

DECLARATION OF CONDOMINIUM

FOR

The Brownstones At Harbour Place Condominium

THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF THE FLAG OF THE UNITED STATES OF AMERICA OR STATE OF NORTH CAROLINA. THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF POLITICAL SIGNS.

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STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

**DECLARATION OF CONDOMINIUM
FOR THE BROWNSTONES AT HARBOUR PLACE CONDOMINIUM**

This Declaration of Condominium for The Brownstones at Harbour Place Condominium (this "Declaration") is made this ____ day of August, 2008, by **FAIRHILLS/RLT HARBOUR PLACE BROWNSTONES ASSOCIATES, LLC**, a North Carolina limited liability company ("Declarant"), pursuant to the provisions of Chapter 47C of the North Carolina General Statutes, entitled the "North Carolina Condominium Act" (the "Act").

BACKGROUND STATEMENT

Declarant is the owner of that certain parcel of real estate located in Mecklenburg County, Town of Davidson, North Carolina, and more particularly described on Exhibit A attached hereto (the "Land"). Declarant has caused the licensed general contractor chosen by Declarant (the "Contractor") to construct on the Land two (2) building(s), "Building 1" and "Building 2" (each a "Building," together "Buildings"), containing fourteen (14) residential condominium units and fifteen (15) residential condominium units, respectively. Declarant also has caused the Contractor to construct on the Land other common amenities, such as sidewalks, driveways, landscaped areas, and other improvements. Declarant desires to submit the Land and the improvements located on the Land (collectively, the "Property") to the terms and provisions of the North Carolina Condominium Act (the "Act").

In addition, in accordance with the Act, Declarant has created a nonprofit, incorporated owners' association to which are delegated and assigned powers of maintaining and administering the common elements on the Condominium, of administering and enforcing the covenants and restrictions created in this Declaration, and of levying, collecting and disbursing the assessments and charges created in this Declaration, to exercise the powers of a unit owners' association under the Act, and of taking any steps or performing any acts deemed necessary or appropriate to preserve the values of Condominium Units within the Property and to promote the recreation, health, safety and welfare of the unit owners.

Furthermore, the Land is located within the project area for the Harbour Place mixed-use development and the Condominium created pursuant to this Declaration will be part of that project (the "Project") and subject to (i) that certain Declaration of Covenants, Conditions and Restrictions for the Harbour Place Community recorded in the Office of the Register of Deeds for Mecklenburg County (the "Registry") at Book 21237, Page 463 (the "Existing Master Declaration") and (ii) that certain Reciprocal Easement Agreement (the "REA") respecting the Land, and recorded in the Registry at Book 22338, Page 533 (the REA together with the Existing Master Declaration referred to as the "Master Harbour Place Declarations").

STATEMENT OF DECLARATION

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

covenants, conditions, easements, uses, limitations, obligations, and restrictions, all of which are declared and agreed to be in furtherance of a plan for the establishment of the Property as a condominium, pursuant to the Act, and which shall run with the land and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall all inure to the benefit of each owner of any interest therein.

ARTICLE I. DEFINITIONS

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

Section 1.1 Act. “Act” shall mean and refer to the North Carolina Condominium Act, Chapter 47C of the General Statutes of North Carolina, as amended from time to time.

Section 1.2 Additional Property. “Additional Property” shall mean and refer to the real estate described on Exhibit A-1 attached hereto and incorporated herein by reference, together with the buildings and other improvements constructed or located thereon, and all rights, privileges, easements and appurtenances belonging to or in any way pertaining to said real estate, which Additional Property may be added to the Condominium pursuant to Declarant’s exercise of the development right to add real estate to the Condominium, all as more particularly provided for in Section 2.2 of this Declaration.

Section 1.3 Association. “Association” shall mean and refer to The Brownstones at Harbour Place Condominium Association, Inc., a corporation organized and existing under the North Carolina Non-Profit Corporation Act pursuant to and in accordance with this Declaration, the Bylaws, and the Act.

Section 1.4 Building; Buildings. “Building” shall mean and refer to each of the two (2) principal buildings, Building 1 and Building 2, located upon the Land containing Units, and “Buildings” shall mean and refer collectively to both Building 1 and Building 2 together, located on the Land and containing twenty-nine (29) Units.

Section 1.5 Bylaws. “Bylaws” shall mean and refer to the bylaws of the Association, as amended from time to time.

Section 1.6 Common Elements. “Common Elements” shall mean and refer to all portions of the Condominium other than the Units, as depicted on the Plans, and as more particularly described in Section 5.1 of this Declaration. Common Elements shall include Limited Common Elements.

Section 1.7 Common Elements Interest. “Common Elements Interest” shall mean and refer to the undivided percentage interest in the Common Elements allocated to each Unit, as set forth on Exhibit B attached hereto, the sum total of which percentage interests equals one hundred percent (100%). The Common Elements Interest has been calculated using the

approximate heated square footage of each Unit (not including garage or unheated storage space square footage), measured paint-to-paint from in-facing surface of wallboard to in-facing surface of wallboard, and the Common Elements Interest shall be used to allocate the division of proceeds, if any, resulting from any casualty loss or eminent domain proceedings, and to determine each Unit's share of Common Expenses.

Section 1.8 Common Expenses. "Common Expenses" shall mean and refer to (i) any and all expenditures made by or financial liabilities of the Association, and (ii) any allocations to reserves, pursuant to and in accordance with this Declaration, the Bylaws, and N.C.G.S. § 47C-1-103(5).

Section 1.9 Condominium. "Condominium" shall mean and refer to The Brownstones at Harbour Place Condominium, as established by the submission of the Property to the terms of the Act by this Declaration.

Section 1.10 Condominium Documents. "Condominium Documents" shall mean and refer to this Declaration, the Articles of Incorporation of the Association, the Bylaws, and the rules and regulations governing the use of the Property, as the foregoing may be amended and supplemented from time to time, and all attachments and exhibits thereto.

Section 1.11 Declarant. "Declarant" shall mean and refer Fairhills/RLT Harbour Place Brownstones Associates, LLC, a limited liability company, and any party to whom said entity transfers its rights under the Declaration. In addition, following recordation of a document transferring to another person or entity all or some of the Special Declarant Rights, pursuant to Section 6.2 of this Declaration, the term "Declarant" also shall mean and refer to that transferee.

Section 1.12 Declarant Control Period. "Declarant Control Period" shall mean and refer to the period commencing on the date hereof and continuing until the earlier of (i) one hundred twenty (120) days after conveyance of seventy-five percent (75%) of all Units (including any Units which may be added to the Condominium upon the development of the Additional Property pursuant to Section 2.2 herein) to an Owner other than Declarant; (ii) two (2) years after Declarant ceases to offer Units (including any Units which may be added to the Condominium upon the development of the Additional Property pursuant to Section 2.2 herein) for sale in the ordinary course of business; or (iii) two (2) years after any development right to add new Units (including any Units which may be added to the Condominium upon the development of the Additional Property pursuant to Section 2.2 herein) was last exercised. Provided, however, and notwithstanding anything to the contrary that may appear herein, if at any time the Declarant Control Period terminates for the reason set forth in subsection (i) above, and thereafter Declarant, pursuant to Section 2.2 herein, elects to add the Additional Property to the Condominium and construct additional Units upon such Additional Property such that, following such addition of the Additional Property to the Declaration and such construction of additional Units, Declarant has not conveyed seventy-five percent (75%) of all Units to Owners other than Declarant, the Declarant Control Period shall be reinstated until such time as it again terminates due to one of the events of termination stated herein. There shall be no limitation on the number of times the Declarant Control Period may terminate and be reinstated in accordance with the provisions of this Section 1.16.

Section 1.13 Declaration. “Declaration” shall mean and refer to this Declaration of Condominium for The Brownstones at Harbour Place Condominium, as it may be amended from time to time.

Section 1.14 Executive Board. “Executive Board” shall mean and refer to the governing body from time to time of the Association as constituted in accordance with the Articles of Incorporation of the Association, the Bylaws and the Act.

Section 1.15 Land. “Land” shall mean and refer to the real property initially made subject to this Declaration, exclusive of any improvements located thereon or incorporated therein, which is more particularly described on Exhibit A attached hereto, together with any Additional Property that may be subjected to this Declaration in accordance with Section 2.2 herein (once such Additional Property is later added).

Section 1.16 Limited Common Elements. “Limited Common Elements” shall mean and refer to those portions of the Common Elements allocated by this Declaration, or the terms of N.C.G.S. § 47C-2-102(2) or (4), for the exclusive use and benefit of one or more, but fewer than all, of the Units, to the exclusion of all other Units, as more fully described in Section 5.2 of this Declaration, and as depicted on the Plans.

Section 1.17 Mortgage. “Mortgage” shall mean and refer to a mortgage or deed of trust constituting a first lien on a Unit.

Section 1.18 Mortgagee. “Mortgagee” shall mean and refer to the owner and holder of a Mortgage that has notified the Association in writing of its name and address, and that it holds a Mortgage on a Unit. Such notice will be deemed to include a request that the Mortgagee be given the notices and other rights described in Article XVI.

Section 1.19 Master Harbour Place Declarations. “Master Harbour Place Declarations” shall mean and refer collectively to (i) the Existing Master Declaration as defined in the Background Statement and (ii) the REA as defined in the Background Statement, each as supplemented and amended.

Section 1.20 Owner. “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Unit, but shall exclude those persons or entities having an interest in any Unit as merely security for the payment or performance of an obligation.

Section 1.21 Plans. “Plans” shall mean and refer to the surveys, plans and specifications of the Buildings and Property, prepared by R.B. Pharr & Associates, P.A., Surveyor, and by Shrader Design Custom Architecture, Architect, and recorded under the name of the Condominium in the Unit File __ at pages __, through __ in the Office of the Register of Deeds of Mecklenburg County.

Section 1.22 Property. “Property” shall mean and refer to the Land; the Buildings and all other improvements and structures located on the Land; and all easements, rights and appurtenances belonging or appertaining to the Land.

Section 1.23 Rooftop Deck. “Rooftop Deck” shall mean and refer to each of those certain Limited Common Element deck features to be constructed on the roofs over some but not all Units in the Condominium. One such deck shall be allocated as a Limited Common Element to each of the Type “A” Units, the Type “B” Units, the Type “D” Units, and the Type “E” Units. No such decks shall be allocated to any of the Type “B-1” Units or the Type “C” Units or to the Type “F” Unit. The “Rooftop Decks” shall be constructed approximately where shown on the Plans, with such decks being constructed above 18 of the 29 contemplated Units.

Section 1.24 Special Declarant Rights. “Special Declarant Rights” shall mean certain rights reserved for the benefit of Declarant in the Condominium Documents, including, but not limited to, all development rights, as more particularly described in Article VI of this Declaration.

Section 1.25 Unit. “Unit” shall mean and refer to those twenty-nine (29) residential units located within Buildings 1 and 2, which units are restricted to residential use (subject to the provisions of Section 7.1 herein), and all of which Units shall be the subject of individual ownership by an Owner. As is shown on the Plans and as described on Exhibit B attached hereto, there are six (6) Unit types in the Condominium, each type featuring a different floor plan and amount of heated square footage: Type “A” Units; Type “B” Units; Type “B-1” Units; Type “C” Units (which are subject to the Affordability Restrictions described in Article XX of this Declaration); Type “D” Units (includes “D-Alt” Units); Type “E” Units; and a Type “F” Unit.

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

ARTICLE II. DESCRIPTION OF CONDOMINIUM

Section 2.1 The Property. The Property is located entirely in Mecklenburg County, Town of Davidson, North Carolina, and contains the Land more particularly described on Exhibit A attached hereto and incorporated herein by reference. The Property is hereby subjected to the terms of the Act by this Declaration. The name of the Condominium is The Brownstones at Harbour Place Condominium.

Section 2.2 Additional Property; Phasing.

(a) Right to Add Real Estate.

(i) Reservation of Right to Add Additional Property to Condominium. The Additional Property is described on Exhibit A-1 attached hereto and incorporated herein by reference. Declarant has, pursuant to Section 1.2 of this Declaration, and does hereby, reserve the development right to add the Additional

Property to the Condominium, together with all improvements which may be constructed by Declarant thereon.

(ii) Conditions To and Limits Upon Exercise of Development Right to Add Additional Property. Declarant's development right to add the Additional Property to the Condominium shall be subject to and conditioned upon fulfillment of the following requirements:

a. Such development right must be exercised no later than ten (10) years after the date hereof.

b. Declarant shall have constructed upon the Additional Property improvements which are residential in use, and the exterior of any buildings constructed by Declarant and added to the Condominium shall be generally compatible with existing buildings and improvements within the Condominium in terms of architectural style.

c. The total number of Units in the Condominium may not exceed thirty-five (35).

d. The Additional Property must be subject to all the provisions of this Declaration.

e. The right to add Additional Property may be exercised with respect to different portions of the Additional Property at different times. No assurances are made with respect to the boundaries of or the order in which portions of the Additional Property may be added to the Condominium.

f. If the right to add a portion of the Additional Property to the Condominium is exercised, there shall be no requirement that Declarant exercise such right with respect to any other portion of the Additional Property.

(b) Procedure for Exercise. The development rights to add Additional Property shall be exercised by Declarant by the filing of an amendment or amendments to the Declaration in compliance with Section 47C-2-110 of the Act, and either new plats and plans or new certifications of plats and plans in accordance with Section 47C-2-109(d) of the Act. Declarant may develop the Additional Property in phases, and add portions of the Additional Property to the Condominium constituting separate phases by separate amendments. Notwithstanding any other provision of this Declaration to the contrary, no joinder or consent by any Owner or Mortgagee, or any party other than Declarant, shall be required for any such amendment to the Declaration to be effective.

Any such amendment adding the Additional Property, or any portion thereof, shall reallocate the interests in the Common Elements Interest to all of the Units in the Condominium (including all those in the Condominium at the time of filing of such amendment, and all those

added to the Condominium by such amendment), as required under Section 47C-2-110 of the Act, and in accordance with Section 5.3 of this Declaration.

(c) Completion of Improvements Shown on Plans. If any buildings or other improvements are shown on the Plans, but are not yet complete, Declarant hereby reserves the right to complete such buildings and, upon completion of such buildings and the filing of Plans therefore designating portions thereof as Units and/or Common Elements (such Units and Common Elements shall be Units and Common Elements for all purposes hereunder). In such event, upon completion of such Units, Declarant shall file an amendment to this Declaration reallocating the interests in the Common Elements to all of the Units in the Condominium (including all those in the Condominium at the time of filing of such amendment, and all those added to the Condominium by such amendment). Such right to complete improvements must be exercised within ten (10) years after the date hereof.

(d) No Obligation to Exercise Special Declarant Rights. Anything to the contrary in this Declaration notwithstanding, Declarant shall have no obligation to add the Additional Property to the Condominium, and does hereby reserve the right to develop the Additional Property as a separate project from the Condominium. In addition, Declarant may add only a portion of the Additional Property to the Condominium, and may develop the remainder of the Additional Property as a separate project from the Condominium. In the event Declarant so elects to develop any portion of the Additional Property as a separate project from the Condominium, Declarant shall still have the right to exercise all easements necessary to develop such property as reserved in Section 6.1(h) and Section 9.3 of this Declaration; and Declarant shall have no obligation to develop such portion of the Additional Property in a manner that is compatible (with respect to appearance) with the Condominium.

ARTICLE III. DESCRIPTION OF BUILDINGS

Each of the Buildings are constructed with a concrete foundation and three stories of wood framed structure containing the Units in a “brownstone” design. Each of the Buildings has a brick, hardie board, exterior. Building 1 contains fourteen (14) residential Units, and Building 2 contains fifteen (15) residential Units, for a total of twenty-nine (29) residential Units. The Buildings are more particularly described in the Plans, which show the particulars of the Buildings and the Units to the extent required under the Act. The Plans contain a certification by R.B. Pharr & Associates, P.A., a North Carolina Registered Land Surveyor, and Shrader Design Center Architecture, a North Carolina Licensed Architect, that the Plans contain all the information required by N.C.G.S. § 47C-2-109.

ARTICLE IV. DESCRIPTION OF UNITS

Section 4.1 Location of Buildings. The location and dimensions of the Buildings are shown on the Plans to the extent and with the degree of precision required by the Act. The

Buildings need not be constructed in exactly the same location or to exactly the same dimensions as shown on the Plans.

Section 4.2 Units. The location of Units within the Buildings, their dimensions, and their floor and ceiling elevations, are shown on the Plans to the extent and with the degree of precision required by the Act. The Units need not be constructed in exactly the same location or to exactly the same dimensions as are shown on the Plans. Each Building will include two (2) entrances to each Unit. The Condominium initially consists of twenty-nine (29) residential units; provided, however, Declarant reserves the right to create additional Units upon Additional Property which may be subjected to this Declaration pursuant to Section 2.2 herein or to subdivide or combine Units in the future for any reason; provided, further that the total number of Units in the Condominium shall not exceed thirty-five (35) Units. The identifying number for each Unit is set forth on the Plans.

Section 4.3 Unit Boundaries. The boundaries of each Unit (with each Unit including the garage constructed on the ground level of the Unit, or the storage space in lieu of a garage, as the case may be, as shown on the Plans) are as follows:

(a) Upper Boundary: The uppermost up-facing surface of the ceiling on the highest level of each Unit immediately below the Rooftop Deck (the roof-support deck in the case of Type "B-1" Units), as defined by the Unit's vertical boundaries.

(b) Lower Boundary: The uppermost unfinished surface of the horizontal ground floor slab of each Unit, as defined by its vertical boundaries.

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

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

ARTICLE V. COMMON ELEMENTS

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

(a) All improvements located on the Land outside of the Buildings, including without limitation all private sidewalks, private roads/alleys, lanes and other paved areas, bicycle racks and bicycle parking facilities, and all landscaped areas.

(b) All other portions of the Buildings located outside of the Units, including without limitation the following, if any: the façade or exterior of the Buildings, mechanical rooms, all other portions of the common mechanical systems for the Buildings the Building facades, and the Rooftop Decks.

(c) Limited Common Elements described in Section 5.2 below and not otherwise described in this Section 5.1.

(d) The foundations, roofs, columns, girders, beams, supports, exterior and interior load-bearing walls, floors within and between Units, and all other structural elements of the Buildings.

(e) Any public connections and meters for utility services that are not owned by the public utility or municipal agency providing such services.

(f) All tangible personal property required for the operation and maintenance of the Condominium that may be owned by the Association.

Section 5.2 Limited Common Elements. Common Elements that are more specifically Limited Common Elements shall consist of the following:

(a) Those portions of any chute, flue, duct, wire, pipe for water or sewer, conduit, bearing wall, bearing column, or any other fixture lying partially within and partially outside the designated boundaries of a Unit, but serving exclusively that Unit, which shall be Limited Common Elements allocated exclusively to that Unit.

(b) Any shutters, awnings, window boxes, driveways, if any, and all exterior doors and windows or other fixtures and all portions of the Building facades designed to serve a single Unit, but located outside that Unit's boundaries, which shall be Limited Common Elements allocated exclusively to that Unit.

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

(d) Those areas indicated as Limited Common Elements on the Plans.

(e) Any exterior steps and/or landings, including the front steps and landings, shall be Limited Common Elements allocated exclusively to the Unit(s) served.

(f) Rooftop Decks shall be Limited Common Elements allocated as follows, all as shown on the Plans: (i) Rooftop Decks located above Type "A" and Type "E" Units shall be allocated to those Units above which they are constructed; (ii) Rooftop Decks located above Type "C" Units or the Type "F" Unit, if any, shall be allocated to the Type "B" Units located immediately adjacent to such Type "C" Units or the Type "F" Unit, as the case may be; and (iii) no Rooftop Decks are allocated to Type "C" Units or Type "B-1" Units or the Type "F" Unit.

(g) Individual mailboxes shall be Limited Common Elements allocated exclusively to the Units identified on the mailboxes, with the monument feature supporting the individual mailboxes being a Common Element.

The cleanliness and orderliness of the Limited Common Elements shall be the responsibility of the individual Owner having the right to the use and enjoyment of such Limited Common Elements, as described below in Section 5.5 of this Declaration. Notwithstanding any other provisions of this Declaration, or any provision of the Bylaws or the Act, the obligation for maintenance, repair, or replacement of any portions of the heating, ventilating, and air conditioning systems that are Limited Common Elements shall be the sole responsibility of the Owners of the Units to which such Limited Common Elements are allocated. Notwithstanding the foregoing, while the responsibility for the compressors situated on or next to the Buildings shall be the sole responsibility of the Owners of the Units to which such Limited Common Elements are allocated, in order to obtain permission from the Association to access the roof, the vendor hired by the Owner to repair or replace a compressor that may be situated on the roof and the procedures used by such vendor must be approved by the Association. The allocation of use of Limited Common Elements to the Units as provided for in this Declaration shall not be altered without the unanimous consent of the Owners whose Units are affected.

Section 5.3 Undivided Interests of Owners in Common Elements. The percentage interest in the Common Elements allocated to each Unit shall be the Common Elements Interest for that Unit as set forth on Exhibit B attached hereto with the Common Elements Interest for a Unit being determined by dividing the approximate heated square footage of said Unit by the total approximate heated square footages of all Units added together (heated square footage being measured paint-to-paint and not including garage and unheated storage square footage, with Declarant's measurements for purposes of coming up with the Common Elements Interests set forth on Exhibit B being determinative). The Common Elements Interest allocated to each Unit shall be changed upon the relocation of boundaries of Units, or the subdivision of Units, in accordance with Sections 9.5(a) and (b).

Section 5.4 Maintenance of Common Elements. The Association shall be responsible for the maintenance and repair of all Common Elements, including Limited Common Elements, except that the Owners having the right to use and enjoy Limited Common Elements shall perform everyday and routine maintenance with respect to such Limited Common Elements, including without limitation cleaning and sweeping storage areas, Rooftop Decks, steps, landings, and driveways leading to garages, if any, and except for maintenance or repairs caused by the negligence or intentional misconduct of any Owner, his or her agents, invitees or family members, which shall be the responsibility of that Owner. The insurance of all contents within Limited Common Elements shall be the responsibility of the Owner of the Unit to which such Limited Common Elements are assigned. All other repairs of Limited Common Elements other than everyday and routine maintenance, including without limitation the painting of such Limited Common Elements, shall be performed by the Association, and the costs thereof shall be a Common Expense of the Association. The Association may make repairs to a Limited Common Element that is the responsibility of an Owner if the applicable Owner fails to do so, and the costs of such repair shall be charged to such owner as an individual assessment, as provided in Section 10.5 herein. In addition, each Owner shall maintain and repair any utilities, including, without limitation, pipes and cables, which are located within such Owner's Unit at

the Owner's sole cost and expense, and the Association shall maintain and repair any utilities which are located within the Common Elements, the cost of which maintenance and repair shall be a Common Expense of the Association. By accepting a deed to a Unit, each Owner acknowledges that the Association is solely responsible for maintaining any and all private roads located within the Condominium and neither the Town of Davidson, the State of North Carolina or any of their political subdivisions are responsible for the maintenance of such private roads/alleys because such roads/alleys may not be built to the minimum standards required for inclusion in public maintenance. The alleys behind each Building shall be private roads/alleys.

Section 5.5 Parking Rights. Each garage shall be part of a Unit as described in Article IV herein and as indicated on the Plans. Except that each Owner has the exclusive right to park in its own garage, there shall be no parking, exclusive or otherwise, within the Condominium. There will be no parking allowed in the alleys behind the Buildings, and the Association shall have the right, but not the obligation, to enforce the provisions of this subsection through all legal means, including without limitation, having vehicles which are not in compliance with the terms of this Declaration towed from the Condominium at the expense of the vehicle owner. Harbour Place Drive is a public right of way and parking along Harbour Place Drive shall be public parking.

Section 5.6 Addition of Common Elements and Limited Common Elements. Declarant may add additional Common Elements and Limited Common Elements to the Condominium if Declarant elects to add the Additional Property to the Condominium in accordance with Section 2.2 herein.

ARTICLE VI. SPECIAL DECLARANT RIGHTS

Section 6.1 Special Declarant Rights. Special Declarant Rights are certain rights reserved for the benefit of Declarant in the Condominium Documents, which rights may be exercised, unless otherwise stated, within thirty (30) years following the date of recording of this Declaration (the "Special Declarant Rights Period") and shall include all rights reserved satisfying the definition of "special declarant rights" in the Act, that are in this Declaration, including, without limitation the following rights:

- (a) The right to use and maintain sales, management, and construction offices, model units, to host parties and other special events, and erect signs advertising the Condominium (including the right to maintain a sales office on the Land or in any Unit owned or leased by Declarant and any part of the Common Elements. There shall be no limit on the number of Units or location of Units which the Declarant may use for such activities, and such Units may be relocated from time to time. Declarant, its designees, successors and assigns shall have such easements over, upon, across and under the Condominium as may be reasonably required in connection with the development, completion of improvements, marketing or sale of any Unit within the Condominium, including access to ducts, plumbing, wiring, window wall systems, parking facilities, and other facilities, for the furnishing of utility and other services to the Condominium. At all times, the offices, model Units and signs will remain the property of Declarant and may

be removed from the Property by Declarant at any time during or promptly after the expiration of the Special Declarant Rights Period.

(b) The right to use easements through the Common Elements for the purpose of completing improvements within the Condominium shown on the Plans.

(c) The right to appoint or remove officers of the Association or members of the Executive Board during the Declarant Control Period.

(d) The right to exercise any other rights granted to or reserved by Declarant in the Condominium Documents.

(e) The right to add real estate to the Condominium; to create units; to create common elements or limited common elements within the Condominium; or to subdivide Units or convert Units into Common Elements or Common Elements to Units or Limited Common Elements; all as provided in this Declaration.

(f) The right to complete all improvements shown on or described on the Plans.

Section 6.2 Transfer of Special Declarant Rights. Declarant may transfer any Special Declarant Rights created or reserved under the Condominium Documents to any person or entity, by an instrument evidencing the transfer duly recorded in the Office of the Register of Deeds for Mecklenburg County. The instrument shall not be effective unless it is executed by the transferor and the transferee. Upon the transfer of any Special Declarant Rights, the liability of the transferor and the transferee shall be as set forth in N.C.G.S. § 47C-3-104.

ARTICLE VII. RESTRICTIONS ON USE

Section 7.1 Master Harbour Place Declarations. All Owners shall comply with all applicable provisions set forth in the Master Harbour Place Declarations regarding use of the Units. All provisions in the Master Harbour Place Declarations regulating the use of the Units are incorporated herein by this reference and made a part hereof.

Section 7.2 Residential Use. All Units shall be used for residential purposes only; provided, however, that portions of the Units also may be used for home office purposes by the residents of such Units, provided that the primary use of each Unit is residential, no business customers of the Owner visit the Unit and the Owner does not advertise the address of the Unit as such Owner's business address. Notwithstanding the foregoing, Declarant may maintain any one or more Units owned by Declarant as a sales, management or construction office or model Unit, and may relocate any such model Units from time to time.

Section 7.3 Nuisance; Noise. No obnoxious, offensive or unlawful activity shall be conducted within any Unit, or on or about the Common Elements, nor shall anything be done thereon or therein which may be or which may become an annoyance or nuisance to the other Owners, or endanger the health and safety of any Owner. Ordinary use of Rooftop Decks, for recreation and relaxation, notwithstanding that some of such decks are located atop adjacent

Units, shall not be deemed to constitute an annoyance or nuisance under this Section 7.3. Nothing shall be done or kept in any Unit or in the Common Elements that will result in the termination of, or an increase in the premium for, the policy of property insurance for the Property. Owners are asked to refrain from making or permitting any disturbing noises by members of their families, guests or tenants. The loud playing of stereos, televisions or musical instruments is discouraged, together with any noisy or boisterous conduct which would disturb the peace and quiet enjoyment of other Owners.

Section 7.4 Prohibitions on Use of Common Elements. The Common Elements (other than those not visible from the Outside of a Unit) shall not be used for the storage of personal property of any kind, including without limitation bicycles, wagons and carts. Stairs, porches, entrances, sidewalks, stoops, and landings shall not be obstructed in any way, or used for other than their intended purposes. In general, no activity shall be carried on nor conditions maintained by any Owner either in his or her Unit or upon the Common Elements which despoils the appearance of the Property.

Section 7.5 Garbage. Trash, garbage and other waste shall be kept in sanitary containers within each Unit, except that on trash pickup day, sanitary containers may be placed at the curb for pickup. Boxes shall be completely collapsed and shredded before disposal. Trash pickup containers shall be kept inside the garage or each Unit, except when placed at the curb for pickup on trash pickup day, and no trash or garbage shall be kept or stored on the patios or balconies or placed outside of the front door of a Unit or in the hallways of the Building for any period of time.

Section 7.6 Parking. The parking rights of Owners or their guests are described in Section 5.5 of this Declaration. No boat, boat trailer, motor home, travel trailer, camper or other recreational vehicle may be stored on the Property at any time. No commercial vehicles may be stored or parked on the Property at any time. For purposes of this Declaration, a "commercial vehicle" shall include any vehicle having a carrying capacity and/or size designation greater than or equal to three-fourths (3/4) ton; any vehicle other than a law enforcement vehicle bearing a company name or logo; any vehicle with ladders on top or in a truck bed; and any "box" van or truck. The Executive Board shall have the authority to further define the term "commercial vehicles" in the rules and regulations to include other vehicles used primarily for commercial purposes other than commuting to and from the workplace. No repair to or maintenance of any automobile or other vehicle shall be made or performed anywhere on the Property, except in the case of emergency and except as may be permitted by the rules and regulations. No unlicensed, wrecked or inoperable vehicles may be left within the Condominium outside an enclosed structure. The Association shall have the right to tow any vehicle in violation of this Section 7.5 at its owner's expense.

Section 7.7 Leases of Units. Any lease of a Unit or portion thereof shall be in writing and shall provide that the terms of the lease shall be subject in all respects to the Condominium Documents and that any failure by the lessee to comply with all of the terms of such Condominium Documents shall constitute a default under the lease. During the Declarant Control Period, no Unit or portion thereof may be leased for a period shorter than six (6) months; provided however, Declarant reserves the right to lease unsold Units for periods shorter than six (6) months. After the Declarant Control Period has expired, the Association, by casting the

majority of the votes represented at a meeting at which a quorum is present, in person or by proxy, may determine the appropriate policies regarding leases of Units. Anything to the contrary in this Declaration and the other Condominium Documents notwithstanding, however, the leasing of Units by Owners may not be prohibited, directly or indirectly, without the written consent of all Owners; and, furthermore, no minimum lease term of more than six (6) months may be established without the prior written consent of all Owners. If any Owner should lease its Unit, such Unit Owner must provide to the Association in writing the name and phone number of the lessee. In addition, such Owner must provide its lessee with a copy of Article VII of this Declaration and any rules and regulations in existence at the time of such lease, together with any updated or amended rules and regulations which may be promulgated during the life of such lease.

Section 7.8 No Timeshares. No interest in any Unit may be subjected to a time share program, as that term is defined in N.C.G.S. § 93A-41(10).

Section 7.9 Animals. No animals, livestock, or poultry of any kind shall be kept or maintained on the Property or in any Unit except that dogs, cats or other common household pets may be kept or maintained provided they are not kept or maintained for commercial purposes and there are no more than two (2) pets. No pet shall be permitted upon the Common Elements (other than Limited Common Elements) unless carried or leashed by a person that can control the pet, and in no event may any savage or dangerous pet be kept within any Unit or the Condominium. All pets shall be controlled so as not to create a nuisance or unreasonable disturbance (including loud and excessive barking) on the Property. Pets shall not be permitted to defecate in the Common Elements, and each Owner shall clean up immediately after his or her pet if an accident occurs. All pets shall be registered or inoculated as required by law, and shall be registered with the Association. Each Owner shall hold the Association harmless from any claim resulting from any action of his or her pet, and shall repair at his or her expense any damage to the Common Elements caused by his or her pet. If any Owner violates these rules more than twice in any twelve (12) month period, then in addition to any fines provided in the Bylaws, the Association shall have the right to require the Owner to remove the pet permanently from the Property upon not less than ten (10) days' written notice.

Section 7.10 Utilities. Total electrical usage in any Unit shall not exceed the capacity of the circuits for that Unit as labeled on the circuit breaker boxes, and no electrical device causing overloading of the standard circuits may be used in any Unit without permission of the Association. All clothes dryers will have lint filters, and all range hoods will have grease screens, and such screens and filters shall be used at all times and kept clean, and in good order and repair, by the Owner of the Unit in which they are located. Water service shall not be individually metered to Units, rather it shall be billed to Owners as a Common Expense.

Section 7.11 Windows. No curtains, draperies or blinds shall be installed or hung in any window of any Unit unless they have a white or neutral lining or backing on the side exposed to the window. No other colors may be used unless approved in writing by the Association prior to installation. No storm windows shall be installed in any Unit, and no stickers or decals may be affixed to the windows in any Unit or elsewhere on the exterior of a Unit.

Section 7.12 Architectural Control. No exterior addition to, or change or alteration in, any Unit or the Common Elements shall be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing by the Association, and if applicable to the applicable governing body under the Master Harbour Place Declaration. No Owner shall penetrate the exterior of a Building in any way. No hangings shall be permitted on porches, balconies or front doors to Units and there shall be no awnings, screening, fencing or canopies installed.

Section 7.13 Flags; Banners; Signs. No sign (including without limitation, political signs), poster, display, billboard or other advertising devices, including, without limitation "For Sale" and "For Rent", security service or construction signs (collectively, "Signage") banner or flag (including without limitation flags of the United States of America and the State of North Carolina) shall be displayed on or about the exterior of any Unit, or in the Common Elements without the prior written consent of the Association. Notwithstanding the foregoing, Declarant shall have the right to maintain upon the Property Signage, banners and flags during the period that Declarant exercises its Special Declarant Rights, provided those signs comply with applicable governmental regulations.

Section 7.14 Maintenance. The Owner of each Unit is responsible for maintaining his or her Unit as well as performing everyday and routine maintenance of the Limited Common Elements appurtenant thereto, as more particularly set forth in Section 5.4 herein. Each Owner shall keep his or her respective Unit and its appurtenant Limited Common Elements in a clean, neat and orderly condition and in a good state of maintenance and repair. If an Owner fails to comply with the standards or requirements of the Association relative thereto, the Association shall have the right to assess the defaulting Owner the cost thereof as an individual assessment, as more particularly described in Section 10.5 herein, and shall have the right to undertake to effect said compliance.

Section 7.15 Rules and Regulations. In addition to the use restrictions set forth in this Declaration, reasonable rules and regulations governing the use of the Property may be made and amended from time to time by Declarant during the Declarant Control Period and the Association following the expiration of the Declarant Control Period. Copies of such regulations and amendments thereto shall be posted prominently prior to their effective date, and shall be furnished by Declarant or the Association to all Owners upon promulgation, upon any modification thereof, and upon request by an Owner.

Section 7.16 Satellite Dishes. No exterior satellite dish may be placed on the exterior of any Unit, or in the Common Elements, by the Owner of any Unit, unless such Owner is entitled to install and use a satellite dish in such location under applicable law. If an Owner is so entitled to install and use a satellite dish, then no such exterior satellite dish shall exceed one meter in diameter, and such satellite dish shall be placed on the roof of the Building in which the applicable Unit is located. The location, appearance, screening from view, installation, and all other aspects of such satellite dish shall be subject to the prior approval of the Executive Board, taking into account the appropriate standards set forth in the regulations of the Federal Communications Commission, and to the extent reasonably practical, the Executive Board may require that such satellite dish be screened from public view. Prior to installing the satellite dish, the Owner shall furnish to the Executive Board a copy of its installation plans. The Association

shall have the right to perform any portion of the installation work at the expense of the Owner, or to require that any portion of the work be performed by contractors designated by the Executive Board. In particular, any Building penetration that is required to install any satellite dish shall be performed only by a licensed contractor designated by the Executive Board. The Owner shall also be responsible for any damage caused by the removal of the satellite dish, including the sealing of conduits or other penetrations. Again, the Association shall have the right to require that any part of the removal work, including the sealing of penetrations, be performed by the contractor designated by the Executive Board, at the Owner's expense. Any Owner installing a satellite dish under this Section 7.16 shall indemnify, defend and hold the Association harmless from and against any loss, damage, claim or other liability resulting from the installation, maintenance, repair, use and/or removal of the satellite dish, including any damage to the Building or other property damage caused by leaks.

Section 7.17 Rooftop Decks, Front Steps and Driveways. The Rooftop Decks and the front steps and landings shall be kept in a clean, neat, and orderly condition at all times, and shall not be used for the storage of bicycles, overnight storage of garbage, or for the drying of laundry. In particular, towels or banners shall not be hung outside Units, and any dead plants shall be removed promptly. No gas or charcoal grills may be stored or used on a Rooftop Deck, front steps and landings, but electric grills are permitted in such areas. The Association may remove any unauthorized grill from any Common Element and dispose of such grill, all at the applicable Owner's expense. All outside lighting (including without limitation holiday lighting) shall use clear bulbs only. No fake/faux/plastic flowers or greenery may be displayed on porches and porches/patios or balconies. Declarant has installed exterior lighting fixtures on the front steps and on the Rooftop Decks. The exterior lighting fixtures must be maintained by the Owner to whom the applicable Limited Common Element is allocated. Each Owner shall replace the exterior lighting fixture with an identical product to maintain a consistent scheme of design, unless the consent of the Declarant, during the Declarant Control Period, and thereafter the consent of the Association, is obtained.

Section 7.18 Garages/Storage. Garages, where applicable, are part of Units, as are storage area indicated on the Plans (storage spaces are in lieu of a garage where a Unit does not have a garage). Owners may not store dangerous or unlawful items within any garage or storage area, including without limitation paint, solvents or other hazardous, flammable, explosive or dangerous materials, contraband, illegal substances, any other item that would contravene any applicable laws, regulations or provisions of any insurance policy carried by Owner, any item that would cause an increase in premium of any insurance policy carried by the Association and any item that may be considered to be a nuisance. Nothing may be done or kept in any garage or storage area that may result in the termination of, or an increase in the premium for, the policy of property insurance for the Property. Owners shall use garages or storage areas at their sole risk. Declarant and the Association are not responsible for the loss of or damage to any Owner's possessions due to any cause whatsoever, unless that cause is the result of Declarant's or the Association's negligence. The Association's insurance will not cover any possessions stored in any garage or storage area, and Declarant and the Association urge Owners to obtain insurance for such possessions. No Owner may conduct business activities from any garage or storage area and no improvements to or alterations to any garage or storage area shall be made without the prior written consent of Declarant or the Association; provided, however, Declarant may use any of the garages or storage area in Units owned by Declarant as its sales office for so long as

Declarant owns any of the Units. Garage doors or exterior storage area doors, if any, must be in the closed position at all times when not in use.

Section 7.19 Illegal Activities. The Owner, any member of the Owner's household, or a guest or other person under the Owner's control shall not engage in or facilitate criminal activity on or near the Condominium.

Section 7.20 Supervision of Children. Owners are asked to be responsible for their own children and ensure that they abide by this Declaration and any rules and regulations as may be adopted in accordance with the Bylaws. Children should not play in or around the trash disposal areas, if any, or alleys, and other Common Elements (other than Limited Common Elements). Young children must be supervised by an adult at all times. Toys, including without limitation bicycles and play equipment, must be stored within a Unit, and may not be stored within the Common Elements. Unattended articles may be confiscated and disposed of by the Association at the applicable Owner's expense.

Section 7.21 Affordable Units. The Type "C" Units, but no other Types of Units in the Condominium, are encumbered by Affordability Restrictions which are described more particularly in Article XX of this Declaration; such restriction affecting in particular the sale, leasing and occupancy of the Type "C" Units, for so long as the Affordability Restrictions remain in effect.

ARTICLE VIII. THE ASSOCIATION

Section 8.1 Organization of Association. A North Carolina nonprofit corporation known and designated as The Brownstones at Harbour Place Condominium Association, Inc. (the "Association") has been organized to provide for the administration of the Property, and the Association shall administer the operation and maintenance of the Property and undertake and perform all acts and duties incident thereto in accordance with the terms of its Articles of Incorporation, the Bylaws, and the North Carolina Condominium Act. Every Owner shall be required to be and shall automatically be a member of the Association by virtue of its ownership interest in a Unit.

Section 8.2 Powers; Budget; Lien for Assessment. In the administration of the operation and management of the Property, the Association shall have and it is hereby granted the authority and power to enforce the provisions of this Declaration, to levy and collect assessments, to impose fines, charges for late payments of assessments and suspend privileges or services in the manner provided in Article X below and in the Bylaws, and adopt, promulgate and enforce such rules and regulations governing the use of the Units and Common Elements as the Association may deem to be in the best interest of the Owners in accordance with the Bylaws. Any sum assessed by the Association remaining unpaid for a period of thirty (30) days or longer shall constitute a lien on the Unit with respect to which such sum was assessed upon filing in accordance with N.C.G.S. § 47C-3-116, and shall be enforceable by the Association in accordance with N.C.G.S. § 47C-3-116 and the Bylaws. The Executive Board 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 among the Owners in shares based upon the percentage interest in the Common Elements allocated to each Unit, all in accordance with the procedure set forth in this Section 8.2, and this 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 Executive Board pursuant to the provisions of the Declaration, and shall also include any assessments levied on the Association or the Unit Owners pursuant to the Master Harbour Place Declaration. The Common Expenses shall also include such amounts as the Executive Board 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 Elements; 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 Executive Board shall provide a summary of the budget to all the Owners. To the extent required by law, such notice shall include notice of a meeting of the Owners to consider ratification of the budget, including a statement that the budget may be ratified without a quorum. If such a meeting is required by law, the Executive Board shall set a date for a meeting of the Owners to consider ratification of the budget to be held not less than fourteen (14) nor more than thirty (30) days after mailing of the summary and notice. If such meeting is required as set forth above, there shall be no requirement that a quorum be present at the meeting. If the proposed budget to be voted on at any such meeting is within the maximum increase limits set forth below, the budget is ratified unless at such meeting the Owners exercising all of the votes in the Association reject the budget.

For each calendar year beginning the year after the recordation of this Declaration, the Executive Board, by a vote in accordance with the Bylaws, without need for a vote of the Owners (unless required by law, in which case all Owners present at a Meeting and entitled to cast a vote must vote to reject said proposed budget as set forth above), may increase the Common Expenses applicable to each Unit by a maximum amount equal to the previous year's Common Expenses times the greater of (i) ten percent (10%) or (ii) the annual percentage increase in the Consumer Price Index, All Urban Consumers, United States, All Items (1982-84 = 100) (hereinafter "CPI") issued by the U.S. Bureau of Labor Statistics for the most recent 12-month period for which the CPI is available. If the CPI is discontinued, then the index most similar to the CPI (published by the United States Government indicating changes in the cost of living) shall be used. If the Common Expenses are not increased by the maximum amount permitted under the terms of this provision, the difference between any actual increase which is made and the maximum increase permitted for that year shall be computed and the Common Expenses may be increased by that amount in a future year, in addition to the maximum increase permitted under the terms of the preceding sentence for such future year, by a vote of the Executive Board, without need for a vote of the Owners, unless required by law, in which case the procedures set forth above shall apply. 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 Executive Board. At no time shall a proposed budget be less than the budget then in place or exceed the budget then in place by greater than the annual allowable

increase described above, unless affirmatively approved by 67% of the votes in the Association, the intent being to provide greater protection for Unit Owners in either of these situations.

Section 8.3 Declarant Control Period. During the Declarant Control Period, Declarant reserves the right to appoint and remove any Executive Board members; provided, however, (i) that not later than 60 days after conveyance of twenty-five percent (25%) of the Units (including any Units which may be added to the Condominium upon the development of the Additional Property pursuant to Section 2.2 hereof) to Owners other than Declarant, at least one member and not less than twenty-five percent (25%) of the members of the Executive Board shall be elected by Owners other than Declarant; and (ii) that not later than 60 days after conveyance of fifty percent (50%) of the Units (including any Units which may be added to the Condominium upon the development of the Additional Property pursuant to Section 2.2 hereof) to Owners other than Declarant, not less than thirty-three percent (33%) of the members of the Executive Board shall be elected by Owners other than Declarant. Provided, however, after the termination of the Declarant Control Period, it may be reinstated in accordance with Section 1.16 herein.

Section 8.4 Books and Records. The Association shall maintain current copies of: (a) the Condominium Documents, as they may be amended from time to time, (b) any rules and regulations adopted under Section 7.15 from time to time; and (c) all financial records of the Association, as required by N.C.G.S. § 47C-3-118. These items shall be available for inspection, during normal business hours and upon reasonable advance notice, any Mortgagee, and any insurer or guarantor of a loan secured by a Mortgage. All financial and other records, including records of meetings of the Owners and the Board, shall be made available, during reasonable business hours, for examination by any Owner and the Owner's authorized agents at the principal office of the Association, as required by the Bylaws and Chapter 55A of the North Carolina General Statutes. The Association shall keep accurate records of all cash receipts and expenditures and all assets and liabilities. The Association shall make an annual income and expense statement and balance sheet available to all Owners at no charge within seventy-five (75) days after the close of the fiscal year to which the information relates. A more extensive compilation, review or audit of the Association's books and records for the current or immediately preceding fiscal year may be required by a vote of the majority of the Board or by the affirmative vote of a majority of the holders of votes in the Association present and voting in person or by proxy at any Annual Meeting or any Special Meeting duly called for that purpose.

Section 8.5 Enforcement; Litigation. The Association, Declarant or any Owner shall have the right, but not the obligation, on its own behalf or on behalf of others, to enforce the provisions of this Declaration, subject to and in accordance with the provisions of Article XIX below. Enforcement of the controls, covenants, conditions, restrictions, easements, charges and liens for which provision is made in this Declaration shall be by a proceeding at law or in equity (or otherwise, as provided in this Declaration) against any person or persons violating or attempting to violate any such control, covenant, condition, restriction, easement, charge or lien, either to restrain such violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure by the Association, Declarant or any Owner to enforce any such control, covenant, condition, restriction, easement, charge or lien shall in no event be deemed a waiver of the right to do so thereafter or of any other or future violation of any thereof. Except as otherwise expressly provided in this Declaration, no arbitration, judicial or

administrative proceeding shall be commenced or prosecuted by the Executive Board on behalf of the Association unless and until approved by a vote of no less than sixty-seven percent (67%) of all votes entitled to be cast by the Owners, which vote is taken at a duly held meeting of the Owners at which a quorum is present, all in accordance with the Bylaws. The immediately preceding sentence shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration, (b) the imposition and collection of assessments, charges or other fees hereunder, (c) proceedings involving challenges to ad valorem taxation, (d) counter-claims brought by the Association in proceedings instituted against it or (e) actions brought by the Association against any contractor, vendor, or supplier of goods or services to the Project.

Section 8.6 Voting, Unit Allocations. The Common Elements Interests are described in Section 1.8 and are stated on Exhibit B. The votes in the Association are equally allocated to all Units with each Unit Owner having one (1) vote for each Unit owned.

ARTICLE IX. EASEMENTS AND PROPERTY RIGHTS

Section 9.1 Access by the Association. The Association, or any person authorized by it, shall have the right of access to the Property, including without limitation each Unit, and the Limited Common Elements, to the extent necessary for performance by the Association of its obligations of maintenance, repair, or replacement of the Property, provided that the Association shall first arrange a convenient time with the Owner, and shall give the Owner forty-eight (48) hours notice except in the event of an emergency, as set forth in Section 9.4.

Section 9.2 Encroachment Easements. If any portion of the Common Elements now encroaches upon any Unit, or if any Unit now encroaches upon any other Unit or upon any portion of the Common Elements, or if such encroachment shall occur hereafter as a result of the settling or shifting of any Building, there shall exist a valid easement for the encroachment and for the maintenance of same for so long as such Building shall stand. If any Building, any Unit, or any portion of the Common Elements is partially or totally destroyed by fire or other casualty or as a result of condemnation or eminent domain proceedings, and subsequently is rebuilt, any encroachment of parts of the Common Elements upon any Unit, or of parts of any Unit upon the Common Elements, due to such rebuilding shall be permitted, and valid easements for such encroachments and the maintenance thereof shall exist so long as the Building shall stand.

Section 9.3 Easements over Common Elements; Development Easement. Declarant, until the Property has been completely developed, and the Association, at any time, may grant easements for utility purposes for the benefit of the Property and Additional Property, including the right to install, lay, maintain, repair and replace water lines, pipes, and ducts; sewer lines; gas mains; telephone and television or cable television or other data transmission wires, cables and equipment; and electrical conduits and wires over, under, along and on any portion of the Common Elements. Declarant, until the Property and Additional Property have been completely developed, and the Association, at any time, has the right to relocate any such existing easements or drainage facility in any portion of the Land or Condominium; and each Owner hereby grants to Declarant or the Association, as applicable, an irrevocable power of attorney to execute, acknowledge and record for and in the name of each Owner such instruments as may be necessary to effectuate the foregoing. Until the Property and Additional Property have been

completely developed, Declarant shall have an easement over the Common Elements as may be reasonably necessary to complete the construction of the Buildings and the other improvements within the Property, and to develop the Additional Property by constructing Buildings and other improvements upon such Additional Property, regardless of whether such Additional Property is subjected to this Declaration. All such easement rights described in this Section 9.3 shall be appurtenant to, and shall run with title to, the Property.

Section 9.4 Emergency Access. In case of any emergency originating in or threatening any Unit or the Common Elements, regardless of whether the Owner is present at the time of such emergency, the Association, or any other person authorized by it, shall have the right to enter any Unit or its Limited Common Elements for the purpose of remedying or abating the cause of such emergency and making any other necessary repairs not performed by the Owners, and such right of entry shall be immediate. Any public body rendering police and fire services is granted an easement over, upon and through the Common Elements and Limited Common Elements for the purpose of providing police and fire protection services and to enforce all applicable police and fire regulations.

Section 9.5 Relocation of Boundaries; Subdivision; Partitioning.

(a) Relocation of Boundaries Between Adjoining Units. The boundaries between adjoining Units may be relocated upon application to the Association by the Owners of such adjoining Units (“Adjoining Owners”) and upon approval by the Association of such application; provided, however, that no such relocation of boundaries shall be binding upon any Mortgagee holding a Mortgage on any Unit whose boundaries are relocated, unless consented to in writing by such Mortgagee. Any such application to the Association must be in such form and contain such information as may be reasonably required by the Association, and shall be accompanied by a plat detailing the proposed relocation of boundaries. Unless the Association determines within thirty (30) days after submission to it of the application that the proposed relocation of boundaries is unreasonable, the application shall be deemed approved. The Common Elements Interest for such Units affected by such relocation of boundaries shall be recalculated in accordance with the new heated square footage of such Units, provided that the new heated square footage of all such Units shall total the old heated square footage of such Units, and the amendment to the Declaration shall specify the Common Elements Interest allocated to such Units. Upon approval of the proposed relocation of boundaries, the Association shall cause to be prepared and filed, at the Adjoining Owners’ expense, an amendment to this Declaration and a plat which identifies the Units involved, describes and depicts the altered boundaries, and gives the dimensions of the altered Units. Such amendment shall also contain operative words of conveyance and be signed by the Adjoining Owners and consented to by their Mortgagees, if any, and shall be indexed by the Register of Deeds in the names of the Adjoining Owners.

(b) Subdivision of Units. Units may be subdivided only with the written approval of Declarant during the Declarant Control Period or the Association after the expiration of the Declarant Control Period. If any Unit is subdivided in accordance with this Section 9.5(b), the party seeking such subdivision shall have prepared, executed and recorded, at its sole expense, an amendment to this Declaration and a plat which

identifies the existing Unit(s) involved, describes and depicts the boundaries of the new Units into which the existing Unit(s) have been subdivided, and gives the dimensions and floor area of each newly created Unit. The Common Elements Interest for such Units affected by such subdivision shall be recalculated in accordance with the new heated square footage of such Units, provided that the new heated square footage of all such Units shall total the old heated square footage of such Units, and the amendment to the Declaration shall specify the Common Elements Interest allocated to such Units.

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

Section 9.6 Conveyance or Encumbrance of Common Elements. While the Property remains subject to this Declaration and to the provisions of the North Carolina Condominium Act, no conveyances of or security interests or liens of any nature shall arise or be created against the Common Elements without the prior written consent Owners exercising at least eighty percent (80%) of the total vote of all Owners, including Owners exercising at least eighty percent (80%) of the votes of all Owners other than Declarant, and of Mortgagees of Units to which at least eighty percent (80%) of the total vote is allocated. Every agreement for the performance of labor or the furnishing of materials to the Common Elements, whether oral or in writing, must provide that it is subject to the provisions of this Declaration and that the right to file a mechanic's lien or other similar lien by reason of labor performed or material finished is subordinated to this Declaration and to the lien of assessments for Common Expenses provided for in Section 8.2 of this Declaration. Nothing in this Section 9.6 shall be construed to limit the right of any Owner to convey or to encumber his or her allocated interest in the Common Elements as an appurtenance to and in connection with the conveyance or mortgaging of his or her Unit. Proceeds of the sale of a Common Element (other than a Limited Element) shall be an asset of the Association. Proceeds of the sale of a Limited Common Element shall be distributed to the Owner(s) of the Unit(s) having the right to use such Limited Common Element, in proportion to their rights of use.

Section 9.7 Nature of Interest in Unit. Every Unit, together with its allocated interest in the Common Elements, shall for all purposes be and it is hereby declared to be and to

constitute a separate parcel of real property. The Owner of each Unit shall be entitled to the exclusive fee simple ownership and possession of his or her Unit subject only to the covenants, conditions, restrictions, easements, uses, limitations, obligations, rules and regulations set forth in the Condominium Documents, or adopted by the Executive Board of the Association.

ARTICLE X.
ASSESSMENTS

Section 10.1 Taxes. Every Unit, together with its allocated interest in the Common Elements, shall be separately assessed and taxed by each assessing authority for all types of taxes authorized by law. Each Owner shall be liable solely for the amount taxed against his or her individual Unit, provided, however, if the Units should not be separately taxed for any calendar year, the Association shall pay such tax bill and shall assess the Owners for their respective portions of such bill as annual assessments.

Section 10.2 Assessments for Common Expenses. The Association shall assess the Owners for all of the Common Expenses incurred by the Association, all in accordance with the definition of "Common Expenses" set forth in Section 1.8 above, the Bylaws, and the provisions of the North Carolina Condominium Act. The share of Common Expenses allocable to the Units shall be divided among the Units in accordance with each Unit's Common Elements Interest. Due dates for payment of such assessments shall be established by the Association and shall be collected at least monthly. Assessments for all Units shall begin on a date established by the Association.

Section 10.3 Common Surplus. The term "Common Surplus" means and refers to all funds and other assets of the Association, including excess of receipts of the Association from assessments, rents, profits and revenues from whatever source, over the amount of Common Expenses. The Common Surplus shall be owned by the Owners in the same proportion as their respective shares of Common Expenses, as provided in Section 10.2; provided, however, that the Common Surplus shall be held by the Association in the manner and subject to the terms, provisions and conditions of this Declaration imposing certain limitations and restrictions upon the use and distribution thereof. Except for distribution of any insurance proceeds, which shall be made in the manner provided in Section 11.6, or upon termination of the Condominium, any attribution or distribution of Common Surplus which may be made from time to time shall be made to the then Owners in proportion to their respective shares of Common Expenses.

Section 10.4 Special Assessments. The Association also may levy a special assessment payable in a manner as specified by the Association for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Elements, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of sixty-seven percent (67%) of votes of the Owners.

Section 10.5 Individual Assessments. The Association may levy an individual assessment payable in a manner as specified by the Association if an Owner should fail to maintain a Limited Common Element appurtenant to such Owner's Unit, and the Association

should elect to undertake such repair on behalf of that Owner, all in accordance with Section 5.4 herein.

Section 10.6 Fees, Charges, Suspension of Privileges. The Association may exercise all remedies to ensure compliance by Owners of the terms of this Declaration, the Bylaws and any rules and regulations promulgated by the Association from time to time, including, without limitation, to impose fees, charge and suspend service, to the full extent permitted by the Act.

Section 10.7 Initial Contribution. The Declarant, as the agent of the Association, shall collect from each initial purchaser of a Unit at the time of closing an "Initial Contribution" equal to three times the estimated monthly assessment for Common Expenses. Such funds shall not be considered advance payments of assessments and are nonrefundable. The Declarant will deliver the funds so collected to the Association. Such funds may be used for prepaid items advanced by Declarant for Association expenses, such as insurance premiums paid in advance by Declarant, and for any other purposes as the Executive Board may determine.

Section 10.8 Pet Assessment. The Association may levy a pet assessment on an annual basis per pet payable by each Owner who owns and keeps such pet pursuant to Section 7.9 of this Declaration. The amount of the pet assessment shall be determined annually by the Board. Further, the Association may levy an individual assessment payable in a manner as specified by the Association if the pet of an Owner damages a Common Element or Limited Common Element, and the Association elects to undertake such repair, all in accordance with Section 5.4 herein.

ARTICLE XI. INSURANCE

Section 11.1 Property Insurance. The Association shall obtain and maintain at all times a policy of property insurance on the Buildings (ISO special form or its equivalent) and all other improvements within or comprising any part of the Condominium, without deduction or allowance for depreciation, in an amount not less than one hundred percent (100%) of the replacement cost of the Buildings and such improvements (excluding the costs of any improvements or betterments installed by Owner and any personal property owned by Owner) at the time such insurance is purchased and at the time of each renewal thereof, as determined annually by the Executive Board with the assistance of the insurance company, with a commercially reasonable deductible. The policy shall be issued by an insurance company properly licensed to do business in the State of North Carolina, with a general policyholder's rating of at least "A-" in the most recent edition of the Best's Key Rating Guide. The policy shall provide that each Owner is an insured person with respect to his or her Unit and his or her allocated interest in the Common Elements. The policy shall contain an inflation guard endorsement, if available, and a ordinance and law endorsement, if available, as well as a special condominium endorsement providing as follows: for waiver of subrogation against any Owner, and any Owner's employees or agents; that it may not be canceled or substantially modified without at least thirty (30) days' prior written notice to the Association and all insureds, including all Owners and Mortgagees; that no act or omission by any Owner will preclude recovery upon such policy; and that if, at the time of a loss under the policy, there is other insurance in the name of an Owner covering the same risk covered by the policy, the

Association's policy provides primary insurance. Each property insurance policy shall provide that adjustment of loss shall be made by the Association as insurance trustee. Each property insurance policy shall provide for the issuance of certificates or mortgagee endorsements to Mortgagees and issuance of certificates to the Association and each Owner.

Section 11.2 Liability Insurance. The Association shall obtain and maintain a policy of commercial general liability insurance (current ISO form or its equivalent) in such limits as the Executive Board may, from time to time, determine, covering each member of the Executive Board, the managing agent, if any, and each Owner with respect to liability arising out of the use, ownership, maintenance, or repair of the Common Elements; provided, however, that in no event shall the limits of such policy ever be less than \$1,000,000.00 per occurrence. The liability insurance policy shall include endorsements covering cross liability claims of one insured against another, including the liability of the Owners as a group to a single Owner, and shall provide that it may not be canceled or substantially modified without at least thirty (30) days' prior written notice to the Association and to all insureds, including all Owners and Mortgagees. The Executive Board shall review such limits annually. The liability insurance policy shall provide a special condominium endorsement providing as follows: for waiver of subrogation against any Owner, and any Owner's employees or agents; that it may not be canceled or substantially modified without at least thirty (30) days' prior written notice to the Association and all insureds, including all Owners and Mortgagees; that no act or omission by any Owner will preclude recovery upon such policy; and that if, at the time of a loss under the policy, there is other insurance in the name of an Owner covering the same risk covered by the policy, the Association's policy provides primary insurance. Each liability insurance policy shall provide that adjustment of loss shall be made by the Association as insurance trustee. Each liability insurance policy shall provide for the issuance of certificates or mortgagee endorsements to Mortgagees and issuance of certificates to the Association and each Owner.

Section 11.3 Fidelity Coverage; D&O Insurance. The Association may obtain such fidelity coverage against dishonest acts on the part of all persons responsible for handling funds belonging to or administered by the Association as it may deem necessary. Any such fidelity insurance policy must name the Association as the named insured and shall be written in an amount as may be determined by the Executive Board, but in no event less than one-half the annual budgeted amount of Common Expenses. The Association shall obtain directors' and officers' insurance with coverage of at least \$1,000,000.00 per occurrence or claim.

Section 11.4 Other Insurance Policies. The Association shall be authorized to obtain such other insurance coverage, including worker's compensation or employee liability insurance, as the Association shall determine from time to time desirable or necessary. An Owner may obtain insurance for its own benefit, notwithstanding any insurance policy issued to the Association.

Section 11.5 Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association and charged as a Common Expense.

Section 11.6 Distribution of Insurance Proceeds. All insurance policies procured by the Association shall provide that all losses shall be adjusted with and all proceeds shall be payable to the Association as insurance trustee. The sole duty of the Association as insurance trustee

shall be to receive such proceeds as are paid and to hold the same in trust for the purposes set forth herein and for the benefit of the Owners and their Mortgagees in the following shares:

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

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

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

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

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

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

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

a. the proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition compatible with the rest of the Condominium;

b. the insurance proceeds attributable to Units and Limited Common Elements which are not rebuilt shall be distributed to the owners of these Units and Units to which those Limited Common Elements were allocated or to their Mortgagees, in proportion to their respective Common Elements Interests; and

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

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

Section 11.7 Insurance Obtained by Owners. Each Owner shall obtain and keep continuously in force additional fire and casualty and extended coverage insurance upon his or her personal property and upon all improvements, betterments and fixtures within the Unit, including finished floor coverings, wall coverings, countertops, sinks, toilets, pipes, wires, utility conduits and the like. Each Owner shall obtain and maintain public liability insurance coverage in the amount of at least \$500,000.00 for bodily injury, including deaths of persons and property damage, arising out of a single occurrence. Each Owner shall file a copy of each such individual policy with the Association within thirty (30) days after purchase.

Section 11.8 Insurance Deductibles. In the event of a loss or damage to the Common Elements covered by any insurance maintained by the Association, the deductible shall be paid as a Common Expense. In the event of a loss or damage to any part of a Unit or Units which a Unit Owner(s) is obligated to maintain, repair or replace covered by any insurance maintained by the Association, the deductible shall be paid by the Unit Owner(s) affected. Whenever a loss or damage covered by any insurance maintained by the Association occurs to the Common Elements and a Unit or multiple Units, the deductible shall be paid on a pro rata basis, based on the amount of the covered loss or damage received by the Unit Owner(s) and Association as they are affected. For example: if a covered loss or damage occurs in the total amount of \$100,000, with a \$60,000 loss to the Common Elements, a \$10,000 loss to Unit "A" and a \$30,000 loss to Unit "B", the Association shall pay 60% of the deductible as a Common Expense, Unit Owner "A" will pay 10% of the deductible, and Unit Owner "B" will pay the remaining 30% of the deductible.

ARTICLE XII. DUTY TO REPAIR OR RECONSTRUCT

Section 12.1 Reconstruction and Repair. In the event of damage to or destruction of any Building or any other improvement with respect to which the Association is required to maintain insurance hereunder as a result of fire or other casualty, the Association shall arrange for the prompt restoration and replacement of such Building and such other improvements unless (1) the Condominium is terminated in accordance with the provisions of Article XV below, or (2) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or (3) the Owners decide not to rebuild by an eighty percent (80%) vote, including one hundred percent (100%) of Owners of Units not to be rebuilt and one hundred percent (100%) of Owners of Units to which are assigned Limited Common Elements not to be rebuilt. Unless one of the preceding three conditions occurs, the Association shall arrange for the prompt repair and restoration of such Building and such other improvements, not including any decoration or covering for walls, ceilings, or floors, or furniture, furnishings, fixtures or equipment (unless the subject insurance policy covers a portion or all of such loss, in which event the Association shall repair or replace such damaged property), and the Association shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments and in accordance with the provisions of Section 11.6(d)(ii) of this Declaration. Any payment for repair and restoration in excess of the insurance proceeds shall constitute a Common Expense. Any reconstruction or repair shall be in accordance with the Plans. If the Owners vote not to rebuild any Unit, that Unit's allocated Common Elements Interest shall be automatically reallocated upon the vote as if the Unit had been condemned under N.C.G.S. § 47C-1-107(a).

Section 12.2 Obligations of Owners. Each Owner will, at his or her sole cost and expense, keep and maintain his or her Unit in good order and repair in accordance with the Plans, and will make no structural addition, alteration or improvement to his or her Unit without the prior written consent of the Association, except as specifically permitted by this Declaration or authorized under N.C.G.S. § 47C-2-111. Upon the failure of an Owner to so maintain his or her Unit, the Association shall be authorized (but shall not be obligated) to maintain, repair or restore such Unit, and the cost thereof shall be charged to such Owner and constitute a lien on the Unit until paid.

Section 12.3 Notice of Alleged Defects. Each Unit Owner shall promptly report to the Executive Board or its agent any defect or need for repairs or replacement the responsibility for which is that of the Association. No Unit Owner shall cause to be retained an expert for the purpose of inspecting the design or construction of any structures or improvements within Property in connection with or in anticipation of any potential or pending claim, demand, or litigation involving such design or construction unless Declarant has first been notified in writing and given an opportunity to meet with the Owner to conduct an inspection. Furthermore, thereafter, no claim described below shall be made until Declarant has been provided with written notice of said claim (which notice shall include a sufficient description of any alleged defect or need for sufficient repairs such that Declarant can locate, identify and cure the defect or make the repair), and until Declarant has been given a reasonable amount of time after notice to cure or make the relevant repair(s), all in accordance with Article 19 herein. If an Owner makes a claim against the Association and/or the Declarant relating to an alleged defect or need for repairs or replacement, such claim shall be resolved by final and binding arbitration in accordance with Section 19.3 and Section 19.4, except as specifically provided, shall not be submitted as a lawsuit or other proceeding in any North Carolina state court or federal court.

ARTICLE XIII.

UNITS SUBJECT TO CONDOMINIUM DOCUMENTS

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

ARTICLE XIV.

AMENDMENT TO AND SUPPLEMENT OF DECLARATION

Except as is otherwise specifically authorized herein, this Declaration may be amended only by the vote of not less than sixty-seven percent (67%) of the total votes in the Association, cast in person or by proxy at a meeting duly held in accordance with the provisions of the

Bylaws. Except to the extent expressly permitted by the other provisions of this Declaration, any amendment which amends or alters the Common Elements Interest of any Unit, increases the number of Units, changes the boundaries of any Unit, changes the use to which any Unit is restricted, prohibits the leasing of Units by Owner (directly or indirectly), or establishes minimum terms for leases of more than six (6) months, or modifies the terms of this Article XIV, shall require the written approval of all Owners, together with the consent of all their respective Mortgagees. The provisions of Section 19.3 and Section 19.4 of this Declaration may not be modified without the written consent of all "Bound Parties" (as defined in Section 19.3). No amendment to the Declaration shall be effective until executed on behalf of the Association by any officer designated for that purpose and recorded in the office of the Register of Deeds of Mecklenburg County, North Carolina (other than those amendments which may be effected by the Declarant alone without the joinder of others). No amendment to this Declaration shall be adopted or passed which shall impair or prejudice the rights and priorities of any Mortgagee without the written consent of such Mortgagee. No amendment to this Declaration shall be adopted or passed which shall impair or prejudice any rights reserved by or granted to Declarant hereunder, including without limitation any easements reserved by or granted to Declarant, or any Special Declarant Rights, without the written consent of Declarant. During the Declarant Control Period, no amendment to this Declaration shall be effective without the written consent of Declarant. Without limiting the foregoing, Declarant may amend the provisions of Article 20 in accordance with the provisions of Section 20.15.

ARTICLE XV. TERMINATION

The Condominium may be terminated and the Property removed from the provisions of the Act only by the vote of Owners of Units to which not less than eighty percent (80%) of votes in the Association are allocated, and the approval of Mortgagees holding Mortgages encumbering Units to which at least fifty-one percent (51%) of the votes of the Association are allocated, cast in person or by proxy at a meeting duly held in accordance with the provisions of the Bylaws, and as evidenced by execution of a termination agreement, or ratification thereof, by the requisite number of Owners and Mortgagees. The termination shall comply with the requirements of N.C.G.S. § 47C-2-118, and must be recorded in the Office of the Register of Deeds for Mecklenburg County before it becomes effective. Following the recordation of the termination agreement, the interests of the Owners and Mortgagees in the Property shall be as provided in N.C.G.S. § 47C 2 118.

ARTICLE XVI. MORTGAGEE PROTECTION

Section 16.1 General Provisions. This Article XVI establishes certain standards and covenants for the benefit of Mortgagees. This Article XVI is supplemental to, and not in substitution for, any other provisions of the Condominium Documents, but in the event of any conflict between the other provisions of the Condominium Documents and the provisions of this Article XVI, the provisions of this Article XVI shall control.

Section 16.2 Percentage of Mortgagees. Wherever in the Condominium Documents the approval or consent of a specified percentage of Mortgagees is required, it shall mean the

approval or consent of Mortgagees holding Mortgages on Units which have allocated to them that specified percentage of the total votes in the Association allocated to all Units then subject to Mortgages held by Mortgagees.

Section 16.3 Rights to Examine Books and Records. Any Mortgagee, and any insurer or guarantor of a loan secured by a Mortgage, shall have the right to examine, during normal business hours and upon reasonable notice, the books and records of the Association, including copies of the Condominium Documents, as amended, and the financial statements of the Association, and to be furnished, upon written request, at least one copy of the annual financial statement and report of the Association, such annual statement and report to be furnished within ninety (90) days following the end of each fiscal year. If any Mortgagee requests, and agrees to pay the cost of the audit, the financial statement shall be audited by an independent certified public accountant.

Section 16.4 Mortgagee's Rights to Notice. Any Mortgagee (including, for purposes of this Section 16.4, any insurer or guarantor of a loan secured by a Mortgage that has notified the Association in writing of its name and address, and that it insures or guarantees a Mortgage) shall have the right to receive from the Association prompt written notice of the following:

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

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

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

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

Section 16.5 Consent and Notice Required. Notwithstanding any other provision of this Declaration or the Condominium Documents, no amendment of any material provision of the Condominium Documents shall be effective without the approval of Mortgagees holding Mortgages encumbering Units to which at least fifty-one percent (51%) of the votes of the Units represented in the Association are allocated (or any greater percentage required by the terms of the Condominium Documents).

The failure of any Mortgagee to respond within sixty (60) days to any written request of the Association, sent by registered or certified mail, return receipt requested, for approval of an addition or amendment to the Condominium Documents wherever Mortgagee approval is required shall constitute an implied approval by that Mortgagee of the proposed addition or amendment.

Section 16.6 Enforcement. The provisions of this Article XVI are for the benefit of all Mortgagees and their successors, and may be enforced by any of them by any available means.

ARTICLE XVII.
CONDEMNATION

If all or any part of the Property is taken in condemnation or by eminent domain, the award for such taking shall be distributed in accordance with the procedure set forth in N.C.G.S. § 47C-1-107.

ARTICLE XVIII.
MISCELLANEOUS PROVISIONS

Section 18.1 Invalidity. The invalidity of any provision of this Declaration shall not be deemed to impair or affect in any manner the validity and enforceability of the remainder of this Declaration; and in such event, all the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included herein.

Section 18.2 Waiver. No provisions contained in the Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

Section 18.3 Captions. The captions herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Declaration or the intent of any provision hereof.

Section 18.4 Law Controlling. This Declaration and the Condominium Documents shall be construed and controlled by and under the laws of the State of North Carolina.

Section 18.5 Liberal Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan of condominium ownership as provided in the North Carolina Condominium Act. Throughout this Declaration wherever appropriate, the singular shall include the plural and the masculine gender the feminine or neuter as the context permits or requires.

ARTICLE XIX.
ENFORCEMENT; ARBITRATION

Section 19.1 Actions by the Association. In addition to and not in lieu of the other remedies for default provided in this Declaration and the other Condominium Documents, the Executive Board may bring a civil action against any Owner to enforce any obligation, covenant or restriction set forth in this Declaration or the other Condominium Documents.

Section 19.2 Actions by Owners. Any Owner may also bring a civil action against any other Owner, or against the Association, or against the Executive Board, or any one or more of them to enforce any obligation, covenant or restriction set forth in this Declaration or in the other Condominium Documents.

Section 19.3 Agreement to Encourage Resolution of Disputes Without Litigation.

(a) Notwithstanding Sections 19.1 and 19.2 above, Declarant, the Owners, the Executive Board, the Association and its officers, directors and committee members, and any person not otherwise subject to this Declaration who agrees to submit to this Article, including without limitation, the general contractor for the Buildings or any other contractors, architects, consultants, or engineers retained by Declarant in connection with the design and construction of the Building (collectively, "Bound Parties"), agree that it is in the best interest of all concerned to encourage the amicable resolution of disputes involving the Condominium without the emotional and financial costs of litigation. Accordingly, every Claim described in subsection (b) shall be resolved by the alternative dispute resolution procedures set forth in Section 19.4.

(b) As used in this Article, the term "Claim" shall refer to any claim, grievance, or dispute arising out of or relating to:

(i) the interpretation, application, or enforcement of the Condominium Documents;

(ii) the rights, obligations, and duties of any Bound Party under the Condominium Documents;

(iii) the design, construction, or quality of improvements within or comprising any portion of the Condominium, or the habitability thereof, or the suitability thereof for any particular purpose, including without limitation any Claim based upon any alleged implied or express warranty; and

(iv) the asserted breach of any other duty or obligation owed by Declarant, the Executive Board, any member of the Executive Board or any officer of the Association

except that the following shall not be considered "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Section 19.4:

(v) any suit by the Association to collect assessments or other amounts due from any Owner;

(vi) any suit by the Association to obtain a temporary restraining order (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions relating to creation and maintenance of community standards;

(vii) any suit between Owners, which does not include Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Condominium Documents; and

(viii) Any suit in which any indispensable party is not a Bound Party.

(c) No Amendment. The provisions of this Section 19.3 may not be modified or amended without the written consent of all Bound Parties.

Section 19.4 Dispute Resolution Procedures.

(a) Notice. The Bound Party asserting a Claim (“Claimant”) against another Bound Party (“Respondent”) shall give written notice to each Respondent and to the Executive Board stating plainly and concisely:

(i) the nature of the Claim, including the Persons involved and the Respondent’s role in the Claim;

(ii) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);

(iii) The Claimant’s proposed resolution or remedy; and

(iv) the Claimant’s desire to meet with the Respondent to discuss in good faith ways to resolve the Claim.

(b) Negotiation. The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Executive Board may appoint a representative to assist the parties in negotiating a resolution of the Claim.

(c) Arbitration. If the parties have not resolved the Claim through negotiation within thirty (30) days of the date of the notice described in Section 19.4(a) (or within such other period as the parties may agree upon), and so long as Respondent has been afforded a reasonable opportunity to cure during said thirty (30) days, the Claimant shall have thirty (30) additional days to submit the Claim to binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect.

(d) Waiver. If the Claimant does not submit the Claim to arbitration within such time, or does not appear for the arbitration hearing when scheduled, the Claimant shall be deemed to have waived the Claim, and the Respondent shall be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim.

(e) Fees and Expenses. The fees and expenses of arbitration shall be paid as set forth in the award and the Association shall not make a Claim against a Bound Party with regard to the matters listed in Section 19.3(b)(i-iv) above unless Owners holding at least 80% of the votes in the Association approve (in writing) the Association’s bringing such Claim (and incurring the Common Expense to do so).

(f) Settlement. Any resolution of the Claim through negotiation or arbitration shall be documented in writing and signed by the parties. If any party thereafter fails to abide by the terms of such agreement, then any other party may file suit or initiate

administrative proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Article. In such event, the party taking action to enforce the agreement or award shall, upon prevailing, be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties in equal proportions) all costs incurred in enforcing such agreement or award, including, without limitation, attorneys' fees and court costs.

(g) Limits on Arbitrator's Authority. Notwithstanding any provision of law to the contrary, and without in any way limiting the exclusiveness of arbitration as a remedy for resolving Claims, the Bound Parties acknowledge and agree that the arbitrator in any arbitration proceeding hereunder shall not have authority to do any of the following: (1) join the Claims of multiple Claimants in a single proceeding or certify an arbitration class action or similar proceeding; (2) award punitive or exemplary damages or any sort; or (3) award treble damages or any other damages which are greater than compensatory damages or which are based on a multiple of compensatory damages.

(h) Modification of Statutes of Limitation and Repose. Notwithstanding any provision of law (including any statute of limitations or repose) to the contrary, and without in any way limiting the exclusiveness of arbitration as a remedy for resolving Claims, the Bound Parties agree that any Claim must be asserted in arbitration no later than one (1) year following the date that the essential facts giving rise to the Claim were or reasonably should have been discovered, provided, however, in no event shall any Claim be valid unless it is asserted within three (3) years after the last act of the Respondent giving rise to the claim.

(i) Conflicts Between Arbitration Clauses. In the event that a Claim also falls within the scope of a valid arbitration clause contained in a sales contract for an individual Unit, this Declaration shall control to the extent of any inconsistency.

(j) No Amendment. The provisions of this Section 19.4 may not be modified or amended without the written consent of all Bound Parties.

ARTICLE XX. AFFORDABILITY RESTRICTIONS

Section 20.1 Purpose. In order to obtain the approval of its plan(s) for development of the Condominium by the Town of Davidson (the "Town") under the Planning Ordinance of the Town of Davidson, North Carolina (the "Planning Ordinance"), Declarant has opted to satisfy the affordable housing requirement of Section 6.3 of the Planning Ordinance by restricting the use and occupancy of the Type "C" Units created in the Condominium as set forth below.

For this purpose, and in consideration of the approval of Declarant's plan(s) for the development of the Condominium by the Town, Declarant hereby declares that the Type "C" Units herein described shall be held, sold and conveyed subject to the following affordable housing restrictions, covenants, and conditions (all of which are collectively referred to in this instrument as the "Affordability Restrictions"), which restrictions shall be construed as

covenants running with the Units and shall be binding upon all parties having any right, title or interest in the Type "C" Units or any part thereof, and to their heirs, successors and assigns.

Section 20.2 Affordable Housing. It is the intent of Declarant and of the Town of Davidson that the four (4) Type "C" Units in the Condominium be Affordable Housing units pursuant to the Planning Ordinance in effect as of the date of this Declaration. Declarant and the Town of Davidson have agreed that the determination that a unit is affordable will be made at the initial closing by the establishment of a Maximum Initial Sales Price and a Maximum Initial Rental Rate based on certain Target Households (as described below) with certain maximum median incomes. For future resales and rentals, the Maximum Initial Sales Price and/or the Maximum Initial Rental Rate shall be increased by the percentage increase in the Area Median Income as set forth herein.

Section 20.3 Type "C" Units. The Type "C" Units are Unit(s) numbered 3 and 8 in Building 1 (Units 1-3 and 1-8), and Units 3 and 8 in Building 2 (Units 2-3 and 2-8) of the Condominium as shown on the Plans and as referenced on Exhibit B of this Declaration. Declarant shall have the right to amend this section to remove the Type "C" Unit(s) designation from one or more of the Units set forth above prior to the sale of such Units by Developer, and subject to the reasonable approval of the Town or the DHC, which approval shall be based upon (a) the relative size, including number of bedrooms, of the Units and (b) the location of the Units. Declarant, in the amendment removing the Type "C" Use designation from one or more such Units, shall designate a like number of other Unit(s) with the Type "C" Unit designation; for example only, if the amendment removes the Restricted Use designation from Units 3 and 8 in Building 1, the amendment must designate two other Units as Type "C" Units.

Section 20.4 Target Households. Subject to the terms and provisions contained herein, it is the intent of the Declarant and the Town that a Type "C" Unit shall be occupied by a "Target Household" which is defined as follows:

(a) With respect to Unit(s) 1-3 and 2-3 (hereinafter the "80% Units" and each a "80% Unit") the Target Household shall consist of persons having combined gross annual income equal to or less than eighty (80%) percent of the median income for the area that includes Mecklenburg County as published by the U.S. Department of Housing and Urban Development ("HUD") (hereinafter, "Area Median Income" or "AMI").

(b) With respect to Unit 1-8 (hereinafter "120% Unit") the Target Household shall consist of persons having combined gross annual income equal to or less than one hundred twenty (120%) percent of the Area Median Income.

(c) With respect to Unit 2-8 (hereinafter the "150% Unit") the Target Household shall consist of persons having combined gross annual income equal to or less than one hundred fifty percent (150%) of the Area Median Income.

(d) Declarant shall have the unilateral right to amend subparagraph (a) and (b) above to change the Units described therein, provided that the number of 80% Units shall not be less than _____ Units, the number of 120% Units shall not be less than one, and the number of 150% Units shall not be less than one.

Section 20.5 Maximum Initial Sales Price and Maximum Initial Rental Rate. The date on which a Type “C” Unit is put into service as evidenced by the issuance of a Certificate of Occupancy for that Unit shall be the date that the Town of Davidson or its delegate, The Davidson Housing Coalition, a North Carolina Non-Profit Corporation (“DHC”) shall record the then current AMI for various household sizes, which shall be used to determine the maximum base rental or mortgage payment for that particular Type “C” Unit, and the Maximum Initial Sales Price and/or the Maximum Initial Rental Rate for such Type “C” Unit shall be set and agreed to by the Town or DHC and the Developer. The Maximum Initial Sales Price and the Maximum Initial Rental Rate for a Type “C” Unit shall be set out in the deed from Declarant to the first purchaser of a Type “C” Unit, which deed shall specifically designate the Unit as a Type “C” Unit subject to this Article XX. Notwithstanding any provisions herein that might be construed as contrary, Declarant shall in all instances maintain the right to determine whether it will sell or lease a Type “C” Unit that it owns.

Section 20.6 Approval of Qualified Occupants. At any time after construction has begun on a Type “C” Unit, but not less than sixty (60) days prior to issuance of the Certificate of Occupancy for such Unit, Declarant shall notify the Town or DHC (the “Availability Notice”) of the impending availability of a Type “C” Unit. The Town or DHC will publish this information and make referrals to approved non-profit organizations. Through the efforts of these entities and the Town or DHC to find and serve Target Households, the prospective tenants/owners from Target Households identified and qualified by the Town or DHC (each a “Qualified Occupant”) will be given priority by the Town or DHC to purchase a Type “C” Unit at not more than the Maximum Initial Sales Price or to rent a Type “C” Unit at not more than the Maximum Initial Rental Rate. The Declarant, in its discretion, may conduct a reasonable and customary analysis of a Qualified Occupant's suitability as the initial tenant or initial owner and, upon satisfactory analysis by Declarant, the Qualified Occupant recommended by the Town or DHC may enter into a lease or purchase agreement (as applicable) with Declarant or other owner of a Type “C” Unit. If the first Qualified Occupant recommended by the Town or DHC fails to be approved by the Declarant or (in the event of a sale of the Type “C” Unit) is unable to obtain mortgage loan approval, then the next Qualified Occupant recommended by the Town or DHC would be considered.

If the Town or DHC is unable to produce a Qualified Occupant that can either close the purchase of a Type “C” Unit intended for sale or lease a Type “C” Unit intended for rental prior to the date which is the later of (a) one hundred twenty (120) days after receipt by the Town of the Availability Notice or (b) thirty (30) days after the date of the issuance of the Certificate of Occupancy for the Type “C” Unit (the “Search Period”), then the Declarant or other owner may sell the Type “C” Unit to anyone at not more than the Maximum Initial Sales Price or rent the Type “C” Unit to anyone at not more than the Maximum Initial Rental Rate after the end of such period.

Section 20.7 Resale/Releasing Procedures. Upon the resale or releasing of a Type “C” Unit, the owner of the Type “C” Unit shall notify (the “Resale Notice”) the Town or DHC that the Type “C” Unit will be offered for sale and/or rental (as determined by such owner) at least sixty (60) days in advance of the anticipated date of vacation by the existing tenant and/or the offering of the Type “C” Unit for sale. The Town or DHC shall commence and complete the process set forth in Paragraph 5 and use its best effort to provide the owner with a Qualified

Occupant for the purpose of leasing or purchasing the Type "C" Unit. If the Town or DHC is unable to produce a Qualified Occupant that can close either the purchase of a Type "C" Unit (in the case of a sale by the owner) within sixty (60) days after notice from the owner or rent and occupy a Type "C" Unit (in the case of a rental by the owner) within sixty (60) days after notification by owner, then the owner may sell or rent the Type "C" Unit to anyone at not more than the Maximum Sales Price or not more than Maximum Rental Rate as established in Paragraph 7 hereof. Notwithstanding the foregoing, the Town or DHC may in its sole discretion reduce the 60-day period prescribed in the prior sentence at the request of an owner for whom a delay in reselling or reletting the Type "C" Unit presents a demonstrated financial hardship.

Section 20.8 Maximum Sales Price and Maximum Rental Rate for Resales and Reletting.

(a) Upon the resale of a Type "C" Unit, the sales price of the Type "C" Unit ("Maximum Sales Price") shall not exceed the sum of (i) the purchase price paid by the Owner when they purchased the Type "C" Unit (the "Owner's Purchase Price") increased (but not decreased) by multiplying the Owner's Purchase Price by a fraction whose numerator is equal to the difference between the Index (defined below) last published immediately before the date of the new contract of purchase and sale and the Index last published immediately before the date on which such owner closed its original purchase of the Type "C" Unit (the "Previous Purchase Index"), and whose denominator is the Previous Purchase Index plus (ii) the costs expended by the owner, and approved by the Town, for capital improvements to the Type "C" Unit, but not exceeding in the aggregate fifteen percent (15%) of the Owner's Purchase Price (the "Improvements") increased (but not decreased) by multiplying the Improvements by a fraction whose numerator is equal to the difference between the Index last published immediately before the date of the new contract of purchase and sale and the Index last published immediately before the date on which such owner paid for the Improvements (the "Previous Index"), and whose denominator is the Previous Index. If Improvements have been made more than one time, each Improvement shall be calculated as set forth herein. The "Index" is the median household income published by HUD. In no event shall the Maximum Sales Price be less than the previous sales price. The "Index" is the Area Median Income published by HUD. In no event shall the Maximum Sales Price be less than the previous sales price.

(b) Upon the reletting of a Type "C" Unit, the rental rate for the Type "C" Unit ("Maximum Rental Rate") shall not exceed the previous rental rate ("Previous Rental Rate"), beginning with the Maximum Initial Rental Rate, as increased (but not decreased) by this subparagraph b.; increase to be determined by multiplying the Previous Rental Rate by a fraction whose numerator is equal to the difference between the Index last published immediately before the date of the new reletting and the Index last published immediately before the date on which such owner initially rented the Type "C" Unit (the "Previous Rental Index"), and whose denominator is the Previous Rental Index. In no event shall the Maximum Rental Rate be less than the previous rental rate.

(c) If HUD no longer publishes the Index at the time of the formation of a purchase and sale contract or a rental agreement, the Town or DHC shall designate another nationally recognized method of computing the AMI for Mecklenburg County.

Section 20.9 Excessive Purchase Price and/or Rent. The conveyance or lease of a Type "C" Unit to a member or members of a Target Household as determined under Paragraph 3 above for a purchase price or rent in excess of the Maximum Initial Sales Price, the Maximum Initial Rental Rate or, in the future, the Maximum Sales Price or Maximum Rental Rate, shall not be enforceable to the extent of such excess, and the member or members of the Target Household paying the purchase price or rent shall be entitled to recover the excess from the seller or owner who charged and accepted such payment, together with interest thereon at the maximum lawful rate, reasonable attorney's fees and other cost of collection.

Section 20.10 Enforcement. Except as set forth herein, these Affordability Restrictions shall be enforceable exclusively by the Town as real covenants and/or equitable servitudes running with the land. Developer, individually and on behalf of each successive owner of a Type "C" Unit, agrees that there is no adequate remedy at law, and in any action brought by the Town or DHC for the enforcement of any of these restrictions, it shall be entitled to specific performance and/or such other equitable remedies as are appropriate for carrying out the purpose of this Declaration, and the provisions of the Planning Ordinance which it is intended to implement.

Section 20.11 Foreclosure. The terms, provisions, covenants, restrictions and requirements of this Article XX are expressly subordinate to any deed of trust encumbering a Type "C" Unit owned by Declarant, or owned by an Owner other than Declarant, securing a loan made to Declarant or any subsequent Owner as the case may be. Upon the foreclosure of any such deed of trust and the sale by the trustee in the foreclosure proceeding, or upon the sale by the owner and holder of such deed of trust after acquiring the property from the trustee at the foreclosure sale, the terms, provisions, requirements and restrictions set forth herein shall not be binding on the trustee, the owner and holder of the deed of trust, or any successor in interest with respect to such Type "C" Unit, and said Unit may thereafter be sold to any party at any price provided that subsequent resales and renting of a Type "C" Unit shall be subject to the terms, provisions, restrictions and requirements of this Declaration.

Section 20.12 Termination. Notwithstanding any other provisions in this Declaration relative to duration of the Declaration or termination thereof, this Article XX, and each of the restrictions set forth herein, shall terminate on a date that is ninety-nine (99) years from the date hereof; provided, however, in the event the affordable housing requirements of the Town are removed, repealed, revised and/or amended to negate or reduce the present requirements imposed on developers by the Town, the terms, covenants, restrictions and requirements contained in this Article XX shall terminate or be deemed amended by the Town and any restriction or requirement contained in this Article XX that is more restrictive or stringent in nature shall be deemed amended to conform or comply with the less restrictive or stringent affordable housing requirements of the Town.

Section 20.13 Successor to DHC. In the event that DHC ceases to exist or is otherwise unable to exercise its rights and responsibilities as described in this Article XX, then the Town

may either assume such rights and responsibilities or designate another entity as its delegate to exercise such rights and responsibilities.

Section 20.14 Declarant Right to Amend. Notwithstanding any provisions contained in this Declaration to the contrary, Declarant retains the rights to amend the terms of this Article XX without approval of owners to correspond the provisions of this Article XX to the provisions contained in the Town's affordable housing policy and applicable Declaration thereof.

[Remainder of Page Intentionally Blank]

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

**FAIRHILLS/RLT HARBOUR PLACE
BROWNSTONES ASSOCIATES, LLC**

By: Fairhills/RLT Harbour Place Brownstones
Development Group, LLC, Manager

By: _____
Printed Name: _____
Title: _____

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 voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: _____.

Date: _____

Official Signature of Notary

Notary's printed or typed name, Notary Public
My commission expires: _____

(Official Seal)

LENDER CONSENT/SUBORDINATION

PEOPLES BANK, a North Carolina banking corporation ("Peoples Bank") and the holder of a Deed of Trust and Assignment of Rents recorded in the Office of the Mecklenburg County, North Carolina, Register of Deeds ("Registry"), in Book _____, Page _____, as the same may have been amended from time to time to the extent recorded in the Registry (as amended, "Deed of Trust"), and Lance A. Sellers as trustee under the aforesaid Deed of Trust, hereby consents to the execution and delivery of the foregoing Declaration of Condominium, with exhibits thereto (the "Declaration"), and to the filing thereof, in the office of the Registry, and further subject and subordinate the above-described Deed of Trust to the provisions of the foregoing Declaration with attached exhibits (including, without limitation, any easements reserved therein).

IN WITNESS WHEREOF, Peoples Bank, by its authorized officer, and the undersigned Trustee have caused this Consent to be executed this _____ day of _____, 2008.

[SIGNATURE ON FOLLOWING PAGES]

LENDER:

PEOPLES BANK, a North Carolina banking corporation

By: _____
Name: _____
Title: _____

(Must be chairman, president, chief executive officer, a vice-president or an assistant vice-president, treasurer, or chief financial officer)

STATE OF NORTH CAROLINA

COUNTY OF _____

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: _____

(name of principal(s))

Date: _____

Official Signature of Notary Public

Notary printed or typed name

[OFFICIAL SEAL]

My commission expires: _____

EXHIBIT A

The Land

BEING ALL of LOTS #5 and #6 as shown on the plat entitled "PLAT OF HARBOUR PLACE, MAP 3" recorded in Map Book 48 at Page 303 in the Mecklenburg County Public Registry.

EXHIBIT A-1

The Additional Property

Any tract or parcel of real property the boundary line of which is located within 100 feet of the boundary line of the Land described on Exhibit A hereto.

EXHIBIT B

Common Elements Interest

SCHEDULE OF UNITS AND COMMON ELEMENTS INTERESTS

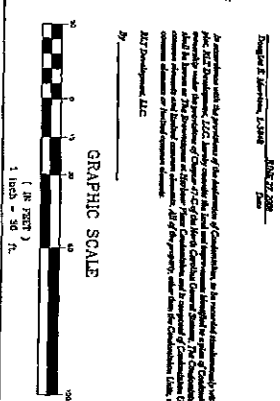
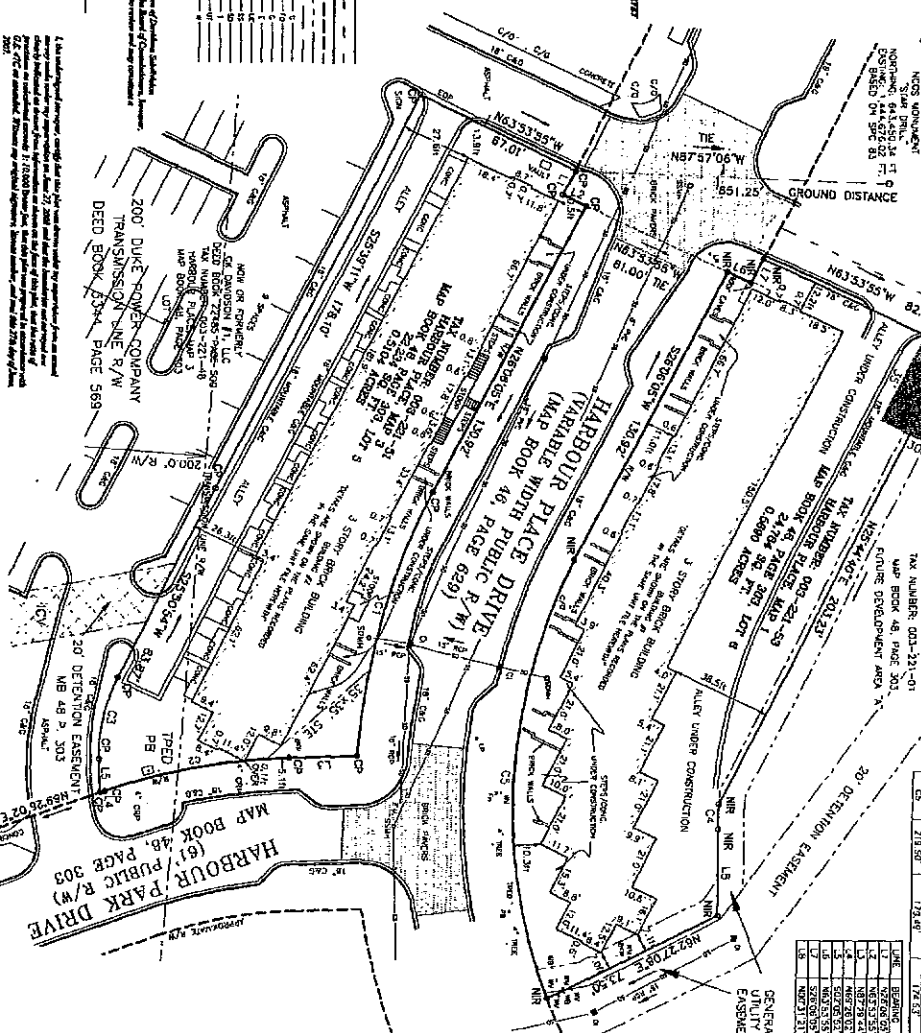
The following is a schedule of the number and types of Units available at the Condominium, and the undivided percentage interest in the Common Elements Interest allocated to each Unit, based on relative approximate headed square footages, not including garage space or unheated storage (with Declarant's measurements thereof being measured paint-to-paint and being definitive for purposes hereof).

Building - Unit Number	Harbour Place Drive Street Address	Type	Percentage Interest
1-1	207	A	4.98%
1-2	211	D-Alt	4.61%
1-3	215	C	2.32%
1-4	219	B	2.88%
1-5	223	B-1	2.88%
1-6	227	B-1	2.88%
1-7	231	B	2.88%
1-8	235	C	2.32%
1-9	241	B	2.83%
1-10	245	D	4.88%
1-11	249	D	4.88%
1-12	253	D	4.88%
1-13	257	D	4.88%
1-14	263	E	4.89%
2-1	206	A	4.98%
2-2	210	D-Alt	4.61%
2-3	214	C	2.32%
2-4	218	B	2.88%
2-5	222	B-1	2.88%
2-6	226	B-1	2.88%
2-7	230	B	2.88%
2-8	234	C	2.32%
2-9	238	B	2.88%
2-10	242	B-1	2.88%
2-11	246	B-1	2.83%
2-12	250	B	2.83%
2-13	254	F	2.00%
2-14	258	B	2.83%
2-15	262	E	4.96
Total			100.00%



LEGEND

- 1. 1/4" = 1' CONTOUR LINE
- 2. 1/4" = 1' CURB
- 3. 1/4" = 1' DRIVE
- 4. 1/4" = 1' SIDEWALK
- 5. 1/4" = 1' CONC. DRIVE
- 6. 1/4" = 1' CONC. SIDEWALK
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- 99. 1/4" = 1' CONC. DRIVE
- 100. 1/4" = 1' CONC. SIDEWALK



GRAPHIC SCALE
1" = 30'

REVISIONS

NO.	DATE	DESCRIPTION
1	JUNE 27, 2008	ISSUE FOR PERMITS

GENERAL NOTES

1. THIS PLAN IS NOT FOR CONSTRUCTION.
2. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL BUILDING CODE (IBC) AND THE INTERNATIONAL PLUMBING CODE (IPC).
3. THE LOCATION OF ALL UTILITIES SHALL BE SHOWN ON THIS PLAN AS SHOWN ON THE ATTACHED UTILITY LOCATIONS AS SHOWN ON THE ATTACHED UTILITY LOCATIONS. THE LOCATION OF ALL UTILITIES SHALL BE SHOWN ON THIS PLAN AS SHOWN ON THE ATTACHED UTILITY LOCATIONS.
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12. THE LOCATION OF ALL UTILITIES SHALL BE SHOWN ON THIS PLAN AS SHOWN ON THE ATTACHED UTILITY LOCATIONS.

ZONING

CONDOMINIUM MAP OF THE BROWNSTONES AT HARBOUR PLACE CONDOMINIUM

MEMPHIS, TENNESSEE

DEED BOOKS 003-221-51 & 003-221-53

MAP BOOK 48, PAGE 303, LOT 5 & LOT 6

SHEET 1 OF 12

R.B. PHARR & ASSOCIATES, P.A.

SURVEYING & MAPPING

1980 BROWN HAVEN TRAIL, COMPTON, TN 37033

SCALE: 1" = 30'

DATE: JUNE 27, 2008

TITLE NO: 117

FILE NO: 73760

SHEET INDEX

CD-1	CONDOMINIUM PLAN
CD-2	COVER SHEET
CD-3	BUILDING #1 PLAN LEVEL 1
CD-4	BUILDING #1 PLAN LEVEL 2
CD-5	BUILDING #1 PLAN LEVEL 3
CD-6	BUILDING #1 ROOF PLAN
CD-7	BUILDING #2 PLAN LEVEL 1
CD-8	BUILDING #2 PLAN LEVEL 2
CD-9	BUILDING #2 PLAN LEVEL 3
CD-10	BUILDING #2 ROOF PLAN
CD-11	BUILDING #1 ELEVATIONS
CD-12	BUILDING #2 ELEVATIONS

GENERAL NOTES:

1. Common elements whether shown on these condominium plat/plans or simply described in the Declaration (defined below) consist of the entire condominium project, excepting all of the units.
2. Limited common elements are those common elements identified on these condominium plat/plans, or in the Declaration as being the exclusive use and benefit of one or more units, but not for the benefit of all units.
3. Some but not all of the front stoops shown on these plans are complete; others are still under construction. All front stoops as shown on the plans (which include the steps, railings, landings and related improvements) are/will be Limited Common Elements allocated to the Units served as indicated on the plans; they MUST BE Built and they will be completed substantially as shown on the Plans, with Declarant bearing the special declarant right herein and in the Declaration to complete all improvements shown on the plans, as well as any creation/Conversion rights needed to accomplish the same (create Limited Common Element or convert Common Element to Limited Common Element for example).
4. The plat and plans described on this Sheet Index are part of, but are recorded separately from that Declaration of Condominium for the Brownstones at Harbour Place Condominium (the "Declaration") which Declaration is recorded at Book _____ page _____ in the office of register of deeds for Mecklenburg County.

ARCHITECT'S VERIFIED STATEMENT

I, Harry Schrader, an architect licensed under the provisions of Chapter 85A of the North Carolina General Statutes, being first duly sworn, do hereby certify that these Plans contain all of the information required by Chapter 47C-2.109 of the North Carolina General Statutes that such Plans fully and accurately depict the layout, location, ceiling and floor elevations, unit numbers and dimensions of the Harbour Place Town Home Style Condominiums, as built and that all structural components and mechanical systems of all buildings containing or comprising any units are substantially completed in accordance with the Plans.

The undersigned does further state that he is a licensed architect under the provisions of Chapter 85A of the North Carolina General Statutes; that as such he is properly authorized to make this verification; that he has read the foregoing certification and knows the contents thereof; and that the same are true of his knowledge.

Harry Schrader

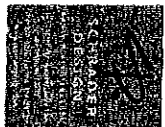
(Architect's Seal)

Sworn to and subscribed before me this _____ day of July, 2008.

Notary Public

(Affix Notary Stamp or Seal)

My commission expires: _____



The Brownstones at Harbour Place Condominium

Harbour Place Drive, Davidson, North Carolina
Declarant: Fair Hills Development, LLC & HLR Development, LLC



Issue Date: 02/18/08

Cover Sheet

CD-2
of 12