eminent domain proceedings, and if upon reconstruction of such Unit and/or Common Property in accordance with Article 21 hereof, there exist encroachments of portions of the Common Property upon any Condominium Unit, or of any Condominium Unit upon any other Condominium Unit or upon any portion of the Common Property, then such encroachments shall be permitted and a valid easement for the maintenance thereof shall exist so long as such encroachments shall naturally remain.

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

10. ADMINISTRATION OF THE CONDOMINIUM BY FRANCISCAN TERRACE HOMEOWNERS' ASSOCIATION, LTD. To efficiently and effectively provide for the administration of the Condominium by the Owners of the Condominium Units, a nonprofit North Carolina corporation known and designated as FRANCISCAN TERRACE HOMEOWNERS' ASSOCIATION, LTD. (herein "Association") has been organized, and said corporation shall administer the operation and management of the Condominium and undertake and perform all acts and duties incident thereto in accordance with the terms of its Articles of Incorporation and By-Laws. A true copy of said By-Laws and Articles of Incorporation are annexed hereto and expressly made a part hereof as Exhibits "A" and "B", respectively. The Owner or Owners of each Condominium Unit shall automatically become members of the Association upon acquiring an ownership interest in title to any Condominium Unit and its appurtenant undivided interest in Common Property; such membership shall terminate automatically upon the Owner or Owners being divested of such ownership interest in the title to such Condominium Unit, regardless of how such ownership may be divested. No person, firm or corporation holding any lien, mortgage or other encumbrance upon any Condominium Unit shall be entitled, by virtue of such lien, mortgage or other encumbrance, to membership in the Association or to any of the rights or privileges of such membership. In the administration of the operation and management of the Condominium, the Association is hereby granted the authority and power to enforce the provisions of this Declaration, to levy and to collect assessments in the manner hereinafter provided, and to adopt, promulgate and enforce such rules and regulations governing the use of the Condominium Units and Common Property as its Board of Directors may deem to be in its best interest.

11. RESIDENTIAL USE RESTRICTIONS APPLICABLE TO CONDOMINIUM UNITS. Each Condominium Unit is hereby restricted to residential use by its Owner, his immediate family, guests, invitees and lessees. With the exception of a lender in possession of a Condominium Unit following a default in a first deed of trust, foreclosure proceeding or any deed in lieu of foreclosure, no Unit Owner shall lease his Unit for transient, hotel or commercial purposes. No Unit Owner may lease less than the entire Unit. Any lease agreement must provide that it shall be subject to the provisions of this Declaration, and that any failure by the lessee to comply with the terms hereof shall be a default under the lease, and shall be in writing. There is no other restriction on the right of any Unit Owner to lease his Unit.

12. USE OF COMMON PROPERTY SUBJECT TO RULES OF ASSOCIATION. The use of all Common Property by the Owner or Owners of all Condominium Units, and all other parties authorized to use the same, shall be subject to such rules and regulations as may be prescribed and established by the Association.

13. THE CONDOMINIUM TO BE USED FOR LAWFUL PURPOSES: RESTRICTION AGAINST NUISANCES. No immoral, improper, offensive or unlawful use shall be made of any Condominium Unit or of the Common Property, and all laws, zoning ordinances and regulations of all governmental authorities having jurisdiction of the Condominium shall be observed. No Owner of any Condominium Unit shall permit anything to be done or kept in his Condominium Unit, or on the Common Property, which will increase the rate of insurance on the Condominium, or which will interfere with the rights of other occupants of the Condominium or annoy them by unreasonable noises, nor shall any Owner undertake any use which shall constitute a nuisance to any other Owner of a Condominium Unit, or which interferes with the peaceful possession and proper use of any other Condominium Unit or the Common Property.

14. RIGHT OF ENTRY INTO CONDOMINIUM UNITS IN EMERGENCIES AND FOR MAINTENANCE OF COMMON PROPERTY. In case of any emergency originating in or threatening any Condominium Unit, regardless of whether the Owner is present at the time of such emergency, the Board of Directors of the Association, or any other person authorized by it, shall have the right to enter such Condominium Unit for the purpose of remedying or abating the cause of such emergency, and such right of entry shall be immediate.

Whenever it may be necessary to enter any Condominium Unit in order to perform any maintenance, alteration or repair to any portion of the Common Property, the owner of each Condominium Unit shall permit other Owners or their representatives, or an agent of the Association, to enter such Condominium Unit for such purpose, provided that the entry shall be made only at reasonable times and with reasonable advance notice.

15. LIMITATION UPON RIGHT OF OWNERS TO ALTER AND MODIFY CONDOMINIUM UNITS: NO RIGHT TO ALTER COMMON PROPERTY. No Owner of a Condominium Unit shall permit any structural modification or alteration to be made to such Condominium Unit without first obtaining the written consent of the Association, which consent may be withheld in the event that a majority of the Board of Directors of the Association shall determine that such structural modifications or alterations would adversely affect or in any manner endanger the Condominium in part or in its entirety. No Owner shall cause any improvements or changes to be made on the exterior of the Condominium (including painting or other decoration, or the installation of electrical wiring, television or radio antennae or any other objects or machines which may protrude through the walls or roof of the Condominium) or in any manner alter the appearance of the exterior portion of any building without the written consent of the Association being first obtained. Storm windows and doors, balcony and patio awnings and enclosures shall be allowed on a unit by unit basis, provided, however, that the style and materials of such improvements shall be subject to the prior written approval of the Board of Directors. No Unit Owner shall cause any object to be fixed to the Common Property or to any Limited Common Area (including the location or construction of fences and the planting or growing of flowers, trees, shrubs or any other vegetation) or in any manner change the appearance of the Common Property or Limited Common Area without the written consent of the Association being first obtained.

16. RIGHT OF ASSOCIATION TO ALTER AND IMPROVE COMMON PROPERTY AND ASSESSMENT THEREFOR. The Association shall have the right to make such alterations or improvements to the Common Property which do not prejudice the rights of the Owner of any Condominium Unit in the use and enjoyment of his Condominium Unit, provided the making of such alterations and improvements are approved by the Board of Directors of the Association, and their costs shall be common expenses to be assessed and collected from all of the Owners of the Condominium Units. However, where any alterations and improvements are exclusively or substantially for the benefit of the Owner or Owners of a certain Condominium Unit or Units requesting them, then the cost of such alterations or improvements shall be charged against and collected solely from the Owner or Owners of the Condominium Unit or Units exclusively or substantially benefited, the charge to be levied in such proportion as may be determined by the Board of Directors of the Association.

17. MAINTENANCE AND REPAIR BY OWNERS OF CONDOMINIUM UNITS. Every Owner shall perform promptly all maintenance and repair work within his Condominium Unit which, if omitted, would affect the Condominium, either in its entirety or in a part belonging to other Owners, every Owner being expressly responsible for the damages and liability which his failure to do so may engender. The Owner of each Condominium Unit shall be liable and responsible for the maintenance, repair and replacement of all heating and air conditioning equipment, stoves, refrigerators, fans, or other appliances or equipment, including any fixtures and/or their connections required to provide water, light, power, telephone, sewage and sanitary service to his Condominium Unit. Such Owner shall further be responsible and liable for the maintenance, repair and replacement of the interior surfaces of all walls, ceilings and floors within his Unit including painting, decorating and furnishings, and all other accessories which such Owner may desire to place or maintain in his Condominium Unit. Whenever the maintenance, repair and replacement of any item for which the Owner is obligated to maintain, replace or repair at his own expense is occasioned by any loss or damage which may be covered by any insurance maintained in force by the Association, the proceeds of the insurance received by the Association shall be used for the purpose of making such maintenance, repair or replacement except that the Owner of such Condominium Unit shall be, in said instance, required to pay such portion of the costs of such maintenance, repair and replacement as shall, by reason of the applicability of any joint liability provision of such insurance, exceed the amount of the insurance proceeds applicable to such maintenance, repair or replacement. The Owner of a Condominium Unit who has exclusive use of any Limited Common Area shall maintain such at his own expense. All doors, window frames, panes and screens are a part of the respective Condominium Units and shall be maintained by the respective Unit Owners, except as set forth in provision 3.A. hereinabove.

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

repair and replacement as shall, by reason of the applicability of any deductibility provision of such insurance, exceed the amount of the insurance proceeds applicable to such maintenance, repair or replacement.

19. INSURANCE AND AUTHORITY TO PURCHASE INSURANCE. Insurance policies upon the Property (other than title insurance) shall be purchased by the Association in the name of the Board of Directors of the Association, as Trustees for the Condominium Unit Owners and their respective mortgagees as their interests may appear, and shall provide for the issuance of certificates or mortgage endorsements to the holders of first mortgages on the Condominium Units or any of them, and if the companies writing such policies will agree, the policies shall provide that the Insurer waives its rights of subrogation as to any claims against Condominium Unit Owners, the Association and their respective servants, agents and guests. Each Condominium Unit Owner shall obtain insurance, at his own expense, affording coverage upon his Condominium Unit, his personal property and for his personal liability and as may be permitted or required by law, but all such insurance shall contain the same waiver of subrogation referred to above if available.

20. INSURANCE COVERAGE TO BE MAINTAINED: USE AND DISTRIBUTION OF INSURANCE PROCEEDS.

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

(1) Casualty insurance covering the buildings and all improvements upon the land and all personal property described in Exhibit "A", except such personal property as may be owned by the Condominium Unit Owners, shall be procured in an amount equal to the maximum insurable replacement value thereof (exclusive of excavation, foundations, streets and parking facilities) as determined annually by the insurance company on a coinsurance basis of not less than eighty percent (80%). Such coverage shall afford protection against: (a) loss or damage by fire and other hazards covered by the standard extended coverage endorsement; (b) such other risks as from time to time customarily shall be covered with respect to the buildings similar in construction, location and use, including vandalism and malicious mischief.

(2) Public liability and property damage insurance in such amounts and in such forms as shall be required by the Association, including legal liability, hired automobile, non-owned automobile and off-premises employee coverages.

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

B. Premiums upon insurance policies purchased by the Association shall be paid by the Association as common expenses to be assessed and collected from all of the Owners of Condominium Units.

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

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

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

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

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

D. In the event a mortgagee endorsement has been issued as to a Condominium Unit, the share of the Condominium Unit Owner shall be held for the mortgagee and the Condominium Unit Owner as their interests may appear, but no mortgagee shall have the right to participate in the determination of reconstruction or repair.

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

(1) If the damage for which the proceeds were paid is to be repaired or reconstructed, the proceeds shall be paid to defray the costs. Any proceeds remaining after defraying such costs shall be distributed to the beneficial Condominium Unit Owners, all remittances to Condominium Unit Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a Condominium Unit and may be enforced by him.

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

F. Each Unit Owner, at his expense, shall keep in force comprehensive personal liability insurance covering liability for damages to person or property of others located within such Owner's Unit, or another Unit, or upon the Common Area and Facilities in such amounts as the Board of Directors shall from time to time determine, but in no case less than \$100,000 for each occurrence.

G. Fidelity bonds shall be required by the Board of Directors for all directors, officers, managers, trustees and employees of the Association, volunteers, and any contractor handling or responsible for Association funds. The amount of such bonds shall be determined by the Board of Directors, but in no event less than an amount equal to 150% of the current operating expenses and reserves or such lesser amount as may be allowed under regulations and guidelines of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, as they may be amended from time to time. The premiums on such bonds shall be paid by the Association.

So Board of Directors have Fidelity Bonds?

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

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

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

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

(3) Any such reconstruction or repair shall be substantially in accordance with the plans and specifications contained herein.

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

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

(2) When the damage is to both Common Property and Condominium Units, the insurance proceeds shall be applied first to the costs of repairing the Common Property and the balance to the Condominium Units.

C. Each Condominium Unit Owner delegates to the Board of Directors of the Association his right to adjust with insurance companies all losses under policies purchased by the Association, except in any case where the damage is restricted to one Condominium Unit.

22. ASSOCIATION TO MAINTAIN REGISTER OF OWNERS AND MORTGAGEES. The Association shall maintain a Register setting forth the names of the Owners of all of the Condominium Units. In the event of the transfer of any Condominium Unit to a third party, the transferee shall notify the Association in writing of his interest in such Condominium Unit, together with the recording information necessary to identify the instrument by which the transferee has acquired his interest. The Owner of each Condominium Unit shall also notify the Association of the parties holding any mortgage on any Condominium Unit, the amount of such mortgage and the recording information necessary to identify the mortgage. The holder of any mortgage upon any Condominium Unit may notify the Association of the existence of any mortgage and the Association shall register in its records all pertinent information relating thereto.

23. ASSESSMENTS: LIABILITY, LIEN AND ENFORCEMENT. The Association is given the authority to administer the operation and management of the Condominium as being in the best interest of the Owners of all Condominium Units. To properly administer the operation and management of the Condominium, the Association will incur for the mutual benefit of all of the Owners of Condominium Units, costs and expenses (herein "common expense"). To provide the funds necessary for such proper operation, management and capital improvement, the Association has been granted the right to make, levy and collect assessments against the Unit Owners and their Condominium Units. In furtherance thereof, the following provisions shall be operative and binding upon the Owners of all Condominium Units:

A. All assessments levied against the Unit Owners and their Condominium Units shall be uniform and, unless specifically otherwise provided for herein, all assessments made by the Association shall be in such an amount that any assessment levied against a Unit Owner and his Condominium Unit shall bear the same ratio to the total assessment made against all Unit Owners and their Condominium Units as the undivided interest in Common Property appurtenant to each Condominium Unit bears to the total undivided interest in Common Property appurtenant to all Condominium Units. Should the Association be the Owner of a Condominium Unit or Units, the assessment which would otherwise be due and payable to the Association by the Owner of such Unit or Units, reduced by the amount of income which may be derived from the leasing of such Unit or Units by the Association, shall be apportioned and the assessment therefor levied ratably among the Owners of all units which are not owned by the Association, based upon their proportionate interest in the Common Property exclusive of the interest therein appurtenant to any Unit or Units owned by the Association.

B. Assessments provided for herein shall be payable in monthly installments, or in such other manner as the Board of Directors of the Association shall determine. Such assessments shall commence for each Unit on November 1, 1980, unless the Board of Directors of the Association decides to assess monthly dues before this date.

C. The Board of Directors of the Association shall establish an Annual Budget in advance for each fiscal year (which shall correspond to the calendar year, except that in the initial year of operation of the Condominium, the fiscal year shall commence with the closing of the sale of the first Condominium Unit). Such budget shall project all expenses for the forthcoming year which may be required for the proper operation, management and maintenance of the Condominium, including a reasonable allowance for contingencies and reserves, such budget to take into account anticipated income which is to be applied in reduction of the amounts required to be collected as an assessment each year. The Board of Directors shall keep separate, in accordance with paragraph "D" hereof, items relating to operation and maintenance from items relating to capital improvements. Upon adoption of such Annual Budget by the Board of Directors of the Association, copies shall be delivered to each Owner of a Condominium Unit and the assessment for said year shall be established based upon such budget, although the non-delivery of a copy of it to such Owner shall not affect the liability of any Owner for such assessment. A majority of the Owners must approve an increase in the assessment by an amount greater than the percentage increase in the Consumer Price Index compiled by the Bureau of Labor Statistics of the United States Department of Labor from January 1 of the prior year to January 1 of the current year.

D. The Board of Directors of the Association, in establishing the Annual Budget for operation, management and maintenance of the Condominium, shall designate a sum to be collected and maintained as a reserve fund for replacement of and capital improvements to the Common Property (herein "Capital Improvement Fund") which shall be for the purpose of enabling the Association to replace structural elements and mechanical equipment constituting a part of the Common Property, and the replacement of personal property constituting a portion of the Common Property held for the joint use and benefit of the Owners of Condominium Units. The amount to be allocated to the Capital Improvement Fund may be established by the Board of Directors to collect and maintain a sum reasonably necessary to anticipate the need for replacement of Common Property. The amount collected for the Capital Improvement Fund shall be maintained in a separate account by the Association and shall be used only to make capital improvements to Common Property. Any interest earned on the Capital Improvement Fund may be expended for current operation and maintenance.

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

F. The payment of any assessment or installment thereof shall be in default if such assessment or installment is not paid to the Association within thirty (30) days of its due date. When in default, the delinquent assessment or delinquent installment thereof due to the Association shall bear interest at the highest rate allowed by law until paid in full to the Association.

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

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

I. Recognizing that proper operation and management of the Condominium requires the continuing payment of costs and expenses therefor, and that such proper operation and maintenance results in benefit to all of the Owners of Condominium Units, and that the payment of such common expenses represented by the assessments levied and collected by the Association is necessary in order to preserve and protect the investment of each Unit Owner, the Association is hereby granted a lien upon each Condominium Unit and its appurtenant undivided interest in Common Property, which lien shall secure the funds due for all assessments now or hereafter levied against the Owner of each such Condominium Unit, which lien shall also secure all costs and expenses, including reasonable attorney's fees, which may be incurred by the Association in enforcing this lien upon said Condominium Unit. The lien granted to the Association may be foreclosed in the same manner that real estate deeds of trust and mortgages may be foreclosed in the State of North Carolina, and in any suit for the foreclosure of said lien, the Association shall be entitled to reasonable rental from the Owner of any Condominium Unit from the date on which the payment of any assessment or installment thereof became delinquent, and shall be entitled to the appointment of a Receiver for said Condominium Unit. The lien granted to the Association shall further secure such advances for taxes, and payments on account of superior mortgages, liens or encumbrances, which may be required to be advanced by the Association in order to preserve and protect its lien, including interest at twelve (12%) percent on any such advances so made. All persons, who shall acquire any interest in the ownership of any Condominium Unit, or who may be given or acquire a lien or other encumbrance thereon, are hereby placed on notice of the lien rights granted to the Association, and shall acquire such interest in any Condominium Unit expressly subject to such lien rights.

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

The lien provided for herein shall be subordinated to the lien of any mortgage or deed of trust. Any person, firm or corporation acquiring title to any Condominium Unit and its appurtenant undivided interest in Common Property by any foreclosure, deed in lieu of foreclosure, or judicial sale, shall be liable and obligated only for assessments as shall accrue and become due and payable for said Condominium Unit and its appurtenant undivided interest in Common Property subsequent to the date of acquisition of such title, and it shall not be liable for the payment of any assessments which were in default and delinquent at the time it acquired such title. In the event of the acquisition of title to a Condominium Unit by foreclosure, deed in lieu of foreclosure, or judicial sale, any assessment for which the party so acquiring title shall not be liable shall be absorbed and paid by all Owners of all Condominium Units as a part of the Common expense, although nothing herein contained shall release the party liable for such delinquent assessment from the payment thereof or the enforcement of collection of such payment by means other than foreclosure.

K. Whenever any Condominium Unit may be leased, sold or mortgaged by the Owner himself, the Association, upon written request of the Unit Owners, shall furnish to the proposed lessee, purchaser or mortgagee, a statement verifying the status of payment of any assessment which shall be due and payable to the Association by such Unit. Such statement shall be executed by any officer of the Association, and any

lessee, purchaser or mortgagee may rely upon such statement in concluding the proposed lease, purchase or mortgage transaction, and the Association shall be bound by such statement.

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

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

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

24. COMMON SURPLUS. "Common Surplus", meaning all funds and other assets of the Association (including excess of receipts of the Association, including but not limited to assessments, rents, profits and revenues from whatever source over the amount of the common expense), shall be owned by the Owners of all Condominium Units in the same proportion that the undivided interest in Common Property appurtenant to each Owner's Condominium Unit bears to the total of all undivided interests in Common Property appurtenant to all Condominium Units; provided, however, that said 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 indemnity herein provided, or upon termination of the Condominium, any attribution or distribution of common surplus which may be made from time to time shall be made to the then Owners of Condominium Units in accordance with their percentage interests in common surplus as declared herein.

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

A. The termination of the Condominium may be effected by the unanimous agreement of all Condominium Unit Owners expressed in an instrument duly recorded; and, provided that the holders of all liens affecting any of the Condominium Units consent thereto, or agree, by instrument duly recorded, that their liens be transferred to the percentage of the undivided interest of the Condominium Unit Owner in the Property as provided in subparagraph "C" below. The termination shall become effective when such agreement has been recorded in the Public Registry.

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

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

D. Following termination, the property may be partitioned and sold upon the application of any Condominium Unit Owner. Following a termination, if the Board of Directors determines by not less than a three-fourths (3/4) vote to accept an offer for the sale of property, each Condominium Unit Owner shall be bound to execute such deeds and other documents reasonably required to effect such sale at such times and in such form as the Board of Directors directs. In such event, any action for partition or other division of the property shall be held in abeyance pending such sale, and upon the consummation thereof shall be discontinued by all parties thereto.

E. The members of the Board of Directors, acting collectively as agent for all Condominium Unit Owners, shall continue to have such powers as granted herein, even though the Association may be dissolved upon a termination.

26. AMENDMENT OF DECLARATION OF CONDOMINIUM. This Declaration of Condominium may be amended in the following manner:

A. An Amendment to this Declaration of Condominium may be proposed by the Board of Directors of the Association acting upon a vote of a majority of the Directors, or by the members of the Association owning a majority of the aggregate undivided interest in the Common Areas and Facilities of the Condominium, whether meeting as members or by instrument in writing signed by them. Upon any Amendment to this Declaration being proposed by the Board of Directors or members, such proposed Amendment shall be transmitted to the President of the Association, or other officer of the Association in the absence of the President, who shall thereupon call a Special Meeting of the members of the Association for a date not sooner than twenty (20) days nor later than sixty (60) days from receipt by him of the proposed Amendment. It shall be the duty of the Secretary to give to each member written notice of such Special Meeting, stating the time and place, and reciting the proposed Amendment in reasonably detailed form, which notice shall be mailed not less than ten (10) days nor more than thirty (30) days before the date set for such Special Meeting. If mailed, such notice shall be deemed to be properly given when deposited in the United States Mail addressed to the member at his Post Office address as it appears on the records of the Association, the postage thereon prepaid. Any member may, by written waiver of notice signed by such member, waive such notice, and such waiver, when filed in the records of the Association, whether before or after the holding of the meeting, shall be deemed equivalent to the giving of notice to such member. At the meeting, the Amendment proposal must be approved by an affirmative vote of members owning at least seventy-five (75%) percent of the aggregate undivided

interest in the Common Areas and Facilities of the Condominium in order for such Amendment to become effective. (If a larger vote is required to take or refrain from taking a specific action, no amendment shall be valid until the members owning such larger percentage execute the amending instrument.) The copy of such Amendment of this Declaration shall be transcribed and certified by the President and Secretary of the Association as having been duly adopted. The original, or an executed copy of such Amendment as so certified and executed with the same formalities as a deed, shall be recorded in the Public Registry within ten (10) days from the date on which the same became effective. At any meeting held to consider such Amendment, the written vote of any member of the Association shall be recognized if such member is not in attendance at such meeting or represented thereat by proxy, provided such written vote is delivered to the Secretary of the Association prior to such meeting or at such meeting.

B. No alteration in the percentage of ownership in Common Property appurtenant to each Condominium Unit, or alteration of the basis for sharing common expenses and other apportionment of assessments which may be levied by the Association in accordance with the provisions hereof, or alteration of the basis of ownership of Common Surplus, or alteration of voting rights in the Association, shall be made without the prior written consent of all of the Owners of all Condominium Units and all of the Lenders holding first mortgages or first deeds of trust on the Condominium Units.

C. No alteration, amendment or modification of the rights and privileges granted and reserved hereunder in favor of a Lender shall be made without the prior written consent of all Lenders holding mortgages on Condominium Units in the Condominium being first had and obtained.

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

27. **REMEDIES IN EVENT OF DEFAULT.** The Owner or Owners of each Condominium Unit shall be governed by and shall comply with the provisions of this Declaration and the Articles of Incorporation and By-Laws of the Association, as they may be amended from time to time. A default by the Owner of any Condominium Unit shall entitle the Association or the Owner of other Condominium Units to the following relief:

A. Failure to comply with any of the terms of this Declaration or other restrictions and regulations contained in the Articles of Incorporation or By-Laws of the Association, or which may be adopted pursuant thereto, shall be grounds for relief including, without limitation, an action to recover sums due by damages, injunctive relief, foreclosure of lien, or any combination thereof. Such relief may be sought by the Association or, if appropriate, by an aggrieved Unit Owner.

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

C. In any proceeding arising because of an alleged default by a Unit Owner, the Association shall be entitled to recover the costs of the proceeding and reasonable attorney's fees.

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

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

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

G. The failure of a Lender to enforce any right, provision, privilege, covenant or condition which may be granted to it or then by this Declaration or other above-mentioned documents, shall not constitute a waiver of the right of said party or parties to thereafter enforce such right, provision, covenant or condition in the future.

28. **RIGHTS RESERVED UNTO LENDERS.** As long as any Lender shall hold any mortgage upon any Condominium Unit or Units, or shall be the Owner of any Condominium Unit or Units, such Lender shall have the following rights:

A. To approve the company or companies with whom casualty insurance is placed.

B. To examine, upon request and at reasonable times and upon reasonable notice, the books and records of the Association; and to be furnished at least one copy of the Annual Audited Financial Statement and Report of the Association prepared by a Certified Public Accountant designated by the Association, such Financial Statement and Report to be furnished by April 1 of each calendar year.

C. To be given written notice by the Association of the call of any meeting of the membership, which notice shall state the purpose of such meeting; and to designate a representative to attend.

D. To be given written notice of default by any Owner owning a Condominium Unit encumbered by a mortgage held by the Lender, such notice to be sent to the place which it may designate in writing.

E. To be given written notice of any loss to or taking of the common elements of the Condominium if such loss or taking exceeds \$10,000 or damage in excess of \$1,000 to a Condominium Unit on which said Lender shall hold a mortgage.

F. To receive written notice of any condemnation or eminent domain proceeding or proposed acquisition by a condemning authority.

Whenever any Lender desires the provisions of this Article to be applicable to it, it shall serve written notice of such fact upon the Association by Registered Mail or Certified Mail addressed to the Association and sent to its address stated herein, identifying the Condominium Unit or Units upon which any such Lender holds any mortgage, or identifying any Condominium Units owned by it, together with sufficient facts to identify such mortgage and which notice shall designate the place to which notices are to be given by the Association to such Lender.

29. RIGHT OF DEVELOPER TO REPRESENTATION ON BOARD OF DIRECTORS OF THE ASSOCIATION; OTHER RIGHTS OF THE DEVELOPER. So long as Developer owns twenty-five (25) or more Condominium Units in the Condominium, but in any event, no longer than December 31, 1980, Developer shall have the right to designate and select a majority of the persons who shall serve as members of each Board of Directors of the Association.

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

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

During the period of sale by the Developer of any unit, the Developer, and said Developer's agents, employees, contractors and subcontractors, and their respective agents and employees, shall be entitled to access, ingress to and egress from said units and across the Property as may be required for purposes of said sale of units. While the Developer owns any of the units and until each unit sold by it is occupied by the purchasers, the Developer and its employees may use and show one or more of such unsold or unoccupied units as a model unit or units and may use one or more of such unsold or unoccupied units as a sales office, and may maintain customary signs in connection therewith.

30. FEDERAL NATIONAL MORTGAGE CORPORATION AND FEDERAL HOME LOAN MORTGAGE CORPORATION REGULATIONS. Notwithstanding anything to the contrary contained in this Declaration, or in the Articles of Incorporation or the By-Laws which are attached hereto, all terms, conditions and regulations which are now existing, or which may be amended from time to time, by the Federal National Mortgage Corporation and the Federal Home Loan Mortgage Corporation pertaining to condominiums are hereby incorporated as terms and conditions of the Declaration and By-Laws and such shall be governing upon the Property, the Developer, and the Association of Unit Owners, so long as such terms or conditions are not inconsistent with the laws of the State of North Carolina, including, but not limited to, the North Carolina Unit Ownership Act.

31. MISCELLANEOUS.

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

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

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

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

John M. Parker
4110 Monroe Road
Charlotte, North Carolina 28205

E. Developer and its agents shall have the right to continue sales efforts on the premises and post "For Sale" signs thereon for so long as it shall own any unit.

IN WITNESS WHEREOF, THE LEXINGTON GROUP, INC. has caused these presents to be executed in its name by its President, and its Corporate Seal to be hereunto affixed, and attested by its Assistant Secretary this _____ day of _____, 1980, at Charlotte, North Carolina.

THE LEXINGTON GROUP, INC.

(Corporate Seal)

By: _____
John M. Parker, President

Attest:

FIRST UNION NATIONAL BANK OF NORTH CAROLINA, a corporation organized under the national banking laws, as holder of a promissory note secured by a deed of trust on the property described in Exhibit "A" hereof, and CRAIG H. CARRIER, as Trustee under said deed of trust, join in the execution hereof for the purpose of subjecting the aforesaid deed of trust to the terms and provisions of this Declaration of Condominium.

FIRST UNION NATIONAL BANK OF NORTH CAROLINA

(Corporate Seal)

By: _____
(Assistant Vice) President

Attest:

(Assistant) Secretary

Craig H. Carrier, Trustee (SEAL)

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

I, _____, a Notary Public in and for said County and State, do hereby certify that THURMAN D. NAIL personally came before me this day and acknowledged that he is Assistant Secretary of THE LEXINGTON GROUP, INC. and that, by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by John M. Parker, its President, sealed with its corporate seal and attested by himself as its Assistant Secretary.

Witness my hand and official seal this _____ day of _____, 1980.

Notary Public

(Notarial Seal)

My Commission Expires: _____

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

I, _____, a Notary Public in and for said County and State do hereby certify that _____ personally came before me this day and acknowledged that he is _____ Secretary of FIRST UNION NATIONAL BANK OF NORTH CAROLINA and that, by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its _____ President, sealed with its corporate seal and attested by himself as its _____ Secretary.

Witness my hand and official seal this _____ day of _____, 1980.

Notary Public

(Notarial Seal)

My Commission Expires: _____

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

I, _____, a Notary Public in and for said County and State, do hereby certify that CRAIG H. CARRIER acting as Trustee personally came before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official seal this _____ day of _____, 1980.

Notary Public

(Notarial Seal)

My Commission Expires: _____

EXHIBIT "A"

LYING off Hedgemore Drive in the City of Charlotte, Mecklenburg County, North Carolina, and more particularly described as follows:

BEGINNING at an Iron on the westerly margin of Hedgemore Drive, said beginning point being 236.0 feet measured along the westerly margin of Hedgemore Drive from the intersection of the westerly margin of Hedgemore Drive and the southerly margin of Mockingbird Lane (subject to radius of intersection) all as measured with arc of circular curve to the left of radius 924.93 feet and running thence from said beginning point S. 75-47-13 E., 60.0 feet to a point on the easterly margin of Hedgemore Drive; thence with the easterly margin of Hedgemore Drive with the arc of a circular curve to the left of radius 984.93 feet, an arc distance of 12.14 feet to an Iron; thence S. 74-02-07 E., 477.07 feet to a point in the centerline of Sugaw Creek, and running thence with the centerline of said Sugaw Creek in five (5) courses as follows: (1) S. 41-49-50 W., 20.32 feet; (2) S. 33-49-20 W., 100.18 feet; (3) S. 21-09 W., 104.12 feet; (4) S. 45-47 W., 181.0 feet; (5) S. 59-48-20 W., 211.03 feet to a point in the center of Sugaw Creek, and running thence N. 56-07-40 W., 222.19 feet crossing a sanitary sewer outfall to an old Iron; thence N. 65-59-10 W., 342.70 feet to an old Iron; thence, N. 13-16-30 E., 241.54 feet crossing a six inch (6") sanitary sewer to an old Iron; thence, S. 76-43-50 E., 91.75 feet to an old Iron; thence, N. 19-20-03 E., 129.88 feet to an old Iron; thence, S. 79-07-47 E., 252.02 feet to the point or place of Beginning. Containing 7.682 acres according to survey of David M. Lucas, Civil Engineer and R.L.S., dated March 4, 1980.

BEING the same property conveyed to THE LEXINGTON GROUP, INC., by Deed dated December 27, 1979 and recorded in Deed Book 4267 at Page 4 of the Mecklenburg County Public Registry.

AND SUBJECT TO the conditions, restrictions, easements and other exceptions set forth in Exhibit "B" of the above-mentioned Deed.

EXHIBIT "B"
 FRANCISCAN TERRACE CONDOMINIUMS
 SCHEDULE OF UNIT INTERESTS IN
 COMMON AREAS AND FACILITIES

UNIT NO.	TYPE	% INTEREST
1A	2 Bedroom - 2 Bath	.7979
1B	2 Bedroom - 2 Bath	.7979
1C	2 Bedroom - 2 Bath	.7979
1D	2 Bedroom - 2 Bath	.7979
1E	2 Bedroom - 2 Bath	.7979
1F	2 Bedroom - 2 Bath	.7979
1G	2 Bedroom - 2 Bath	.7979
1H	2 Bedroom - 2 Bath	.7979
1I	2 Bedroom - 2 Bath	.7979
1J	2 Bedroom - 2 Bath	.7979
1K	2 Bedroom - 2 Bath	.7979
1L	2 Bedroom - 2 Bath	.7979
1M	2 Bedroom - 2 Bath	.7979
1N	2 Bedroom - 2 Bath	.7979
1O	2 Bedroom - 2 Bath	.7979
1P	2 Bedroom - 2 Bath	.7979
1Q	2 Bedroom - 2 Bath	.7979
1R	2 Bedroom - 2 Bath	.7979
1S	2 Bedroom - 2 Bath	.7979
1T	2 Bedroom - 2 Bath	.7979
2A	2 Bedroom - 2 Bath	.7979
2B	2 Bedroom - 2 Bath	.7979
2C	2 Bedroom - 2 Bath	.7979
2D	2 Bedroom - 2 Bath	.7979
2E	2 Bedroom - 2 Bath	.7979
2F	2 Bedroom - 2 Bath	.7979
2G	2 Bedroom - 2 Bath	.7979
2H	2 Bedroom - 2 Bath	.7979
2I	2 Bedroom - 2 Bath	.7979
2J	2 Bedroom - 2 Bath	.7979
2K	2 Bedroom - 2 Bath	.7979
2L	2 Bedroom - 2 Bath	.7979
2M	2 Bedroom - 2 Bath	.7979
2N	2 Bedroom - 2 Bath	.7979
2O	2 Bedroom - 2 Bath	.7979
2P	2 Bedroom - 2 Bath	.7979
2Q	2 Bedroom - 2 Bath	.7979
2R	2 Bedroom - 2 Bath	.7979
2S	2 Bedroom - 2 Bath	.7979
2T	2 Bedroom - 2 Bath	.7979
3A	3 Bedroom - 2 Bath	.9508
3B	3 Bedroom - 2 Bath	.9508
3C	3 Bedroom - 2 Bath	.9508
3D	3 Bedroom - 2 Bath	.9508
3E	3 Bedroom - 2 Bath	.9508
3F	3 Bedroom - 2 Bath	.9508
3G	3 Bedroom - 2 Bath	.9508
3H	3 Bedroom - 2 Bath	.9508
3I	3 Bedroom - 2 Bath	.9508
3J	3 Bedroom - 2 Bath	.9508
4A	2 Bedroom - 2 Bath	.7979
4B	2 Bedroom - 2 Bath	.7979
4C	2 Bedroom - 2 Bath	.7979
4D	2 Bedroom - 2 Bath	.7979
4E	2 Bedroom - 2 Bath	.7979
4F	2 Bedroom - 2 Bath	.7979
4G	2 Bedroom - 2 Bath	.7979
4H	2 Bedroom - 2 Bath	.7979
4I	2 Bedroom - 2 Bath	.7979
4J	2 Bedroom - 2 Bath	.7979
4K	2 Bedroom - 2 Bath	.7979
4L	2 Bedroom - 2 Bath	.7979
4M	2 Bedroom - 2 Bath	.7979
4N	2 Bedroom - 2 Bath	.7979
4O	2 Bedroom - 2 Bath	.7979
4P	2 Bedroom - 2 Bath	.7979
4Q	2 Bedroom - 2 Bath	.7979
4R	2 Bedroom - 2 Bath	.7979
4S	2 Bedroom - 2 Bath	.7979
4T	2 Bedroom - 2 Bath	.7979
5A	1 Bedroom - 1 Bath	.5984
5B	1 Bedroom - 1 Bath	.5984
5C	1 Bedroom - 1 Bath	.5984
5D	1 Bedroom - 1 Bath	.5984
5E	1 Bedroom - 1 Bath	.5984
5F	1 Bedroom - 1 Bath	.5984
5G	1 Bedroom - 1 Bath	.5984
5H	1 Bedroom - 1 Bath	.5984

40

10

30

FOR REGISTRATION JUDITH A. GIBSON
REGISTER OF DEEDS
MECKLENBURG COUNTY, NC
2006 APR 27 03:34 PM
BK: 20342 PG: 932-935 FEE: \$20.00
INSTRUMENT # 2006080490



2006080490

drawn by/mail to:

Michael S. Hunter
Horack, Talley, Pharr & Lowndes
2600 One Wachovia Center
301 S. College Street
Charlotte, NC 28202-6038

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

**AMENDMENT TO THE DECLARATION AND BYLAWS OF
FRANCISCAN TERRACE HOMEOWNERS ASSOCIATION, LTD.**

This instrument is executed and certified in accordance with the provisions of Section 26 of the Declaration of Franciscan Terrace Condominiums, recorded June 30, 1980 in Book 4317, Page 0179 of the Mecklenburg County Public Registry (hereinafter "the Declaration"), and section 8 of the Bylaws of the Franciscan Terrace Homeowners Association, Inc.

STATEMENT OF PURPOSE

The Franciscan Terrace Condominiums (hereinafter "the Condominium") was established by the Declaration referenced above, in accordance with the N.C. Unit Ownership Act. Section 26 of the Declaration sets forth that the Declaration can be amended by the affirmative vote of members owning at least 75% of the aggregate undivided in the Common Areas and Facilities, which amendment must be transcribed and recorded in the Mecklenburg Public Registry.

Section 10 of the Declaration established the Franciscan Terrace Homeowners Association, Ltd. (the "Association"). The Bylaws of the Association were attached to the Declaration and incorporated therein by reference. Thus, any amendment to the By-Laws, by virtue of incorporation into the Declaration, would also result in a constructive amendment to the Declaration.

Section 8 of the By-Laws provides that the By-Laws may be amended by a majority vote of the Board of Directors of the Association and the affirmative vote of members owning at least 75% of the aggregate undivided in the Common Areas and Facilities. The amendment becomes valid upon recordation of a transcription of the amendment(s) in the Mecklenburg Public Registry.

At a special meeting of the Association duly called and held on May 11, 2004, ~~2002~~^{DAW} the Amendments set forth below were presented to the Association by the Board of Directors of the Association, and by the consents appearing below, the requisite percentage of Directors and members approved the Amendments.

NOW, THEREFORE, The Franciscan Terrace Homeowners Association, Ltd., in accordance with its Declaration and By-Laws, does hereby certify the due and proper adoption of the following Amendment to the Declaration and By-Laws originally recorded in Book 4317, Page 0179 of the Mecklenburg County Public Registry:

AMENDMENT TO THE DECLARATION

1. Section 23(C) of the Declaration is amended by deleting the last sentence in its entirety, and inserting in lieu thereof, the following sentence:

“Any proposed Annual Budget which would require an increase in the monthly assessment paid by Unit Owners of more than 20% over the assessment for the immediately preceding year, shall require the approval of 2/3 of the Board of Directors for adoption.”

2. Section 26(A) is amended to reflect that future amendments to the Declaration shall require the affirmative vote of members owning sixty-seven percent (67%) of the aggregate undivided interest in the Common Areas and Facilities of the Condominium, as opposed to the seventy-five percent (75%) now required.

AMENDMENT TO THE BYLAWS

The Bylaws of the Association are hereby amended and restated in their entirety. A true copy of the Amended and Restated Bylaws is appended hereto as Exhibit A, and incorporated herein by reference.

IN WITNESS WHEREOF, the undersigned, being the President and Secretary of the Association, pursuant to the authority vested in them under the Declaration and By-Laws of the Condominium, do hereby certify the proper ratification of the Declaration and Bylaws as set forth above, and set their hand and seal below.

FRANCISCAN TERRACE HOMEOWNERS ASSOCIATION, LTD.

By: Debra A. Hunter, President

NORTH CAROLINA

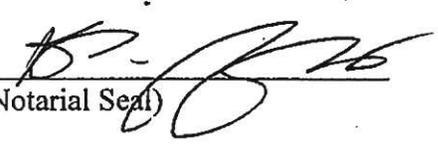
MECKLENBURG COUNTY

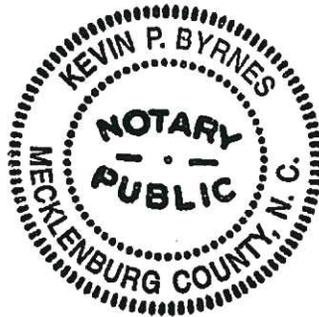
This 13th day of FEB., 2006, before me, the undersigned Notary Public in and for the County and State aforesaid, personally came DEBORAH A. Hunter, who, being duly sworn, says that he is _____ President of the Franciscan Terrace Homeowners Association, Ltd., and that the seal affixed to the foregoing instrument in writing is the corporate seal of said corporation, and that he signed and sealed said instrument on behalf of said corporation by its authority duly given. And the said DEBORAH A. Hunter acknowledged said instrument to be the act and deed of said corporation.

WITNESS my hand and notarial stamp or seal this 13 day of FEB, 2006.


Notary Public

My commission expires: 07/20/2008


(Notarial Seal)



FOR REGISTRATION J. DAVID GRANBERRY
REGISTER OF DEEDS
MECKLENBURG COUNTY, NC
2009 FEB 20 09:53:16 AM
BK: 24471 PG: 257-261 FEE: \$23.00
INSTRUMENT # 2009021749

2009021749

**SECOND AMENDMENT TO THE DECLARATION
AND BYLAWS OF FRANCISCAN TERRACE
HOMEOWNERS ASSOCIATION, LTD.**

**By: Affirmative vote of members owning at least 75% of the aggregate
undivided in the Common Areas and Facilities**

**Prepared by/
Return to:**

**Michael S. Hunter
Horack, Talley, Pharr & Lowndes, P.A.
2600 One Wachovia Center
301 South College Street
Charlotte, NC 28202**

KC

drawn by/mail to:

Michael S. Hunter
Horack, Talley, Pharr & Lowndes
2600 One Wachovia Center
301 S. College Street
Charlotte, NC 28202-6038

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

**SECOND AMENDMENT TO THE DECLARATION AND BYLAWS OF
FRANCISCAN TERRACE HOMEOWNERS ASSOCIATION, LTD.**

This instrument is executed and certified in accordance with the provisions of Section 26 of the Declaration of Franciscan Terrace Condominiums, recorded June 30, 1980 in Book 4317, Page 0179 of the Mecklenburg County Public Registry (hereinafter "the Declaration"), and section 8 of the Bylaws of the Franciscan Terrace Homeowners Association, Inc.

STATEMENT OF PURPOSE

The Franciscan Terrace Condominiums (hereinafter "the Condominium") was established by the Declaration referenced above, in accordance with the N.C. Unit Ownership Act. Section 26 of the Declaration sets forth that the Declaration can be amended by the affirmative vote of members owning at least 75% of the aggregate undivided in the Common Areas and Facilities, which amendment must be transcribed and recorded in the Mecklenburg Public Registry.

Section 10 of the Declaration established the Franciscan Terrace Homeowners Association, Ltd. (the "Association"). The Bylaws of the Association were attached to the Declaration and incorporated therein by reference. Thus, any amendment to the By-Laws, by virtue of incorporation into the Declaration, would also result in a constructive amendment to the Declaration.

Section 8 of the By-Laws provides that the By-Laws may be amended by a majority vote of the Board of Directors of the Association and the affirmative vote of members owning at least 75% of the aggregate undivided in the Common Areas and Facilities. The amendment becomes valid upon recordation of a transcription of the amendment(s) in the Mecklenburg Public Registry.

At a special meeting of the Association duly called and held on November 17, 2008 the Amendments set forth below were presented to the Association by the Board of Directors of the Association, and approved by the requisite percentage of Members.

NOW, THEREFORE, The Franciscan Terrace Homeowners Association, Ltd., in accordance with its Declaration and By-Laws, does hereby certify the due and proper adoption of the following Amendment to the Declaration and By-Laws originally recorded in Book 4317, Page 0179 of the Mecklenburg County Public Registry:

AMENDMENT TO THE DECLARATION

Section 26 of the Declaration is hereby deleted in its entirety, and replaced with the following:

“This Declaration may be amended only in strict compliance with the North Carolina Condominium Act, including, without limitation, Section 47C-2-117 of the Act. Any amendment of this Declaration shall require the affirmative vote or written consent of Members owning at least sixty-seven percent (67%) of the aggregate undivided interest in the Common Areas and Facilities of the Condominium.

Any instrument amending this Declaration must contain a certification by the President of the Association that the amendment has been correctly adopted in accordance with the provisions of this Section, and will become effective when recorded in the Mecklenburg County Public Registry.

This Declaration may be terminated only by agreement of Members to which at least eighty percent (80%) of the votes in the Association are allocated as set forth in Section 47C-2-118 of the Act. The procedures for termination of the Declaration set forth in the Act must be strictly complied with in order to terminate the Declaration.”

AMENDMENT TO THE BYLAWS

The Bylaws of the Association are hereby amended and restated in their entirety. A true copy of the Amended and Restated Bylaws is appended hereto as Exhibit A, and incorporated herein by reference.

IN WITNESS WHEREOF, the undersigned, being the President and Secretary of the Association, pursuant to the authority vested in them under the Declaration and By-Laws of the Condominium, do hereby certify the proper ratification of the Declaration and Bylaws as set forth above, and set their hand and seal below.

FRANCISCAN TERRACE HOMEOWNERS ASSOCIATION, LTD.

By: John Bertrand, Jr., President

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

I, Christine Scott (Name of Notary) a Notary Public in and for said County and State, do hereby certify this 10th day of February, ~~2006~~, 2009, John Bertrand, Jr. (Name of Principal) personally known to me or proven by satisfactory evidence (said evidence being NC DL / CMSC ID), personally appeared before me this day and acknowledged that he/she is President of the Franciscan Terrace Homeowners Association, Ltd., a North Carolina corporation, and that he/she voluntarily executed the foregoing on behalf of the corporation for the purposes therein by its authority duly given.

WITNESS my hand and notarial stamp or seal.

Christine Scott
(signature)

Christine Scott, Notary Public
(print or type name above)

My Commission Expires:

MY COMMISSION
EXPIRES 7/20/2010



Bylaws

**REAFFIRMATION, RE-EXECUTION AND REACKNOWLEDGMENT OF PREVIOUSLY
RECORDED SECOND AMENDMENT TO THE DECLARATION AND BYLAWS**

Prepared by: Michael S. Hunter, Horack, Talley, Pharr & Lowndes, P.A.; (RD Box # 194)

The undersigned hereby reaffirms and reacknowledges the terms and conditions of that certain Second Amendment to the Declaration and Bylaws of Franciscan Terrace Homeowners Association, Ltd. recorded on February 20, 2009 in Book 24471, Page 257, Mecklenburg County Registry, by and between Franciscan Terrace Homeowners Association, Ltd. and Affirmative vote of members owning at least 75% of the aggregate undivided in the Common Areas and Facilities, which terms and conditions are incorporated herein by reference as if fully set forth.

The undersigned hereby acknowledges that the purpose for the recording of this reaffirmation, re-execution and reacknowledgment of said instrument is:

To add Exhibit "A" attached hereto which was inadvertently omitted from the original recording.

To the extent not inconsistent herewith, the undersigned hereby ratifies and reaffirms the terms, conditions and conveyances contained in the above-referenced instrument incorporated herein by reference.

IN WITNESS WHEREOF, the undersigned has duly executed this instrument, this the 17th day of March, 2009.

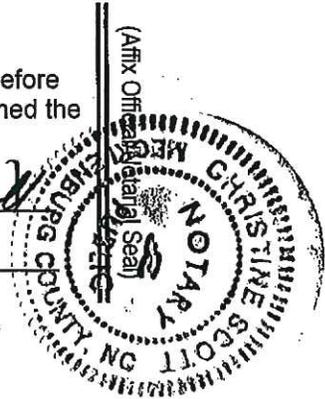
FRANCISCAN TERRACE HOMEOWNERS ASSOCIATION, LTD.

By: *John Bertrand, Jr.*
Print/Type Name John Bertrand, Jr.
Title: President

State of North Carolina County of Mecklenburg

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

Date: 3-17-09
Christine Scott
Notary Public
My Commission Expires: MY COMMISSION EXPIRES 7/20/2010



kc

EXHIBIT "A"

**AMENDED AND RESTATED BYLAWS OF
THE FRANCISCAN TERRACE HOMEOWNERS ASSOCIATION, LTD.**

These amended and restated Bylaws of the Franciscan Terrace Homeowners Association were approved and adopted by the Members of the Association pursuant to a meeting called and held for that purpose on November 17, 2008. The original Bylaws, in section 8, stated that the Bylaws could be amended by a the affirmative vote of a majority of the Board of Directors and the affirmative vote of members owning at least 75% of the aggregate undivided interest in the Common Areas and Facilities. By the requisite majority of votes cast in person and by proxy, the members elected to amend, re-state, and replace the original Bylaws in their entirety with the following:

Section I

Definitions

The words, phrases and terms used in these Bylaws shall have the meanings as set forth in the Declaration of Franciscan Terrace Condominiums recorded in the Office of the Register of Deeds for Mecklenburg County, North Carolina, in Book 4317, Page 179.

Section 2

Administration of Condominium

Section 2.1 Authority and Responsibility Except as other wise specifically provided in the Condominium Documents, the Association shall be responsible for administering, operating, and managing the Common Property.

Section 2.2 Official Action Unless specifically required in the Condominium Documents, all actions taken or to be taken by the Association shall be valid when such are approved by the Board of Directors as hereinafter set forth or when taken by the committee, person or entity to whom such authority has been duly delegated by the Board of Directors as set forth in the Condominium Documents or these Bylaws. The Association, its Board of Directors, officers and members shall at all times act in conformity with the Nonprofit Corporation Act of the State of North Carolina, the Condominium Documents, and the North Carolina Condominium Act.

Section 3

Offices - Seal - Fiscal Year

Section 3.1 Principal Office and Registered Office The principal office and registered office of the Association shall be located at _____

Section 3.2 Other Offices The Association may have other offices at such other places within the State of North Carolina as the Board of Directors may from time to time determine or as the affairs of the Association may require.

Section 3.3 Seal The seal of the Association shall contain the name of the Association, the word "Seal," year of incorporation and such other words and figures as desired by the Board of Directors

Section 3.4 Fiscal Year The fiscal year of the Association shall be the calendar year.

Section 4

Membership

Section 4.1 Qualification Membership in the Association shall be limited to the Owners, and every Owner of a Unit shall automatically be a member of the Association. Membership in the Association shall be appurtenant to and may not be separated from Unit ownership.

Membership in the Association shall inure automatically to Owners upon acquisition of the fee simple title (whether encumbered or not) to any one or more Units. The date of recordation in the Office of the Register of Deeds of Mecklenburg County of the conveyance of the Unit in question shall govern the date of ownership of each particular Unit. However, in the case of death, the transfer of ownership shall occur on date of death in the ease of intestacy or date of probate of the will in the case of testacy. Until a decedent's will is probated, the Association may rely on the presumption that a deceased Owner died intestate.

Section 4.2 Place of Meetings All meetings of the membership shall be held at a place in Mecklenburg County, North Carolina designated by the Board of Directors.

Section 4.3 Annual Meeting A meeting of the Association shall be held at least once each year, on or about the 4th Wednesday of April. If such day shall be a legal holiday, the Annual Meeting shall be held at the same hour on the first day following which is not a legal holiday. At such meetings, the Board of Directors shall be elected in accordance with Section 5 of these Bylaws, and the Members shall transact such other business as may properly come before them.

Section 4.4 Substitute Annual Meetings If an Annual Meeting shall not be held on the day designated by these Bylaws, a Substitute Annual Meeting may be called in accordance with the provisions of Sections 4.5 and 4.6. A meeting so called shall be designated and treated for all purposes as the Annual Meeting.

Section 4.5 Special Meetings After the first Annual Meeting of the Members, special Meetings of the Members may be called at any time by the President, by not less than twenty percent (20%) of all Owners, or by not less than fifty-one percent (51%) of the Board of Directors members.

Business to be acted upon at all Special Meetings shall be confined to the subjects stated in the notice of such meeting.

Section 4.6 Notices of Meetings Written or printed notice stating the time and place of a membership meeting, including Annual Meetings, and the items on the agenda, including the general nature of any proposed amendment to the Declaration or these Bylaws, any budget changes, and any proposal to remove a director or officer, shall be delivered not less than ten (10) nor more than fifty (50) days before the date of any such membership meeting, either personally or by mail, by or at the discretion of the President or the Secretary, to the address of each Unit. Notice shall be deemed given upon deposit in the mail depository of each Unit.

Notice given to any one tenant in common, tenant by entirety or other joint Owner of a Unit shall be deemed notice to all joint Owners of the subject Unit.

The notice of meeting shall specifically state the purpose or purposes for which the meeting is called.

Section 4.7 Quorum Except as otherwise provided in these Bylaws, the presence in person or by proxy of Members entitled to cast fifty percent (50%) of the votes which may be cast for election of the Board of Directors shall constitute a quorum at all meetings of the Members. If a quorum is not present or represented at any meeting, the Members entitled to vote thereat shall have the power to adjourn the meeting from time to time, without notice other than the announcement at the meeting, until a quorum is present or is represented. The Members at any meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum.

Section 4.8 Voting Rights The owners of each condominium shall have a vote equal to its appurtenant undivided interest in the Common Areas and Facilities as set forth in Exhibit B of the Declaration of Condominium filed in Book 4317, Page 179, a true copy of which is appended hereto. If fee simple title to a Unit is owned of record by more than one person or entity, all such persons or entities shall be Members of the Association, but the vote with respect to any such jointly- owned Unit shall be cast as hereinafter provided.

If the fee simple title to any Unit is owned of record by two or more persons or entities (whether individually or in a fiduciary capacity), the vote with respect to any such jointly owned Unit may be cast by any one of the joint Owners in person or by proxy, except that the holder or holders of a life estate in a Unit shall have the sole right to cast the votes allocated to the Unit. If more than one of the joint Owners vote or more than one life estate holder in a Unit vote, the unanimous action of all joint Owners or joint life estate holders voting shall be necessary to effectively cast the votes allocated to the particular Unit.

Such unanimous action shall be conclusively presumed if any one of such multiple Owners casts the votes allocated to that Unit without protest being made promptly to the person presiding over the meeting by any of the other of such joint Owners.

In no event may the vote which may be cast with respect to any Unit be divided among joint Owners of the Unit or cast in any manner other than as a whole, it being the intention of this Section 4.8 that there be no "splitting" of votes that may be cast by any Member or Members.

Section 4.9 Proxies Members may vote either in person or by agents duly authorized by written proxy executed by the subject Member or by his duly authorized attorney-in-fact. A proxy is not valid after the earlier of the term stated therein or the expiration of twelve (12) months from the date of its execution. Unless a proxy otherwise provides, any proxy holder may appoint in writing a substitute to act in his place. In order to be effective, all proxies must be filed with the Secretary or duly acting Secretary either during or prior to the meeting in question. A member may not revoke a proxy given pursuant to this Section 4.9 except by written notice of revocation delivered to the person presiding over a meeting of the Association.

All of the above provisions concerning voting by joint Owners shall apply to the vote cast for any one Unit by two or more proxy holders.

Section 4.10 Majority-Vote The casting of a majority of the votes represented at a meeting at which a quorum is present, in person or by proxy, shall be binding for all purposes except where a different percentage vote is stipulated by these Bylaws, the Declaration, the Articles of Incorporation of the Association, or the North Carolina Condominium Act.

Section 4.11 Actions Without Meeting Any action which may be taken at a meeting of the membership may be taken without a meeting if consent or ratification, in writing, setting forth the action so taken or to be taken shall be signed by all of the persons who would be entitled to vote upon such action at a meeting and such consent is filed with the Secretary of the Association and inserted in the minute book of the Association.

Section 5

Board of Directors

Section 5.1 General Powers The business and affairs of the Association shall be managed by the Board of Directors or by such committees as the Board of Directors may establish pursuant to Section 6 of these Bylaws. Provided, however, the Board of Directors may not act on behalf of the Association to amend the Declaration, to terminate the Condominium, to elect members of the Board of Directors, or to determine the qualifications, powers and duties, or terms of office of Board of Directors members. The Board of Directors may, however, fill vacancies in its membership for the unexpired portion of any term.

Section 5.2 Number, Term and Qualification The Board of Directors shall consist of no more than

seven (7) individuals. Each director shall serve a term of two (2) years. Each member of the Board of Directors must also be a member of the Association.

Section 5.3 Election of Board Member The election of all Board members shall be by ballot. Persons receiving the highest number of votes (see Section 4 8) shall be elected. Cumulative voting is not permitted.

Section 5.4 Removal Any Board member may be removed from the Board, with or without cause, by a vote of at least sixty-seven percent (67%) of the votes entitled to be cast by all Members present and entitled to vote at any meeting of the Membership at which a quorum is present. Provided, the notice of the meeting must state that the question of such removal will be acted upon at the subject meeting. If any Board members are so removed, their successors as Board members may be elected by the membership at the same meeting to fill the unexpired terms of the Board members so removed.

The term of any Board member shall be deemed to terminate immediately upon the offering or listing for sale of that member's Unit(s). The vacancy created by such termination shall be filled by the following section 5.5.

Section 5.5 Vacancies A vacancy occurring in the Board of Directors may only be filled by a majority of the remaining Board members, though less than a quorum, or by the sole remaining Board member, but a vacancy created by an increase in the authorized number of Board members shall be filled only by election at an Annual or substitute Annual meeting or at a Special meeting of Members called for that purpose or by unanimous consent of the Members without meeting. The Members may elect a Board member at any time to fill any vacancy not filled by the Board members. As indicated in Section 5.5, the Membership shall have the first right to fill any vacancy created by the Membership's removal of a Board member.

Section 5.6 Chairman A member of the Board of Directors shall be elected as Chairman of the Board of Directors by the Board members at the first meeting of the Board. The Chairman shall preside at all meetings of the Board of Directors and perform such other duties as may be directed by the Board. Prior to election of a Chairman and/or in the event that the Chairman is not present at any meeting of the Board of Directors, the President shall preside.

Section 5.7 Compensation No Member of the Board of Directors shall receive any compensation from the Association for acting as such. Provided, however, each Board member shall be reimbursed for reasonable out-of-pocket expenses incurred and paid by them on behalf of the Association, and nothing herein shall prohibit the Board from compensating a Board member for unusual and extraordinary services rendered on the basis of quantum meruit. Further provided, each Board member, by assuming office, waives his right to institute suit against or make claim upon the Association for compensation based upon quantum meruit.

Section 5.8 Loans to Board Members and Officers No loans shall be made by the Association to its Board members, officers or Members. The Board members who vote for or assent

to the making of a loan to a Board member, officer or Member of the Association, and any officer or officers participating in the making of such loan, shall be jointly and severally liable to the Association for the amount of such loan until the repayment thereof.

Section 5.9 Liability of Board Members To the extent permitted by the provisions of the North Carolina Nonprofit Corporation Act in effect at the applicable time, each Board member is hereby indemnified by the Association with respect to any liability and expense of litigation arising out of his activities as a Board member. Such indemnity shall be subject to approval by the Members only when such approval is required by said Act.

Section 5.10 Meetings of the Board of Directors:

- A. Regular Meetings Regular Meetings shall be held, without notice, at such hour and address as may be fixed from time to time by resolution of the Board. Should any such meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.
- B. Special Meetings Special Meetings shall be held when called by the President of the Association, or by any two (2) board members, after not less than three (3) or more than thirty (30) days written notice to each Board member.
- C. Notices of Special Meetings The notice provided for herein may be waived by written instrument signed by those Board members who do not receive said notice. Except to the extent otherwise required by law, the purpose of a Board members' special meeting need not be stated in the notice. Notices shall be deemed received upon the happening of any one of the following events (1) one day following deposit of same in the United States mail with proper postage paid and addressed to the Board member at his last known address on file with the Association, (2) deposit of same in his Unit mailbox, (3) delivery to the Board member. Attendance by a Board member at a meeting shall constitute a waiver of notice of such meeting unless the subject Board member gives a written statement at the meeting to the person presiding objecting to the transaction of any business because the meeting is not lawfully called and gives such notice prior to the vote on any resolution.
- D. Approved Meeting Place All Board meetings shall be held in Mecklenburg County, North Carolina.
- E. Quorum A majority of the Board members *then holding office* shall constitute a quorum for the transaction of business and every act or decision done or made by a majority of the Board members present at a duly held meeting at which a quorum is present shall be regarded as the act or decision of the Board.

Section 5.11 Action Without Meeting The Board members shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written

approval of all the Board members. Any action so approved shall have the same effect as though taken at a meeting of the Board. Said written approval shall be filed with the minutes of the proceedings of the Board, whether done before or after the action so taken.

Section 5.12 Presumption of Assent A Board member who is present at a meeting of the Board at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his contrary vote is recorded or his dissent is otherwise entered in the minutes of the meeting, or unless he shall file his written dissent to such action with the person acting as the Secretary of the meeting before the adjournment thereof, or shall forward such dissent by registered mail to the Secretary of the Association immediately after the adjournment of the meeting. Such right to dissent shall not apply to a Board member who voted in favor of such action.

Section 5.13 Powers and Duties The Board of Directors shall have the authority to exercise all powers and duties of the Association necessary for the administration of the affairs of the Condominium, except such powers and duties as by law or by the Condominium Documents may not be delegated by the Owners to the Board. The powers and duties to be exercised by the Board shall include, but shall not be limited to, the following:

- A. Operation, care, upkeep and maintenance of the Common Property to the extent such operation, care, upkeep, and maintenance is not the obligation of the Owners;
- B. Determination of the funds required for operation, administration, maintenance and other affairs of the Condominium and collection of the Common Expenses from the Owners, as provided in the Condominium Documents;
- C. Employment and dismissal of personnel (including without limitation the Independent Manager) necessary for the efficient operation, maintenance, repair, and replacement of the Common Property;
- D. Adoption of rules and regulations covering the details of the operation, maintenance, repair, replacement, use and modification of the Common Property;
- E. Opening of bank accounts on behalf of the Association and designating the signatories required therefor;
- F. Obtaining insurance as required or permitted under the terms of the applicable provisions of the Declaration;
- G. Keeping detailed, accurate records of the receipts and expenditures of the Association, obtaining annual audits of the financial records of the Association from the Association's public accountant, furnishing the annual reports, and furnishing current budgets. All books and records shall be kept in accordance with good and accepted accounting practices and the same shall be available for examination by all Owners or their duly authorized agents or attorneys, at convenient hours on working

days,

- H. Keeping a complete record of the minutes of all meetings of the Board and Membership in which minute book shall be inserted actions taken by the Board and/or Members by consent without meeting,;
- I. Supervising all officers, agents and employees of the Association and insuring that their duties are properly performed;
- J. Enforcing, on behalf of the Association, the obligations and assessments provided in the Declaration, including, but not limited to, the institution of civil actions to enforce payment of the assessments as provided in the Declaration, the institution of actions to foreclose liens for such assessments in accordance with the terms of N.C.G.S. § 47C-3-116, the imposition of charges for late payment of assessments, and after notice and an opportunity to be heard, levying reasonable fines not to exceed One Hundred and No/100 Dollars (\$100.00) for violations of the Declarations, Bylaws and rules and regulations of the Association, pursuant to N.C.G.S. § 47C-3-107A;
- K. Making repairs, additions, and improvements to or alterations or restoration of the Property in accordance with the other provisions of these Bylaws and the Declaration, after damage or destruction by fire or other casualty, or as a result of a condemnation or eminent domain proceeding;
- L. Enforcing by any legal means or proceeding the provisions of the Articles of Incorporation of the Association, these Bylaws, the Declaration or the rules and regulations hereinafter promulgated governing use of the Common Property;
- M. Paying all taxes and assessments which are or may become liens against any part of the Condominium, other than the Units, and to assess the same against the Owners in the manner hereto provided;
- N. Hiring attorneys, accountants and other professionals;
- O. Maintaining and repairing any Unit, if such maintenance or repair is required by the Declaration or is necessary in the discretion of the Board to protect the Common Property or any other Unit, or if the Owner of such Unit has failed or refused to perform such maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair has been delivered or mailed by the Board to said Owner, provided that the Board shall levy a special assessment against such Owner for the costs of said maintenance or repair;
- P. Entering any Unit when necessary in connection with any maintenance or construction for which the Board is responsible, provided, such entry shall be made during reasonable hours with as little inconvenience to the Owner as practicable, and

any damage caused thereby shall be repaired by the Board and such expenses shall be treated as a Common Expense, and entering any Unit for the purpose of correcting or abating any condition or situation deemed by the Board of Directors to be an emergency;

- Q. Signing all agreements, contracts, deeds and vouchers for payment of expenditures and other instruments in such manner as from time to time shall be determined by written resolution of the Board. In the absence of such determination by the Board, such documents shall be signed by either the Treasurer or the Assistant Treasurer of the Association, and countersigned by any Board member;
- R. Furnishing certificates setting forth the amounts of unpaid assessments that have been levied upon a Unit to the Owner or Mortgagee of such Unit, or a proposed purchaser or Mortgagee of such Unit, and Imposing and collecting reasonable charges therefor; and
- S. Exercising any other powers and duties reserved to the Association exercisable by the Board of Directors in the Declaration, the Articles of Incorporation, these Bylaws, or the North Carolina Condominium Act.

Section 5.14 Independent Manager The Board of Directors may employ or enter into a management contract with any individual, firm or entity it deems appropriate and in the best interest of the Association concerning the routine management of the Condominium. The Board of Directors may delegate to such person, firm or entity (referred to in these Bylaws as "Independent Manager") such duties and responsibilities in the management of the Property as the Board of Directors deems appropriate. Provided, the Board of Directors may not delegate to the Independent Manager the complete and total responsibilities and duties of the Association in violation of the Nonprofit Corporation Act of North Carolina or the North Carolina Condominium Act. The Independent Manager's contract shall be for a term not to exceed three (3) years, renewable by agreement between the Board of Directors and such Independent Manager for successive one-year terms, provided, however, that any such contract shall provide that it is terminable by the Association, with or without cause, upon not more than ninety (90) days' prior written notice and without payment of any penalty. The Board of Directors shall have authority to fix the reasonable compensation for the Independent Manager. The Independent Manager shall at all times be answerable to the Board of Directors and subject to its direction.

Section 6

Committees

Section 6.1 Creation The Board of Directors, by resolutions adopted by a majority of the number of Board members then holding office, may create such committees as they deem necessary and appropriate in aiding the Board of Directors to carry out its duties and responsibilities with respect to the management of the Condominium. Each committee so created shall have such authorities and responsibilities as the Board members deem appropriate and as set forth in the

resolutions creating such committee. The Board of Directors shall elect the members of each such committee; provided, each committee shall have in its membership at least one (1) member of the Board of Directors.

Section 6.2 Vacancy Any vacancy occurring on a committee shall be filled by a majority vote of the number of Board members then holding office at a regular or special meeting of the Board of Directors.

Section 6.3 Removal Any member of a committee may be removed at any time with or without cause by a majority of the number of Board members then holding office.

Section 6.4 Minutes Each committee shall keep regular minutes of its proceedings and report the same to the Board when required.

Section 6.5 Responsibility of Board Members The designation of committees and the delegation thereto of authority shall not operate to relieve the Board of Directors or any member thereof of any responsibility or liability imposed upon it or him by law.

If action taken by a committee is not thereafter formally considered by the Board, a Board member may dissent from such action by filing his written objection with the Secretary with reasonable promptness after learning of such action.

Section 7

Officers

Section 7.1 Enumeration of Officers The officers of the Association shall consist of a President, a Secretary, a Treasurer and such Vice Presidents, Assistant Secretaries, Assistant Treasurers and other officers as the Board of Directors may from time to time elect Except for the President, no officer need be a member of the Board of Directors.

Section 7.2 Election and Term The officers of the Association shall be elected annually by the Board of Directors. Such elections shall be held at the first meeting of the board next following the Annual or Substitute Annual Meeting of the Members. Each officer shall hold office until its death, resignation, removal or until its successor is elected and qualified.

Section 7.3 Removal Any officer elected or appointed by the Board of Directors may be removed by the Board whenever in its judgment the best interest of the Association will be served thereby.

Section 7.4 Vacancy A vacancy in any office may be filled by the election by the Board of Directors of a successor to such office. Such election may be held at any meeting of the Board The officer elected to such vacancy shall serve for the remaining term of the officer he replaces.

Section 7.5 Multiple Offices The person holding the office of President shall not also hold

the office of Secretary or Treasurer at the same time. Any other offices may be simultaneously held by one person. Any officer may also be a member of the Board of Directors.

Section 7.6 President The President shall be the chief executive officer of the Association and shall preside at all meetings of the Members. In the absence of an elected Chairman, he shall also preside at all meetings of the Board of Directors. He shall see that the orders and resolutions of the Board of Directors are carried out, he shall sign all written instruments regarding the Common Property and cosign all promissory notes of the Association, if any, and he shall have all of the general powers and duties which are incident to the office of President of a corporation organized under Chapter 55A of the North Carolina General Statutes in the supervision and control of the management of the Association in accordance with these Bylaws.

Section 7.7 Vice President The Vice Presidents in the order of their election, unless otherwise determined by the Board of Directors shall, in the absence or disability of the President, perform the duties and exercise the powers of that office. In addition, they shall perform such other duties and have such other powers as the Board of Directors shall prescribe.

Section 7.8 Secretary The Secretary shall keep the minutes of all meetings of Members and of the Board of Directors, he shall have charge of such books and papers as the Board of Directors may direct, and he shall, in general, perform all duties incident to the Office of Secretary of a corporation organized under Chapter 55A of the General Statutes of North Carolina.

Section 7.9 Treasurer The Treasurer shall have the responsibility for the Association's funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, and for the preparation of all required financial statements. He shall cosign promissory notes of the Association, he shall prepare a proposed annual budget (to be approved by the Board) and the other reports to be furnished to the Members as required in the Declaration. He shall perform all duties incident to the office of Treasurer of a corporation organized under Chapter 55A of the General Statutes of North Carolina.

Section 7.10 Assistant Secretaries and Treasurers The Assistant Secretaries and Treasurers shall, in the absence or disability of the Secretary or the Treasurer, respectively, perform the duties and exercise the powers of those offices, and they shall, in general, perform such other duties as shall be assigned to them by the Secretary or the Treasurer, respectively, or by the President or the Board of Directors.

Section 7.11 Compensation Officers shall not be compensated the usual and ordinary services rendered to the Association incident to the offices held by such officers. Each officer, by assuming office, waives his right to institute suit against or make claim upon the Association for compensation based upon quantum meruit.

Section 7.12 Indemnification To the extent permitted by the provisions of the North Carolina Nonprofit Corporation Act in effect at the applicable times, each officer is hereby indemnified by the Association with respect to any liability and expense of litigation arising out of his activities as an officer. Such indemnity shall be subject to approval by the Members only when

such approval is required by said Act.

Section 8

Operation of the Property

Section 8.1 Determination of Common Expenses and Fixing of the Common Charges The Board of Directors shall from time to time, and at least annually, prepare and adopt a proposed budget for the Condominium, determine the amount of the Common Expenses payable by the Owners to meet the proposed budget of the Condominium, and allocate and assess such proposed Common Expenses to each Condominium and Unit Owner in the same ratio to the total assessment made against all Unit Owners and their Condominium Units as the undivided interest in Common Property appurtenant to each Condominium Unit bears to the total undivided interest in Common Property appurtenant to all Condominium Units, all in accordance with the procedure set forth in this Section 8, but subject to the limitations set forth in Section 16 of the Declaration. The Common Expenses shall include, among other things, the cost of all insurance premiums on all policies of insurance required to be or which have been obtained by the Board of Directors pursuant to the provisions of the Declaration. The Common Expenses shall also include such amounts as the Board of Directors deems necessary for the operation and maintenance of the Property, including without limitation, an amount for working capital of the Condominium, an amount for a general operating reserve, an amount for a reserve fund for losses due to insurance deductibles, an amount for a reserve fund for repair and replacement of the Common Property, and such amounts as may be necessary to make up any deficit in the Common Expenses for any prior year. Within thirty (30) days after adoption of any proposed budget for the Condominium, the Board of Directors shall provide a summary of the budget to all the Owners, and shall set a date for a meeting of the Owners to consider ratification of the budget no less than fourteen (14) nor more than thirty (30) days after mailing of the summary. Notwithstanding any other provisions of these Bylaws, there shall be no requirement that a quorum be present at such meeting. Notwithstanding any other provision of these Bylaws, the proposed budget shall be deemed ratified unless at that Meeting a majority of all the Owners present and entitled to cast a vote reject the budget. In the event the proposed budget is rejected, the periodic budget last ratified shall be continued until such time as the Owners ratify a subsequent budget proposed by the Board of Directors.

The Association, acting through the Board of Directors, may levy a special assessment during any calendar year for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any capital improvement comprising or to comprise a portion of the Common Property, including fixtures and personal property, provided, however, that any such special assessment must be approved by the vote of Owners of Units to which at least sixty-seven percent (67%) of the votes in the Association are allocated cast in person or by proxy at a meeting duly held in accordance with the provisions of these Bylaws.

Section 8.2 Payment of Common Expenses All Owners shall be obligated to pay the Common Expenses assessed by the Board of Directors pursuant to the provisions of Section 8.1 hereof at such time or times as the Board shall determine.

No Owner shall be liable for the payment of any part of the Common Expenses assessed against his Unit subsequent to a sale, transfer or other conveyance by him (made in accordance with the provisions of the Declaration and applicable restrictions of record) of such Unit. A purchaser of a Unit shall be jointly and severally liable with the seller for the payment of Common Expenses assessed against such Unit prior to the acquisition by the purchaser of such Unit, without prejudice to the purchaser's rights to recover from the seller the amounts paid by the purchaser therefor.

Section 8.3 Collection of Assessments The Board of Directors shall assess Common Expenses against the Units from time to time and at least monthly in accordance with the allocations set forth in the Declaration. The Board of Directors shall take prompt action to collect any Common Expenses which remain unpaid for more than thirty (30) days from the due date for payment thereof.

Section 8.4 Default in Payment of Common Expenses; Remedies In the event of default by any Owner in paying to the Board of Directors the Common Expenses as determined by the Board, such Owner shall be obligated to pay interest on such Common Expenses from the due date thereof at the rate of eighteen percent (18%) per annum, together with all expenses, collection and administrative fees and costs, including reasonable attorney's fees incurred by the Board of Directors in any proceeding brought to collect such unpaid Common Expenses. In Addition, the Board shall have the authority to levy a late charge on any assessment not paid within fifteen (15) days after its due date in an amount not in excess of that authorized by N.C.G.S. §47C-3-102(a)(11), and any other reasonable costs associated with collection of the delinquent assessment.

The Board of Directors shall have the right and duty to attempt to recover such Common Expenses, together with interest thereon, and the expenses of the proceedings, including reasonable attorneys' fees, in an action to recover a money judgment for the same brought against such Owner, or by foreclosure of the lien on such Unit in like manner as a deed of trust or mortgage of real property. The limits on attorneys fees established by N.C.G.S. § 6-21.2 shall not apply to fees incurred in connection with such action. Interest, late charges and collection and administrative costs and court costs shall also be recoverable by the proceedings specified above.

In the event of the failure of an Owner to pay any assessment imposed hereunder, or any installment thereof, for more than sixty (60) days after such assessment or installment thereof shall become due, in addition to the other remedies available under the Condominium Documents and the North Carolina Condominium Act, the Board of Directors shall have the right to declare all other Common Expense assessments, and installments thereof, with respect to such Owner's Unit that are to fall due during the then current fiscal year of the Association to be immediately due and payable. In addition, such Owner's right to use and enjoyment of the Common Properties may be suspended, and such Owner may not cast a vote in person or by proxy at any regular or special meeting of the Association, for such time as his/her account remains delinquent;

Section 8.5 Lien and Personal Obligations All Common Expenses provided for in this Article, together with the interest, late charges, costs and expenses, including reasonable attorneys' fees as provided for herein, shall be a charge on and a continuing lien upon the Unit against which the assessment is made, which such lien shall be prior to all other liens excepting only (i) assessments, liens and charges for real estate taxes due and unpaid on the Unit and (ii) all sums

unpaid on Mortgages and other liens and encumbrances duly recorded against the Unit prior to the docketing of such lien. Such lien shall become enforceable when a notice thereof has been filed in the office of the Clerk of Superior Court for Mecklenburg County, North Carolina, provided such notice of lien shall not be recorded until such sums assessed remain unpaid for a period of more than thirty (30) days after the same shall become due. Such notice of lien shall also secure all assessments against the Unit becoming due thereafter until the lien has been satisfied.

The lien for unpaid assessments shall not be affected by the sale or transfer of the Unit, except in the case of a foreclosure of a Mortgage, in which event the purchaser at foreclosure shall not be liable for any assessments against such Unit that became due prior to the date of acquisition of title by such purchaser. Such unpaid assessments shall be deemed Common Expenses collectable from all Owners of Units, including the purchaser at foreclosure. In addition, each Owner shall be personally liable for any assessment against his Unit. No Owner may exempt himself from such liability by non-use or enjoyment of any portion of the Common Property or by the abandonment or sale of his Unit.

Section 8.6 Foreclosure of Liens for Unpaid Common Expenses In any action brought by the Board of Directors to foreclose on a Unit because of unpaid Common Expenses, the Owner shall be required to pay a reasonable rental for the use of his Unit and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. The Association is authorized to bid in its own name at any foreclosure, execution, or judicial sale brought to enforce the payment of unpaid assessments.

Section 8.7 Abatement and Enjoinment of Violation by Owners The violation of any rule or regulation adopted by the Board of Directors or the breach of any Bylaw contained herein, or the breach of any provision of the Declaration, shall give the Board the right, in addition to any other rights set forth in the Declaration, these Bylaws or at law or in equity (a) to enter the Unit in which or as to which such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing or condition that may exist thereto contrary to the intent and meaning of the provisions hereof, and the Board shall not thereby be deemed guilty in any manner of trespass, provided, however, that the Board of Directors shall be obligated to institute judicial proceedings before any item of construction can be altered or demolished, (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach at the expense of the defaulting Owner, and/or (c) after notice and opportunity to be heard, to levy reasonable fines not to exceed One Hundred and No/100 Dollars (\$100 00). The Association shall be entitled to recover from the responsible owner its reasonable attorneys fees incurred in connection herewith.

Section 8.8 Maintenance and Repair (a) Except as is specifically provided in the Declaration, all maintenance and any reports to any Unit and the Limited Common Property allocated thereto, whether ordinary or extraordinary, shall be made by the Owner of such Unit Each Owner shall be responsible for all damages to any and all other Units and/or to the Common Property that his failure to do so may engender, and (b) except as is specifically provided in the Declaration, all maintenance, repairs and replacements to the Common Property (unless necessitated by the negligence, misuse or neglect of an Owner, in which case such expense shall be charged to and paid

by such Owner), shall be made by the Board, provided, however, there is excluded from the provisions contained in this section any repairs necessitated by casualty insured against by the Board of Directors to the extent the Board of Directors receives insurance proceeds for such repairs.

Section 8.9 Additions Alterations or Improvements by Owners No Owner shall make any structural addition, alteration, or improvement in or to his Unit or to any Limited Common Element, or any change in the exterior appearance thereof, except in accordance with N C G S § 47C-2-111 and in accordance with the terms of the Declaration.

Section 8.10 Use of Common Property An Owner shall not interfere with the use of the Common Property by the remaining Owners and their employees and invitees.

Section 8.11 Right of Access An Owner shall grant a right of access to his Unit and the Limited Common Property appurtenant thereto to the Independent Manager and/or any other person authorized by the Board of Directors or the Independent Manager for the purpose of making inspections, or for the purpose of correcting any condition originating in his Unit and threatening another Unit or the Common Property, or for the purpose of performing installations, alterations or repairs to the mechanical or electrical equipment or other Common Property, or for the purpose of performing installations, alterations or repairs to the mechanical or electrical equipment or other Common Property in or adjoining his Unit; provided, however, such requests for entry (except in the case of emergencies where no request shall be required) are made in advance and any such entry is at a time reasonably convenient to the Owner. In the case of an emergency, such right of entry shall be immediate whether the Owner is present at the time or not.

Section 8.12 Rules of Conduct Rules and regulations concerning the use of the Units and the Common Property shall be promulgated and amended by the Board. Copies of such rules and regulations shall be furnished by the Board to each Owner prior to the time when the same shall become effective.

Section 8.13 Common Expenses for Utilities Any utilities which may be provided to the Units through a single or common meter or facility, and utilities furnished to any portion of the Common Property, shall be paid by each Owner as and when billed according to the extent of such Owner's use or, at the option of the Board, such may be paid by the Board and assessed against the Units as a Common Expense.

Section 9

Amendments

These Bylaws may be amended at any time by the vote of Owners holding at least sixty-seven percent (67%) of the votes in the Association, at a regular or special meeting for which prior notice of the proposed amendment was given. Provided, however, where a larger vote in the Association is required for the Association to take or refrain from taking a specific action, as set forth in the Condominium Documents, no amendment of these Bylaws shall be made unless and until the Owners holding such larger percentage of the vote in the Association execute said amending

instrument. All persons or entities who own or hereafter acquire any interest in the Property shall be bound to abide by any amendment to these Bylaws which is duly passed, signed, acknowledged and recorded as provided herein.

Section 10

Miscellaneous

Section 10.1 Severability Invalidation of any covenant, condition, restriction or other provisions of the Declaration or these Bylaws shall not affect the validity of the remaining portions thereof, which shall remain in full force and effect.

Section 10.2 Successors Bound The rights, privileges, duties and responsibilities set forth in the Condominium Documents, as amended from time to time, shall run with the ownership of the Property and shall be binding upon all persons who own or hereafter acquire any interest in the Property.

Section 10.3 Gender, Singular, Plural Whenever the context so permits, the use of the singular or plural shall be interchangeable in meaning and the use of any gender shall be deemed to include all genders.

Section 10.4 Nonprofit Corporation No part of the Association's assets or net income shall inure to the benefit of any of the Members, the officers of the Association, or the members of the Board of Directors, or any other private individual either during its existence or upon dissolution except as reasonable compensation paid or distributions made in carrying out its declared nonprofit purposes as set forth in the Articles of Incorporation of the Association and these Bylaws.



J. DAVID GRANBERRY
REGISTER OF DEEDS, MECKLENBURG
COUNTY & COURTS OFFICE BUILDING
720 EAST FOURTH STREET
CHARLOTTE, NC 28202

PLEASE RETAIN YELLOW TRAILER PAGE

It is part of the recorded document, and must be submitted with original for re-recording
and/or cancellation.

Filed For Registration: 04/17/2009 11:12:10 AM

Book: RE 24650 **Page:** 69-86

Document No.: 2009052333

BYLWS 18 PGS \$62.00

Recorder: KAMIL COOPER



2009052333

FOR REGISTRATION
J. David Granberry
REGISTER OF DEEDS
Mecklenburg County, NC
2012 JUL 30 11:34:02 AM
BK:27528 PG:144-150
FEE:\$26.00
INSTRUMENT # 2012102961

JONESAW



2012102961

Bylaws - Amended

drawn by/mail to:

Cynthia A. Jones
Horack, Talley, Pharr & Lowndes
2600 One Wells Fargo Center
301 S. College Street
Charlotte, NC 28202-6038

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

**AMENDMENT TO THE DECLARATION OF
FRANCISCAN TERRACE CONDOMINIUMS**

This instrument is executed and certified in accordance with the provisions of Section 26 of the Declaration of Franciscan Terrace Condominiums recorded in Book 4317, Page 0179 and amended in Book 20342 Page 932 and amended in Book 24471 Page 257 of the Mecklenburg County Public Registry (hereinafter "the Declaration").

STATEMENT OF PURPOSE

Section 26 of the Declaration sets forth that the Declaration may be amended in strict compliance with the North Carolina Condominium Act. Any amendment shall require the affirmative vote or written consent of Members owning at least sixty-seven percent (67%) of the aggregate undivided interest in the Common Areas and Facilities.

In accordance with the terms of the Declaration, the President of the Franciscan Terrace Homeowners Association, Ltd. ("Association") may certify with his signature that this amendment received the appropriate Owner approval. This amendment will become effective when recorded.

NOW, THEREFORE, The President of the Association, in accordance with the Declaration, does hereby certify the due and proper adoption of the following Amendment to the Declaration.

[Faint, illegible stamps or markings]

^

AMENDMENT TO THE DECLARATION

A new Section 32 of the Declaration is added as follows:

“32. Lease of Units. The Association and its Board of Directors has deemed it to be in the best interest of Unit Owners to restrict the number of Units that may be leased or occupied by persons other than the Unit Owner. Such restrictions will, among other things, enhance property values by promoting stability and reducing resident turnover; increase interest by the Unit Owners in the appearance and maintenance of the Condominium; minimize problems of rule enforcement and vandalism; and ensure that Units and Unit Owners qualify for certain federally-supported mortgage programs. These restrictions do not restrict any Owners rights under the First Amendment or any other provision of the U.S. Constitution, nor are they violative of public policy.

- A. Notice to Board: Any Unit Owner intending to make a lease of his/her Unit shall give prior written notice to the Board of Directors (or any Managing Agent designated by the Board) of such intention. For purposes of this Section, “lease” is defined as regular, exclusive occupancy of a Unit by any person(s) other than the Unit Owner, for which the Unit Owner receives any consideration or benefit, including but not limited to, a fee, service, or gratuity. The required notice shall include the complete terms of the proposed lease, and such other information as the Board or its agent shall reasonably require. All leases of Units shall be in writing, utilizing standardized lease forms provided by or approved by the Board or its Managing Agent. No Unit shall be leased for a period of less than one (1) year. The Unit must be used for single-family residential use only and may not be used for transient or hotel purposes. No Unit shall be leased to occupants receiving Section 8 assistance or other governmental rent assistance. The provisions of this Section 32 shall also apply to any renewal, extension, or modification to the terms of any lease of a Unit. No subleasing of a Unit shall be allowed except during the exemption period for those Units that may have a current sublease in effect as of the date of this amendment and are listed on the attached Exhibit A.

- B. Approval of the Board: Within fifteen (15) days after receipt of such notice, the Board or its Managing Agent shall provide the Unit Owner with written notice of its approval or disapproval of the proposed lease. The decision of the Board shall be final and non-appealable, but approval shall not be unreasonably withheld. The Board’s approval may be conditioned upon the addition, deletion, or modification of any provision of the proposed lease. The Board specifically reserves the right to withhold the approval of any lease which would result in fifteen percent (15%) or more of the total number of Units in the Condominium being occupied by persons other than the Unit Owner. The failure of the Board to provide written notice to the Unit Owner of its approval or disapproval of the proposed lease within the 15-day period contemplated by this section shall be deemed an approval of the proposed lease.

- C. Occupancy by Immediate Family Member: The occupancy of a Unit by an immediate family member of the Owner(s) shall not be prohibited by the leasing restriction set forth above and shall not be included in the fifteen percent (15%) cap for leased Units.

For purposes of this section, "Immediate family member" shall mean an owner's spouse, parents and grandparents, children and grand-children, brothers and sisters, mother-in-law and father-in-law, brothers-in-law and sisters-in-law, daughters-in-law and sons-in-law. Adopted, half, and step members are also included in immediate family. Owners of immediate family occupied Units must notify the Board of such and provide to the Board the names and phone numbers of all occupants of the Unit as well as copies of any leases that may be in effect. When such Unit is vacated by the immediate family member, the leasing restrictions set forth above shall apply and this exemption shall cease to exist.

- D. Compliance with Declaration, By-Laws, and Rules and Regulations: Any Unit Owner leasing his/her Unit shall provide the Lessee with a copy of the Declaration, By-Laws, and Rules and regulations affecting the Condominium upon execution of the lease. The Lessee shall be bound in all respects by the provisions contained therein. The provisions of the Sections 8.7 ("Abatement and Enjoinment of Violation by Owners") and 8.12 ("Rules of Conduct") of the amended and restated By-Laws shall be applicable to and binding upon the Lessee of any Unit. Any default by a Lessee of such provisions shall entitle the Association to remedies including, fines, suspension of planned community privileges or services as well as the ability to terminate the lease. The Unit Owner hereby irrevocably appoint the Association as its lawful attorney-in-fact to take all actions necessary to terminate the lease and the Lessee's right to possession of the Unit, including the commencement of legal proceedings against the Unit Owner and/or the Lessee. However, prior to commencing eviction proceedings the Association shall follow the fine and hearing process as set forth in N.C.G.S. 47C-3-107.1.
- E. Void Transactions: Any lease or occupancy of a Unit which is not approved pursuant to the terms of this Section shall be void, unless subsequently approved in writing by the Board. Any violation of these provisions may subject the Unit Owner to a fixed or daily fine, or suspension of planned community privileges and services, after notice and an opportunity to be heard, in accordance with N.C.G.S. 47C-3-107.1.
- F. Exception: Any Unit Owner whose Unit is being leased and/or subleased as of the effective date of this amendment may continue to lease the Unit irrespective of the fifteen percent (15%) limitation described in paragraph B above, however such lease shall be subject to all other provisions in this Section 32. In order to qualify for this exemption, the Unit Owner must notify the Board of such rental Unit, provide a copy of the current lease, and provide the names and phone numbers of all occupants of the leased unit prior to the effective date of this amendment. This exception shall remain in effect for the exempt Units as long as title to the Unit remains in the same Owner as of the effective date of this amendment. This exemption will expire when fee simple title to the Unit is transferred by the current owner to any other person or entity. Units which are currently leased and fall within this exemption are listed on the Exhibit A attached hereto and incorporated herein by reference. Any Unit which falls under this exemption, is listed on the Exhibit A, and has a current sublease in effect shall be

allowed to continue subleasing the property until such time as the Unit is conveyed to a new owner.

- G. Hardship: The Board of Directors reserves the right to waive any or all of these restrictions with respect to any particular Unit if strict enforcement hereof would result in an undue hardship on the Unit Owner. Decisions on claimed hardships shall be determined on a case-by-case basis, are in the sole discretion of the Board of Directors, and are not appealable by the Unit Owner.
- H. Legal Challenge: No action to challenge the validity of this amendment may be brought more than one (1) year after the amendment is recorded.

[SIGNATURES TO FOLLOW]

IN WITNESS WHEREOF, the undersigned, being the President of the Association, pursuant to the authority vested in them under the Declaration and By-Laws of the Condominium, do hereby certify this amendment was approved in accordance with the Declaration.

FRANCISCAN TERRACE HOMEOWNERS ASSOCIATION, LTD.

By: *Chris Cherry*
Chris Cherry
Its: President

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

I, the undersigned, a Notary Public in and for said County and State, do hereby certify this 27 day of July, 2012, Chris Cherry either personally known to me or proven by satisfactory evidence, personally appeared before me this day and acknowledged that he is President of the Franciscan Terrace Homeowners Association, Ltd., a North Carolina corporation, and that he/she voluntarily executed the foregoing on behalf of the corporation for the purposes therein by its authority duly given.

WITNESS my hand and notarial stamp or seal.

Cynthia Jones
(Notary signature)
Print Name: Cynthia Jones
My Commission Expires: 6-2-2015

[NOTARY SEAL]

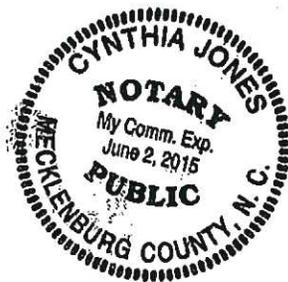


Exhibit A

Building 1 - 4736

E - Weijiang Gu
F - Jeffrey Todd Terry
J - Andrea Blevins
M - Glenn Andrews
Q - Nicholas C. Hayes
R - John F. Barnes
S - Virgil & Constance Cunningham
T - Edmund Tubel

Building 2 - 4754

A - Jeffrey & Patsy Linker
B - Christopher Ledford
C - Allison W. Wright
D - Ronald Pand & Debra Chou
G - Kimberly Burns Mills
I - David Radoff
K - Francois & Julie Gros (subleased)
L - John F. & Natalie C. Barnes
M - Elena & Jennifer Mills
P - Ann Curto Pollina
T - Michael J. & Bygie Mattick

Building 3 - 4755

D - Joseph H. Aikens
I - Charles Stuart
J - Beth Burke

Building 4 - 4747

B - Saunders Campbell Smith
H - Holly Thomas
I - Zachary James Cardais
S - Douglas & Jeanne Robertson

Building 5 - 4743

C - Jennifer Loiseau
E - Elizabeth Kakacek Battista

F - Beth Burke
I - Travis Edwards (Edward-Belch Properties LLC)
N - Wayne H. Page
P - Martha M. Aiken

Building 6 - 4739

D - Renee (Bianucci) Hoffman
E - Bobbie McFadden
K - Richard F. & Martha A. Marvin

Building 7 - 4735

A - Cody G. Starnes & Aaron Whitecotton
B - Natalie Barnes
C - Roberta Anderson
G - Jessica Squires Johnson
H - Alex Burnett
J - Elizabeth E. Norton & Laura E. Evans
K - Karen Moore
M - David M. & Anne M. Allen
P - Rosemarie F. Broadway
Q - Betty (Gabbai) Naderi
T - Arno & Alessandra Czerveny