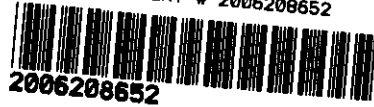


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REGISTER OF DEEDS  
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**DECLARATION OF CONDOMINIUM  
FOR  
THE WATERMARK CONDOMINIUMS**

Filed for Record on the

3rd day of October, 2006

PREPARED BY AND MAIL TO:

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**DECLARATION OF CONDOMINIUM FOR  
THE WATERMARK CONDOMINIUMS**

THIS DECLARATION, is made this 3rd day of October, 2006, by **GREENWOOD CLIFF DEVELOPERS, LLC**, a North Carolina limited liability company ("Declarant"), pursuant to the North Carolina Condominium Act, Chapter 47C, North Carolina General Statutes ("Act").

WITNESSETH:

WHEREAS, Declarant is the owner in fee simple of certain real estate situated in or near the City of Charlotte, County of Mecklenburg, and State of North Carolina, more particularly described on Exhibit A attached hereto and made a part hereof, together with all buildings and improvements now or hereafter constructed or located thereon, and all rights, privileges, easements and appurtenances belonging to or in any way pertaining to said real estate; and

WHEREAS, Declarant desires to submit all of said property to the Act.

NOW, THEREFORE, Declarant, as the owner of said property, hereby declares as follows:

ARTICLE I.

Definitions

Definitions. As used herein, the following words and terms shall have the following meanings:

1.1 Act. The North Carolina Condominium Act, Chapter 47C, North Carolina General Statutes.

1.2 Association. The Watermark Condominiums Association, Inc., a nonprofit corporation organized under Section 47C-3-101 of the Act. The Articles of Incorporation of the Association are attached hereto as Exhibit D.

1.3 Board. The Executive Board of the Association.

1.4 Building. The building located on the Property which consists consisting of four above grade floors and certain below grade improvements consisting of mechanical rooms, elevator rooms, mail area, elevator and stairs located adjacent to covered parking, as shown on the Plat and Plans, and which has a concrete, steel and glass exterior.

1.5 Bylaws. The Bylaws of the Association which are incorporated herein and made a part hereof by this reference, and attached as Exhibit E.

1.6 Common Elements. All portions of the Condominium except the Units as depicted on the Plat and Plans are Common Elements designated as such in this Declaration or in the future by Declarant, for the common use and enjoyment of all of the Unit Owners including but not limited to (a) all improvements located on the Property outside of the Building including but not limited to all paved areas, parking spaces (provided certain parking spaces as described in this Declaration and shown on the Plat and Plans are Limited Common Elements), the entrances, retaining walls, waste disposal facilities, and landscaped areas, (b) all other portions of the Building outside of such Units, including but not limited to the elevator, the two stairwells, elevator equipment rooms and other mechanical rooms, all other portions of the common mechanical systems of the Building, and the entrance and elevator lobby which are located on the first floor, (c) the Limited Common Elements, (d) the foundations, roofs, columns, guiders, beams, supports, exterior and interior load bearing walls (including but not limited to those certain walls consisting of glass), and all other structural elements of the Building in which the Units are located and (e) all tangible personal property required for the operation and maintenance of the Condominium that may be owned by the Association.

1.7 Common Expenses. Expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves.

1.8 Condominium. The Property, the improvements thereon including but not limited to the Building, and all easements appurtenant thereto, portions of which (the "Units") are designated for separate ownership and the remainder of which ("Common Elements") is designated for common ownership solely by the Owners of the Units.

1.9 Declarant. Greenwood Cliff Developers, LLC, a North Carolina limited liability company, its successors and assigns.

1.10 Declarant Control Period. The period commencing on the date hereof and continuing until the earlier of (i) the date two (2) years after Declarant has ceased to offer Units for sale in the ordinary course of business, or (ii) the date upon which Declarant surrenders control of the Condominium, or (iii) the date one hundred twenty (120) days after the Declarant has conveyed seventy-five percent (75%) of the maximum number of Units which Declarant may create on the Property.

1.11 First Mortgage and First Mortgagee. A First Mortgage is a mortgage or deed of trust which has been recorded so as to give constructive notice thereof, and which is a first lien on the Unit or Units described therein. A First Mortgagee is the holder, from time to time, of a First Mortgage as shown by the records of the Office of the Register of Deeds for Mecklenburg County, North Carolina, in which the First Mortgage is recorded, including a purchaser at foreclosure sale upon foreclosure of a First Mortgage until expiration of the mortgagor's period of redemption. If there be more than one holder of a First Mortgage, they shall be considered as, and act as, one First Mortgagee for all purposes under this Declaration and the Bylaws.

1.12 Limited Common Elements. Those portions of the Common Elements allocated

by this Declaration, the Plat and Plans or by operation of Section 47C-2-102(2) or (4) of the Act for the exclusive use of at least one but fewer than all of the Units as set forth in Article III, herein.

1.13 Occupant. Any person or persons in lawful possession of a Unit, including Unit Owners, the family members, lessees, guests and invitees of such person or persons, and family members, guests and invitees of such lessees.

1.14 Person. A natural person, corporation, partnership, trust or other legal or commercial entity, or any combination thereof.

1.15 Plat and Plans. The plat and plans of the Condominium, including a survey map depicting the Condominium (the "Map"), recorded in Unit Ownership File No. \_\_\_\_ Page \_\_\_\_ in the Office of the Register of Deeds for Mecklenburg County, North Carolina, and by the Act made a part of this Declaration.

1.16 Property. The real estate described on Exhibit A, together with all buildings and improvements now or hereafter constructed or located thereon, and all rights, privileges, easements and appurtenances belonging to or in any way pertaining to said real estate.

1.17 Rules and Regulations. The rules and regulations of the Condominium promulgated by the Executive Board from time to time.

1.18 Special Declarant Rights. The rights as defined in Section 47C-1-103(23) of the Act for the benefit of a Declarant, including but not limited to the following: to complete the improvements indicated on the Plat and Plans; to exercise any development right as defined in Section 47C-2-110 of the Act; to use easements through the Common Elements; and to elect, appoint or remove members of the Board during the Declarant Control Period.

1.19 Unit. A physical portion of the Condominium designated for separate ownership or occupancy. The boundaries of each Unit shall consist of the unfinished perimeter walls, floors and ceilings as shown on the Plat and Plans. All interior surfacing materials, including all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished surfaces of the interior walls, floors or ceilings of each Unit shall be a part of that respective Unit. All window glass comprising a perimeter wall of a Unit shall be a Limited Common Element and the Unit Boundary along any such walls shall be to the interior surface of such window glass. In addition, all spaces, interior partitions, fixtures, appliances, cabinets and other such facilities or improvements lying completely within the boundaries of a Unit and serving only such Unit shall be a part of such Unit.

1.20 Unit Owner. The person or persons, including the Declarant, owning a Unit in fee simple.

1.21. Condominium Documents. 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.

## ARTICLE II.

### Submission of Property to the Act

2.1 Submission. Declarant hereby submits the Property to the Act.

2.2 Name. The name of the Condominium shall be “The Watermark Condominiums.”

2.3 Property. The real estate included in the Condominium is the Property which is located in Mecklenburg County, North Carolina and is described on Exhibit A attached hereto and incorporated herein by this reference.

2.4 Division of Property into Separately Owned Units. Declarant does hereby establish within the Property six (6) Units and does hereby designate all such Units for separate ownership, subject however, to the provisions of Section 2.5 hereof. Reference is hereby made to the Plat and Plans for a separate description of the boundaries of each Unit, identified by number, said Plat and Plan being by this reference incorporated herein.

2.5 Alterations and Subdivision of Units. Notwithstanding the foregoing Section 2.4, the Declarant or any subsequent owner of a Unit shall have the right to subdivide any such Unit into two (2) or more Units or combine two (2) or more Units into one (1) Unit, provided that Declarant approves such subdivision or combination, that such subdivision or combination is in compliance with the Act, and that no more than sixteen (16) Units shall exist. Declarant also reserves the right to subdivide Units, combine Units, or otherwise move or rearrange the boundaries of any Unit before such Unit is sold.

2.6 Limited Common Elements. The Limited Common Elements serving or designed to serve each Unit (other than those specified in N.C.G.S. §47C-2-102(2) and (4) and as provided in N.C.G.S. §47C-2-109(b)(7), are described in Article III of this Declaration) are hereby allocated solely and exclusively to each such Unit.

2.7 Unit Allocations. Each Unit Owner shall be a Member of the Association, and all Members shall vote on matters affecting the Association as a whole. With respect to such matters, the total number of votes shall be one hundred (100), with the Unit Owner of each Unit having a percentage of the total number of votes equal to the percentage of its undivided interest in the Common Elements, as defined in Article I and set forth on Exhibit B attached hereto and incorporated herein by reference.

2.8 Encumbrances. The liens, defects and encumbrances affecting the Property to which the rights of Unit Owners and Occupants are hereby made subject are set out on Exhibit C.



2.9 Condominium Ordinances. The Condominium is not subject to any code, real estate use law, ordinance, charter provisions, or regulation (i) prohibiting the condominium form of ownership, or (ii) imposing conditions or requirements upon a condominium, which are not imposed upon physically similar developments under a different form of ownership. This statement is made pursuant to Section 47C-1-106 of the Act for the purpose of providing marketable title to the Units in the Condominium.

2.10 Reservation of Special Declarant Rights. Declarant hereby reserves all Special Declarant Rights, as defined in Article I, including the following:

(a) To design, construct, complete and exercise control over the course of development of any and all improvements indicated on the Plat and Plans;

(b) To construct and maintain any sales office, management office or model in one Unit; provided, however, that Declarant may relocate such sales office, management office, or model from time to time; and to construct and maintain signs advertising the Condominium at such locations as are determined by Declarant;

(c) To use the easements set forth in Article IV, Sections 4.7 and 4.8 for the purpose of making improvements and repairs within the Condominium;

(d) To alter the size of any Unit, combine or merge two or more Units, create additional Units and subdivide any Unit, as set forth in Article II, Section 2.5;

(e) To appoint and remove any officer of the Association or any Executive Board members during the Declarant Control Period; provided, however, (i) that not later than 60 days after conveyance of twenty-five percent (25%) of the Units (including Units which may be created pursuant to Special Declarant Rights) 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 the Declarant; and (ii) that not later than 60 days after conveyance of fifty percent (50%) of the Units (including Units which may be created pursuant to Special Declarant Rights) 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 the Declarant. Not later than the termination of the Declarant Control Period, the Owners shall elect the Executive Board of at least three (3) members, a majority of whom must be Owners. Notwithstanding the foregoing, Declarant may voluntarily surrender the right to appoint and remove officers and members of the Executive Board before termination of the Declarant Control Period, but in that event the Declarant may require, for the duration of the Declarant Control Period, that specified actions of the Association or Executive Board be approved by the Declarant before they become effective.

## ARTICLE III.

### Common Elements

3.1 Description of Common Elements. All portions of the Condominium other than the Units shall be Common Elements.

3.2 Description of Limited Common Elements.

- (a) *Limited Common Elements Serving One Unit.* All exterior doors (being those doors from a Unit into the main hallway located on the same floor as such Unit), windows, and the HVAC thermostat located within each Unit designed to serve just that Unit, or other fixtures designed to serve a single Unit but located outside the Unit's boundaries are Limited Common Elements allocated exclusively to that Unit.
- (b) *Limited Common Elements Serving All Units on a Common Floor.* All hallways located outside of Units, HVAC thermostats located in such hallways, the HVAC equipment located in the enclosed mechanical yard which is in the northwest quadrant of the Property and shown on the Plat and Plans as "Limited Common Area", HVAC equipment related to each chilling unit, and the elevator lobbies (except for the first floor lobby) and bathrooms located outside Units shall be Limited Common Elements allocated exclusively to the Unit(s) on each such floor being served by the applicable hallway, HVAC equipment, elevator lobby and bathrooms; provided, however the entrance door and elevator lobby on the first floor shall not be a Limited Common Element, but shall be a Common Element allocated to all Units.
- (c) *Other Limited Common Elements.* To the extent any utility line, pipe, chute, flue, duct, riser, chase, vent, wire, conduit, bearing wall, bearing column, or any other fixture or improvement lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving only that Unit is a Limited Common Element allocated exclusively to that Unit, and any portion thereof serving more than one Unit is a Limited Common Element allocated exclusively to such Units.
- (d) *Parking.* Those certain twenty (20) parking spaces shown on the Plat and Plans as "Reserved Parking Area" shall be Limited Common Elements allocated to the exclusive use of Units 300, 301, 400 and 401 with ten (10) such spaces being assigned collectively to Units 300 and 400, as shown on the Plat and Plans, and the other ten (10) such spaces being assigned collectively to Units 301 and 401, as shown on the Plat and Plans.
- (e) *HVAC Systems.* The Building is designed such that there is one HVAC chiller and related equipment for each floor of the Building. There is one HVAC thermostat and related equipment in the main hallway on each floor of the Building which serves

just the Units on that floor. Each Unit also has an individual thermostat(s) located within such Unit to enable the Unit Owner to vary the temperature within a limited range of the temperature set on the central thermostat located in the main hallway described in the prior sentence. The use of the HVAC equipment and thermostats are subject to the Rules and Regulations which the Board may promulgate from time to time.

- (f) *Balconies.* The two balconies on the fourth floor of the Building are Limited Common Elements allocated exclusively to Units 400 and 401 (with the balcony adjacent to Unit 400 being allocated exclusively to Unit 400 and the balcony adjacent to Unit 401 being allocated exclusively to Unit 401).

3.3 Security Interest in Common Elements. Portions of the Common Elements may be conveyed by the Association or subjected to a security interest by the Association only if Unit Owners entitled to cast at least eighty percent (80%) of the votes in the Association, including eighty percent (80%) of the votes allocated to Units not owned by Declarant, agree to the action; provided, however, that all Unit Owners of Units to which any Limited Common Element is allocated must agree in order to convey such Limited Common Element or subject such Limited Common Element to a security interest.

## ARTICLE IV

### Property Rights

4.1 Combination of Units. Ownership of a Unit shall vest fee simple title to each Unit in the Unit Owner. In the event an Unit Owner may own more than one Unit and such Units are located contiguous to each other, such Unit Owner may elect to combine the Units so long as such Unit Owner obtains the consent of Declarant (or, after the Declarant Control Period, the consent of the Executive Board), complies with the Act and with rules and regulations reasonably promulgated from time to time by the Declarant or the Association, as the case may be, with respect to construction related matters (including, without limitation, hours of construction to prevent disruption to the other Owners, compliance with engineering and structural matters, review and approval of the plans and specifications therefor by the Declarant and the Association, and such other construction related matters). If a Unit Owner should elect to combine contiguous Units under this Section 4.1, such Unit Owner's percentage of ownership interest in the Common Elements for purposes of assessments shall not change, and shall be the percentages allocated to such Units added together.

4.2 Common Elements Easement. Every Unit Owner shall own an undivided interest in the Common Elements appertaining to its Unit, and every Unit Owner shall have a right and easement of enjoyment in the Common Elements (other than Limited Common Elements designed for the exclusive use of other Units) and an unrestricted right of ingress and egress across the Common Elements (other than Limited Common Elements designated for the exclusive use of other Units) to his, her or its Unit. Such right and easement of enjoyment and of ingress and egress across the Common Elements shall pass with the title to every Unit. The undivided interest of every Unit Owner in the Common Elements shall be in the percentage set

forth in Exhibit B attached hereto. Such interests have been allocated based upon “usable” square footage, plus square footage of adjacent balconies. In addition, the undivided interest in the Common Elements and the right and easement of enjoyment in such Common Elements are subject to the following:

(a) the Executive Board and Declarant shall have the right to adopt such rules and regulations as may be needed to regulate the use and enjoyment of the Common Elements;

(b) the Declarant shall have the right to exercise the Special Declarant Rights as set forth in Article II, Section 2.10; and

(c) the Declarant shall have the right to dedicate or transfer, or encumber all or any part of the Common Elements subject to approval by the Owners as provided herein and in the Act.

In the event of subdivision of any Unit, the percentage interest in the Common Elements allocated to each Unit created by the subdivision shall be established by Declarant (if such subdivision occurs during the Declarant Control Period) or by the Executive Board (if such subdivision occurs after the Declarant Control Period) based on the relative “usable” square footages of the Units created by such subdivision, plus the square footages of adjacent balconies. Such allocations shall be rounded as necessary to cause the ownership of the Common Elements to at all times be vested one hundred percent in the Owners.

4.3 Delegation of Rights in Common Elements. Any Unit Owner may delegate his, her or its right of enjoyment to the Common Elements to such Unit Owner’s tenants, guests, invitees and employees.

4.4 Parking Rights. Every Unit Owner of a Unit shall comply with the rules and regulations. Each Unit Owner of a Unit has a non-exclusive easement to the use of those parking spaces in the parking area which are not Limited Common Elements as shown on the Plat and Plans and same shall be a Common Element. The parking spaces which are a Common Element but not Limited Common Elements shall be first-come, first served and shall not be designated for the exclusive use of any particular Unit. The guests and invitees of Unit Owners shall have a nonexclusive easement to use those parking spaces which are not designated as Limited Common Elements; provided, however, that Declarant has the right to designate the location and number of parking spaces which may be used by such guests and invitees and to change the number of parking spaces designated for such guests and invitees in Declarant’s sole discretion in any rules and regulations governing the Property which are promulgated from time to time by Declarant or the Board. Declarant reserves, for itself and the Association, the right to require Unit Owners to display appropriate permits on their vehicles. Those parking spaces which are Limited Common Elements may not be leased by a Unit Owner to others; provided, however, if Units 300, 301, 400 and/or 401 is leased by its Unit Owner to a tenant, the parking spaces which are a Limited Common Element appurtenant to such Unit may also be leased to such tenant. The parking spaces which are Limited Common Elements may not be transferred by the Owner of Units 300, 301, 400 and 401 except in connection with a conveyance of his Unit, or a

conveyance to another Unit Owner, and any such attempted transfer in violation of this provision shall be null and void.

4.5 Encroachments. In the event that, by reason of the construction, reconstruction, rehabilitation, alteration or improvement of the Building or improvements comprising a part of the Property, any part of the Common Elements now or hereafter encroaches upon any part of any Unit, or any part of Common Elements, or upon any part of another Unit, an easement for the continued existence and maintenance of each such encroachment is hereby declared and granted and shall continue for so long as each such encroachment exists; provided that in no event shall an easement for such encroachment be created if such encroachment is detrimental to or interferes with the reasonable use and enjoyment of the Common Elements or Units so encroached upon.

4.6 Easements Through Walls, Ceilings and Floors. Easements are hereby declared and granted to the Association and to such persons as are authorized by the Association, to install, lay, maintain, repair and replace any chutes, flues, ducts, vents, pipes, wires, conduits and other utility installations, and structural components running through the walls of the Units, whether or not such walls lie in whole or in part within the boundaries of any Unit and running through the ceilings of the Units, whether or not such areas lie in whole or in part within the boundaries of any Unit.

4.7 Easements to Repair, Maintain, Restore and Reconstruct. Wherever in, and whenever by, this Declaration, the Bylaws or the Act, a Unit Owner, the Association, the Board or any other person, is authorized to enter upon a Unit or the Common Elements to inspect, repair, maintain, restore or reconstruct all or any part of a Unit or the Common Elements, such easements as are necessary for such entry and such repair, maintenance, restoration or reconstruction are hereby declared and granted.

4.8 Easements for Utilities. The Units and Common Elements shall be, and are hereby, made subject to easements in favor of the Declarant (until Declarant shall have satisfied all of its obligations under the Declaration and Bylaws and all commitments in favor of any Unit Owner and the Association), the Association, appropriate utility and service companies and governmental agencies or authorities for such utility and service lines and equipment as may be necessary or desirable to serve any portion of the Property and in favor of each Unit Owner for the purpose of utilizing such utilities and services to provide utility services to such Owner's Unit. The easements provided for by this Section 4.8 shall include, without limitation, rights of Declarant, the Association, any providing utility, any service company, and any governmental agency or authority and any of them to install, lay, maintain, repair, relocate and replace gas lines, pipes and conduits, water mains and pipes, sewer and drain lines, telephone wires and equipment, television and equipment facilities (cable or otherwise), electrical wires, conduits and equipment and ducts and vents and any other appropriate equipment and facilities over, under, through, along and on the Units and Common Elements. Notwithstanding the foregoing provisions of this Section 4.8, unless approved in writing by the Unit Owner or Unit Owners affected thereby, any such easement through a Unit shall be located either in substantially the same location as such facilities or similar facilities existed at the time of first conveyance of the Unit by the Declarant to a grantee other than the

Declarant, or so as not to materially interfere with the use and of occupancy of the Unit by its owners.

4.9 Declarant's Easement. Declarant hereby reserves such easements through the Common Elements as may be reasonably necessary for the purposes of discharging its obligations, exercising Special Declarant Rights, and completing the development and construction of the Condominium, which easements shall exist as long as reasonably necessary for such purpose.

4.10 Easements to Run With Land. All easements and rights described in this Article IV are appurtenant easements running with the land, and except as otherwise expressly provided in this Article IV shall be perpetually in full force and effect, and shall inure to the benefit of and be binding upon Declarant, its successors and assigns owning the Property, or any portion thereof, Declarant's mortgagees, the Association, Unit Owners, Occupants, First Mortgagees and any other person having any interest in the Condominium or any part thereof. The Condominium and every part thereof shall be conveyed and encumbered subject to and together with all easements and rights described in this Article IV, whether or not specifically mentioned in any such conveyance or encumbrance.

4.11 Emergency Access. In case of any emergency originating in or threatening any Unit or the Common Elements, regardless of whether the Unit 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.

## ARTICLE V.

### Restrictions, Conditions and Covenants

5.1 Compliance with Declaration, Bylaws and Rules and Regulations. Each Unit Owner and Occupant shall comply with all applicable provisions of the Act and the Condominium Documents. Failure to comply shall be grounds for an action by the Association, an aggrieved Unit Owner, or any person adversely affected, for recovery of damages, injunction, or other relief.

5.2 Administration of Condominium. The Condominium shall be administered in accordance with the provisions of the Act, this Declaration and the Bylaws.

5.3 Use Restricted; Use by Declarant.

(a) Except as may be otherwise expressly provided in this Declaration, each Unit shall be used for general office purposes only and ancillary uses with the prior

written approval of the Board.

(b) Except as reserved by Declarant, no advertising signs, billboards, unsightly objects, or nuisances shall be erected, placed or permitted to remain on the Property subject to this Declaration without the prior written approval of the Board.

5.4 Hazardous Use and Waste. Nothing shall be done to or kept in any Unit or the Common Elements that will increase any rate of insurance maintained with respect to the Condominium without the prior written consent of the Board. No Unit Owner or Occupant shall permit anything to be done to or kept in his Unit or the Common Elements that will result in the cancellation of insurance maintained with respect to the Condominium, or that would be in violation of any law, or that will result in the commitment of waste (damage, abuse, or destruction) to or in his Unit or the Common Elements.

5.5 Alterations of Common Elements. No Unit Owner or Occupant, except Declarant during the Declarant Control Period, shall alter, construct anything upon, or remove anything from the Common Elements, or paint, decorate, landscape or adorn any portion of the Common Elements, without the prior written consent of the Board.

5.6 Lease 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 the terms of such Condominium Documents shall constitute a default under the lease.

5.7 Rules and Regulations. In addition to the foregoing restrictions, conditions and covenants concerning the use of the Condominium, reasonable rules and regulations not in conflict therewith and supplementary thereto may be promulgated and amended from time to time by the Board or the Association, as more fully provided in the Bylaws.

5.8 Restrictions, Conditions and Covenants to Run With Land. Each Unit Owner and Occupant shall be subject to all restrictions, conditions and covenants of this Declaration, and all such restrictions, conditions and covenants shall be deemed to be covenants running with the land, and shall bind every person having any interest in the Property, and shall inure to the benefit of every Unit Owner.

5.9 Access to Units. The Association and its agent shall have access to each Unit from time to time during reasonable working hours, upon oral or written notice to its Unit Owner or Occupant of the Unit, as may be necessary for the maintenance, repair or replacement of any of the Common Elements. The Association and its agents shall also have access to each Unit at all times without notice, as may be necessary to make emergency repairs to prevent damage to Common Elements.

5.10 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 Declarant during the Declarant Control Period and thereafter by the Association. No Unit Owner shall penetrate the exterior of the Building in any way. No hangings shall be permitted

on the balconies, and there shall be no awnings, screening, fencing or canopies installed without first obtaining the consent of the Declarant during the Declarant Control Period and thereafter the Board. The balconies shall be kept in a clean, neat and orderly condition at all times.

## ARTICLE VI.

### Assessments

6.1 Assessment Liens. The Board has the power to levy assessments against the Units for Common Expenses. Such assessments, together with a late payment charge of one hundred dollars (\$100.00) for any assessment which remains unpaid for more than thirty (30) days past the due date with interest at the rate of eighteen percent (18%) per annum, costs and reasonable attorney's fees all imposed following notice and a right to be heard in accordance with Section 47C-3-107.1 of the Act, shall be a lien on the Units against which they are assessed, and if any payment thereof becomes delinquent, the lien may be foreclosed and the Unit sold, or a money judgment obtained against the persons liable therefor, all as set forth in the Bylaws.

### 6.2 Personal Liability of Transferees; Statement; Liability of First Mortgage.

(a) The personal obligation for assessments which are delinquent at the time of transfer of a Unit shall not pass to the transferee of said Unit unless said delinquent assessments are expressly assumed by said transferee.

(b) Any transferee referred to in (a) above shall be entitled to a statement from the Board, pursuant to Section 6.3 of the Bylaws, and such transferee's Unit shall not be subject to a lien for any unpaid assessments against such Unit in excess of the amount therein set forth.

(c) Where a First Mortgagee, or other person claiming through such First Mortgagee, pursuant to the remedies provided in a mortgage or deed of trust, or by foreclosure or by deed, or assignment, in lieu of foreclosure, obtains title to a Unit, the liability of such First Mortgagee or such other person for assessments shall be only for the assessments, or installments thereof, that would become delinquent, if not paid, after acquisition of title. For purposes hereof, title to a Unit shall be deemed acquired by foreclosure upon expiration of the applicable period of redemption.

(d) Without releasing the transferor from any liability therefore, any unpaid portion of assessments which is not a lien under (a) above, or, resulting, as provided in (c) above, from the exercise of remedies in a mortgage or deed of trust, or by foreclosure thereof or by deed, or assignment, in lieu of such foreclosure, shall be a Common Expense collectible from all Unit Owners, including the transferee under (b) above and the First Mortgagee of such other person under (c) above who acquires ownership by foreclosure or by deed or assignment, in lieu of foreclosure.

6.3 Prohibition of Exemption from Liability for Contribution Toward Common Expenses. No Unit Owner may exempt himself from liability for his share of the Common Expenses assessed by the Association by waiver of the use or enjoyment of any of the Common Elements or by abandonment of his Unit or otherwise.



6.4 Date of Commencement of Annual Assessments. The annual assessments provided for herein shall commence as to all Units on the first day of the month following the conveyance of the first Unit by the Declarant. The first annual assessment shall be adjusted according to the number of months then remaining in that fiscal year.

6.5 Assessments. Assessments shall be due and payable in advance annually. As provided in Article VI of the Bylaws and as legally required by Section 47C-3-115 of the Act, Declarant shall pay all accrued expenses of the Condominium until assessments are levied against the Units. An assessment shall be deemed levied against a Unit upon the giving of notice by the Board to a member of the Association who is a Unit Owner of that Unit. Unit Owners shall have no obligation to pay assessments until an assessment is levied.

## ARTICLE VII.

### Management, Maintenance, Repairs, Replacements, Alterations and Improvements

#### 7.1 Common Elements

(a) By the Association. The management, replacement, maintenance, repair, alteration, and improvement of the Common Elements shall be the responsibility of the Association, and so long as the Association pays for the costs associated with the assumption of such responsibilities, and subject to the provisions of Section 7.2 hereof, the cost thereof shall be a Common Expense to the extent not paid by Unit Owners pursuant to Section 7.1 (b) hereof. All damage caused to a Unit by any work on or to the Common Elements done by or for the Association shall be repaired by the Association, and the cost thereof shall be a Common Expense. In addition, the Association shall be responsible for providing and paying for electrical, water and sewer service for all Units, and for garbage disposal in connection with the waste disposal facilities located in the parking lot. The cost of such services shall be a Common Expense. Notwithstanding anything in this Declaration to the contrary, (i) Common Expenses associated with electricity required to provide HVAC services shall be assessed against the Units on each floor in proportion to the square feet each such Unit bears to the total square feet of all Units on the floor on which each such Unit is located; (ii) in the event a Unit Owner or the Occupant of a Unit requires significantly more electricity than the other Unit Owners, the Association may alter the method of assessing Common Expenses applicable to electricity to allocate a larger share of the electrical expenses to the Unit Owner requiring the additional electricity, (iii) each Unit Owner shall maintain and repair any utilities, including without limitation the HVAC thermostat, pipes and cables which are located within such Unit Owner's Unit at the Unit 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, and (iv) the Unit Owners of Units 400 and 401 shall be responsible for cleaning and sweeping the balcony appurtenant to such Unit Owner's Unit.

(b) By Unit Owners. Each Unit Owner shall pay all costs to repair and replace all portions of the Common Elements that may become damaged or destroyed by reason of his intentional acts or the intentional acts of any Occupant of his Unit, agent and/or contractor. Such payment shall be made upon demand made by the Association.

7.2 Common Expenses Associated with Limited Common Elements or Benefiting Less Than All Units.

(a) Any Common Expenses associated with the maintenance, repair, or replacement of a Limited Common Element shall be assessed against the Unit, or in equal shares to the Units, to which such Limited Common Element was allocated at the time the expense was incurred.

(b) In addition, the Association may assess any Common Expense benefiting less than all of the Units against the Units benefited in proportion to their Common Expense liability.

7.3 Units. Each Unit Owner shall maintain his Unit at all times in a good and clean condition, and repair and replace, at his expense, all portion of his Unit; shall perform his responsibilities in such manner as not to unreasonably disturb other Occupants; shall promptly report to the Board; or its agents, any defect or need for repairs the responsibility for which is that of the Association; and, to the extent that such expense is not covered by the proceeds of insurance carried by the Association, shall pay all costs to repair and replace any portion of another Unit that has become damaged or destroyed by reason of his own acts or omissions, or the acts or omissions of any Occupant of his Unit or any employee, agent and/or contractor of him. Such payment shall be made upon demand by the Unit Owner of such other Unit. Nothing herein contained shall modify any waiver by insurance companies of rights of subrogation.

7.4 Waiver of Claims. Except only as provided in Section 7.5(a) and (b), the Association agrees that it shall make no claim against a Unit Owner or Occupant in connection with acts under this Article VII, and each Unit Owner and Occupant agrees that he shall make no claim against the Association, the members of the Board, officers of the Association, or employees or agents of any thereof, or against any manager retained by the Board, or his or its officers, directors, employees or agents, or other Unit Owners or Occupants, for acts under this Article VII, for any loss or damage to any of the Property, or to a unit of personal property therein, even if caused by the omission or neglect of any one or more of such persons and all such claims are hereby waived and released; provided, that this waiver shall not apply to any such loss or damage due to gross negligence and intentional acts.

7.5 Right of Entry.

(a) By the Association. The Association, and any person authorized by the Association, may enter any Unit or any of the Limited Common Elements in case of any emergency or dangerous condition or situation originating in or threatening that Unit or any of the Limited Common Elements. The Association, and any person authorized by the

Association, after reasonable notice to a Unit Owner or Occupant, may enter that Unit or any of the Limited Common Elements for the purposes of performing any of the Association's powers under the Act, this Declaration or the Bylaws with respect to that or any other Unit, any Limited Common Elements, or the Common Elements. Notwithstanding Section 7.4, the Association shall be responsible for the repair of any damage caused by the Association or its authorized person to the entered Unit, and the cost thereof shall be a Common Expense. All such entries shall be made and done so as to cause as little inconvenience as possible to the Unit Owner and Occupant of the entered Unit or any portion of the Limited Common Elements allocated to the Unit Owner.

(b) By Unit Owners. Each Unit Owner and Occupant shall allow other Unit Owners and Occupants, and their representatives, to enter his Unit, or Limited Common Elements allocated to his Unit, when reasonably necessary for the purpose of altering, maintaining, repairing or replacing the Unit, or performing the duties and obligations under the Act, this Declaration or the Bylaws, of the Unit Owner or Occupant making such entry, provided that requests for entry are made in advance and that such entry is at a time convenient to the Unit Owner or Occupant whose Unit or Limited Common Element is to be entered. In case of an emergency or dangerous condition or situation, such right of entry shall be immediate. Notwithstanding Section 7.4, the person making such entry shall be responsible for repair of any damage caused by such person to the entered Unit or Limited Common Element.

## ARTICLE VIII.

### Insurance

8.1 Casualty Insurance. The Association shall maintain, to the extent available, casualty insurance upon the Property in the name of, and the proceeds thereof shall be payable to, the Association as trustee for all Unit Owners and First Mortgagees as their interest may appear, and be disbursed pursuant to the Act. Such insurance shall be in an amount equal to not less than one hundred percent (100%) of the full insurable value of the Property on a replacement cost basis exclusive of land, excavations, foundations, improvements, betterments and fixtures installed by Unit Owners in the Units, personal property included within or located in the Units, and other items normally excluded from property policies, and shall insure against such risks and contain such provisions as the Board from time to time shall determine, but at a minimum shall conform in all respects to the requirements of the Act, and shall provide that, notwithstanding any provision thereof that gives the insurer an election to restore damage in lieu of making a cash settlement, such option shall not be exercisable if such restoration is prohibited pursuant to Section 47C-3-113(h) of the Act. The policy shall be issued by an insurance company properly licensed to do business in the State of North Carolina, with a general policy holder's rating of at least "A-" in the most recent edition of the Best's Key Rating Guide. The policy shall provide that each Unit 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 construction code endorsement, if available, as well as a special condominium endorsement providing as follows: for waiver of subrogation against any Unit Owner, and any Unit 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 Unit Owners and Mortgagees; that no act or omission by any Unit 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 Unit 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 mortgage endorsements to Mortgagees.

8.2 Public Liability Insurance. The Association shall maintain public liability insurance for the benefit of the Unit Owners, Occupants, the Association, the Board, the managing agent, if any, the Declarant, and their respective officers, directors, agents and employees, in such amounts and with such coverage as shall be determined by the Board; provided that the public liability insurance shall be for at least One Million and no/100 Dollars (\$1,000,000.00) with respect to bodily injury or death of any one person, at least Two Million and no/100 Dollars (\$2,000,000.00) with respect to bodily injury or death arising out of any one accident and at least One Million and no/100 Dollars (\$1,000,000.00) with respect to property damage arising out of any one occurrence. Said insurance shall comply in all respects with the requirements of the Act and shall contain a severability-of-interest endorsement precluding the insurer from denying liability because of negligent acts of any insured; insure all of such benefited parties against such liability arising out of or in connection with the use, ownership or maintenance of the Common Elements, and the streets, sidewalks and public spaces adjoining the Condominium; and insure the Association, the Board, the managing agent, if any, and their respective officers, directors, agents and employees against such liability arising out of or in connection with the use or maintenance of the Units.

8.3 Insurance Unavailable. If the insurance described in Sections 8.1 or 8.2 is not reasonably available, the Association shall promptly cause notice of such fact to be hand-delivered or sent prepaid by United States mail to all Unit Owners.

8.4 Other Insurance. The Association may procure such other insurance, including worker's compensation insurance, as it may from time to time deem appropriate to protect the Association or the Unit Owners. If at least one Unit is subject to mortgage financing, the Association shall obtain and keep in force such insurance as such mortgagee shall reasonably require from time to time.

8.5 Individual Policy for Unit Owner. Unit Owners shall maintain the following insurance at such Unit Owner's sole cost and expense:

(a) Unit Owner' Insurance. Each Unit Owner shall maintain or cause to be maintained in full force and effect the following insurance with a financially responsible insurance company or companies licensed to do business in the State of North Carolina. Each Unit Owner shall furnish to Declarant on an annual basis, and to any other Unit Owner requesting the same, evidence that the insurance described herein is in full force and effect. All policies of insurance carried by any Unit Owner pursuant hereto shall provide that the same may not be canceled (including, without limitation, a non-renewal) or amended without at least thirty

(30) days prior written notice being given by the insurer to Declarant.

(1) Casualty Insurance. Each Unit Owner shall maintain or cause to be maintained in full force and effect fire and casualty coverage on all upfits, improvements, betterments and fixtures to such Unit Owner's Unit made by the Unit Owner and all personal property located with such Unit Owner's Unit with full replacement costs therefor and providing for waiver of subrogation against the Association and any agent of the Association.

(2) Liability Insurance. Each Unit Owner shall maintain or cause to be maintained in full force and effect public liability insurance coverage for Unit Owner's liability arising out of the activities of such Unit Owner and his or her family members, guests, invitees, and contractors, with respect to and in and around his or her Unit, the Common Elements, and the Property.

(3) Any other coverage obtainable, to the extent and in the amounts such Unit Owner deems necessary to protect his own interest.

(4) No Unit Owner may self-insure.

(b) Changes in Unit Owners' Coverage. Declarant (or, if after the Declarant Control Period, the Association) shall have the right and authority from time to time as it may deem advisable, to amend the types of coverages and amounts required of the Unit Owners hereunder; provided, however, that such coverages and amounts are reasonably customary for projects similar to The Watermark Condominiums.

(c) Notwithstanding anything in this Article VIII, Section 8.6 to the contrary, any such insurance shall contain waivers pursuant to Section 7.4 and shall provide that it is without contribution as against the insurance purchased by the Association. If a casualty loss is sustained and there is a reduction in the amount of the proceeds that would otherwise be payable on the insurance purchased by the Association due to the proration of the insurance purchase by a Unit Owner under this Section, such Unit Owner shall be liable to the Association to the extent of such reduction and shall pay the assigns the proceeds of his insurance, to the extent of such reduction, to the Association.

## ARTICLE IX.

### Casualty Damage

If all or any part of the Property shall be damaged or destroyed, the same shall be repaired or replaced unless: (1) the Condominium is terminated, (2) repair or replacement would be illegal under any State or local health or safety statute or ordinance, or (3) the Unit Owners elect not to rebuild or replace by a ninety percent (90%) vote, including one hundred percent (100%) approval of Owners of Units not to be rebuilt or Unit Owners assigned to Limited Common Elements not to be rebuilt. All proceeds of insurance shall be used and applied in accordance with the provisions of Section 47C-3-113(e) and (h) of the Act.

ARTICLE X.

Condemnation

In the event of a taking by eminent domain, or by a conveyance in lieu thereof, of all or any part of the Property, the awards paid on account thereof shall be applied in accordance with Section 47C-1 -107 of the Act and Article IX of the Bylaws.

ARTICLE XI.

Termination

The Condominium may be terminated only in strict compliance with Section 47C-2-118 of the Act and Section 9.4 of the Bylaws.

ARTICLE XII.

Amendment

This Declaration may be amended only in strict compliance with the Act, including without limitation, Sections 47C-2-105 and 47C-2-117 of the Act, except that no amendment altering or impairing Special Declarant Rights may be made without the written consent of Declarant.

ARTICLE XIII.

Rights of First Mortgagees

The following provisions shall take precedence over all other provisions of this Declaration and Bylaws:

13.1 Availability of Condominium Documents, Books, Records and Financial Statements. The Association shall, upon request and during normal business hours, make available for inspection by Unit Owners and the First Mortgagees and the insurers and guarantors of a First Mortgage on any Unit, current copies of the Declaration, the Bylaws, other rules and regulations governing the Condominium and the books, records and financial statements of the Association. The Association shall provide a financial statement for the preceding fiscal year if requested in writing by a First Mortgagee or insurer or guarantor of a First Mortgage. The Association shall, upon request and during normal business hours, make available for inspection by prospective purchasers of Units, current copies of the Declaration, Bylaws, the Rules and Regulations governing the Condominium, and the most recent annual financial statement.

13.2 Rights of Action. Subject to the provisions of Section 7.4, the Association and any aggrieved Unit Owner shall have a right of action against Unit Owners and any aggrieved Unit Owner shall have a right of action against the Association for failure to

comply with the provisions of this Declaration, the Bylaws and the Rules and Regulations, and decisions of the Association made pursuant to authority granted to the Association in this Declaration and the Bylaws.

13.3 Notice. Each First Mortgagee and each insurer or guarantor of a First Mortgage, upon written request stating its name and address and describing the Unit encumbered by the First Mortgage, held, insured or guaranteed, shall be entitled to timely written notification by the Association of (i) any condemnation or casualty loss that affects either a material portion of the Condominium or the Unit securing its First Mortgagees; (ii) any 60-day delinquency in the payment of assessments or charges owed by the Unit Owner of the Unit on which the First Mortgagee held its First Mortgage or in the performance of any obligation under this Declaration or the Bylaws by said Unit Owner; or (iii) any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

#### ARTICLE XIV.

##### General Provisions

14.1 Conflict With the Act, Severability. Should any of the terms, conditions, provisions, or clauses of this Declaration conflict with any provisions of the Act, the provisions of the Act shall control unless the Act permits the Declaration to override the Act, in which event the Declaration shall control. The invalidity of any covenant, restriction, condition, limitation, provision, paragraph or clause of this Declaration, or of any part of the same, or the application thereof to any person or circumstance, shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration, or the application of any such covenant, restriction, condition, limitation, provision, paragraph or clause to any other person or circumstance.

14.2 Interpretation of Declaration. Whenever appropriate, singular may be read as plural, plural may be read as singular, and the masculine gender may be read as the feminine or neuter gender. Compound words beginning with the prefix "here" shall refer to this entire Declaration and not merely to the part in which they appear.

14.3 Captions. The captions herein are only for convenience and reference and do not define, limit or describe the scope of this Declaration, or the intent of any provision.

14.4 Exhibits. Exhibits A, B, C, D and E attached hereto are hereby made a part hereof.

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

14.6 Waiver. No provision of this 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.

14.7 Agreement to Encourage Resolution of Disputes Without Litigation. Notwithstanding anything in this Declaration or the Bylaws to the contrary, with respect to actions required to be taken by the Unit Owners or by the Directors of the Executive Board the decision of which results in an impasse and in connection with the resolution of any other disputes involving the Condominium (other than those certain specific claims enumerated below), the Unit Owners and Directors hereby agree to present such issue to an agreed upon mediator (the "Mediation"). If the Unit Owners or Directors, as applicable, are unable to agree upon a mediator, the Unit Owners or Directors, as applicable, shall proceed directly to arbitration in accordance with the provisions of Section 14.8 below. Mediation shall be confidential and non-binding on any of the Unit Owners or Directors, as applicable. Mediation shall take place within ten (10) days of the selection or appointment of the mediator, and shall be conducted in Charlotte, North Carolina.

The following shall not be considered "claims" subject to Mediation unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in this Section:

- a. any suit by the Association to collect assessments or other amounts due from any Unit Owner;
- b. any suit between Unit 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
- c. any suit in which any indispensable party is not an Unit Owner.

14.8 Arbitration. If at any time thereafter, any Unit Owner or Director, as applicable, or the Mediator deems further efforts to resolve the dispute by mediation to be futile, then the issue giving rise to the impasse shall be referred to the American Arbitration Association to be decided pursuant to arbitration conducted according to its Commercial Arbitration Rules. The arbitrator shall be agreed to by the Unit Owners, or Directors, as applicable, or if the Unit Owners, or Directors, as applicable, are unable to agree upon an arbitrator, by an arbitrator selected in accordance with the Commercial Arbitration Rules. If any Unit Owner, or Director, as applicable, declares in writing that it wants the dispute resolved by three (3) Arbitrators, then the American Arbitration Association shall appoint three (3) Arbitrators; otherwise, the American Arbitration Association shall only appoint one (1) Arbitrator. The arbitration shall be conducted in Charlotte, North Carolina. Any ruling by the arbitrator shall be binding upon the parties, and may be enforced in any court having jurisdiction over the matter.

14.9 Fees And Costs. The Association shall pay all fees and costs associated with the mediation and arbitration, except attorneys' fees of each Unit Owner, which shall be the responsibility of each Unit Owner.

14.10 Continued Performance. Pending resolution of any dispute, the Directors and Unit Owners agree to continue diligent performance of this Agreement.



**Signatures Begin on Following Page**

IN WITNESS WHEREOF, Declarant hereby executes this Declaration by and through its authorized representative on the day and year first above written.

GREENWOOD CLIFF DEVELOPERS, LLC, a North Carolina limited liability company

By: Ray S. Farns III  
Print Name: Ray S. Farns III  
Title: is Mayor

STATE OF North Carolina  
COUNTY OF Mecklenburg

I, Treva A. MacQueen, a Notary Public for the County and State aforesaid, certify that Ray S. Farns III (the "Signatory") personally came before me this day and acknowledged that he/she is \_\_\_\_\_ of GREENWOOD CLIFF DEVELOPERS, LLC, a North Carolina limited liability company, and that he/she, being authorized to do so, executed the foregoing on behalf of said limited liability company.

I certify that the Signatory personally appeared before me this day, and  
(check one of the following)

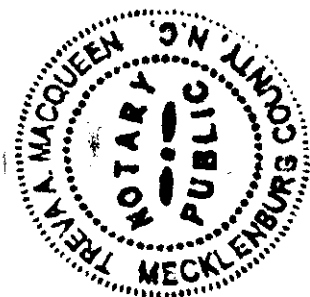
- (I have personal knowledge of the identity of the Signatory); or
- (I have seen satisfactory evidence of the Signatory's identity, by a current state or federal identification with the Signatory's photograph in the form of:  
(check one of the following)  
 a driver's license or  
 in the form of \_\_\_\_\_); or
- (a credible witness has sworn to the identity of the Signatory).

The Signatory acknowledged to me that he/she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated.

Witness my hand and official stamp or seal this 3<sup>rd</sup> day of October, 2006.

Treva A. MacQueen  
Notary Public  
Print Name: Treva A. MacQueen  
[Note: Notary Public must sign exactly as on notary seal]

My Commission Expires: October 18, 2010  
[NOTARY SEAL] (MUST BE FULLY LEGIBLE)



CONSENT OF LENDER

Regions Bank, being the beneficiary under the following Deed of Trust:

Grantor: Greenwood Cliff Developers, LLC  
Trustee: Bryan F. Kennedy, III  
Beneficiary: Regions Bank  
Date: September 29, 2005  
Recorded: September 30, 2005 in Book 19420 at Page 252, rerecorded in Book 19524,  
Page 430

conveying, among other things, the Property, or a portion thereof, does hereby consent to the imposition of the foregoing Declaration of Condominium for The Watermark Condominiums ("Declaration") on the Property, and all the terms and provisions of the Declaration upon the Property, and do hereby agree that no foreclosure of the Deed of Trust shall extinguish this Declaration but shall vest in Beneficiary the rights of Declarant set forth herein, and the rights and duties set forth in Section 47C-3-104 of the Act, and that the purchaser at any foreclosure sale held pursuant to the Deed of Trust or grantee of any deed in lieu of foreclosure shall take subject to the terms of this Declaration. Should Beneficiary acquire title to the property secured by the Deed of Trust, any liability Beneficiary shall have for the duties set forth in the Declaration and in rights of Declarant set forth herein, and the rights and duties set forth in Section 47C-3-104 of the Act which Beneficiary elects to assume pursuant to Section 47C-3-104 of the Act shall be nonrecourse except to the extent of its interest in such Property; that all present and future owners of any of the Property described in this Declaration shall be entitled to the full rights and easements to the extent same are granted herein, and, that upon payment of the loan secured by the Deed of Trust, the rights of Beneficiary and Trustee (or such successor trustees as permitted by the Deed of Trust) set forth in this Declaration shall terminate. Notwithstanding the preceding or anything else in the Declaration to the contrary: (i) the subordination contained in this consent shall not be applicable to any liens or assessments created or arising under the Declaration, and (ii) Beneficiary shall, without further notice, be deemed to be a "First Mortgagee" as defined in the Declaration.

Beneficiary executes this Consent solely for the purposes set forth herein. At the request of the Beneficiary, the Trustee also joins in and executes this Consent as Trustee of the Deed of Trust for the purposes hereinabove stated.

SIGNATURES APPEAR ON FOLLOWING PAGE(S)

IN WITNESS WHEREOF, the undersigned have caused this Consent of Lender to be duly executed as of the 28 day of September, 2006.

BENEFICIARY:

REGIONS BANK

By: Hobbs Yarbrough  
Print Name: Hobbs Yarbrough  
Title: Vice-President

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

I, Christina few a Notary Public of the County and State aforesaid, certify that Hobbs Yarbrough ("Signatory") personally came before me this day and acknowledged that he is Vice-President of Regions Bank, an Alabama banking corporation, and that he, as Vice- President, being authorized to do so, executed the foregoing instrument on behalf of the banking corporation.

I certify that the Signatory personally appeared before me this day, and

*(check one of the following)*

(I have personal knowledge of the identity of the Signatory); or  
 (I have seen satisfactory evidence of the Signatory's identity, by a current state or federal identification with the Signatory's photograph in the form of:

*(check one of the following)*

a driver's license or  
 in the form of \_\_\_\_\_); or  
 (a credible witness has sworn to the identity of the Signatory).

The Signatory acknowledged to me that he/she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated.

Witness my hand and official stamp or seal this 28 day of September, 2006.

Christina Few

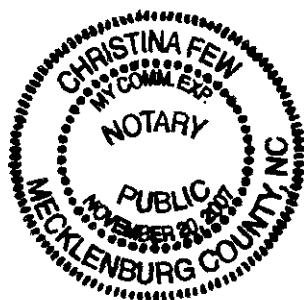
Notary Public

Print: Name: Christina Few

[Note: Notary Public must sign exactly as on notary seal]

My Commission Expires: November 20, 2007

☞ [NOTARY SEAL] (MUST BE FULLY LEGIBLE)



TRUSTEE:

[Signature]  
Edmund Hawes

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

I, Christina Few a Notary Public of the County and State aforesaid, certify that Edmund Hawes ("Signatory") personally came before me this day and acknowledged the execution of the foregoing instrument.

I certify that the Signatory personally appeared before me this day, and

*(check one of the following)*

(I have personal knowledge of the identity of the Signatory); or  
 (I have seen satisfactory evidence of the Signatory's identity, by a current state or federal identification with the Signatory's photograph in the form of:

*(check one of the following)*

a driver's license or  
 in the form of \_\_\_\_\_); or  
 (a credible witness has sworn to the identity of the Signatory).

The Signatory acknowledged to me that he/she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated.

Witness my hand and official stamp or seal this 28 day of September 2006.

Christina Few  
Notary Public

Print: Name: Christina Few

[Note: Notary Public must sign exactly as on notary seal]

My Commission Expires: November 20, 2007

[NOTARY SEAL] (MUST BE FULLY LEGIBLE)

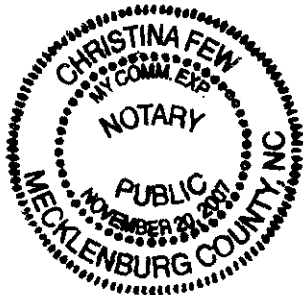


Exhibit A - Legal Description  
Exhibit B - Unit Allocations - Common Elements  
Exhibit C - Encumbrances  
Exhibit D - Articles of Incorporation  
Exhibit E - Bylaws

**Exhibit A**  
**Legal Description**

BEING THAT certain parcel of real property situated in the City of Charlotte, Mecklenburg County, North Carolina and being more particularly described as follows:

BEING ALL Lots 9, 10, 11, 12 and 13 as recorded in Map Book 1166 at Page 49 of the Mecklenburg County Public Registry and being the same property acquired by Tuscan Development III, LLC and Deeds recorded in Book 16799 at Page 293, Book 17191 at Page 752 and Book 17191 at Page 756, all of the Mecklenburg County Public Registry.

The above-referenced property is further described by metes and bounds descriptions as follows:

BEGINNING at an existing iron pin situated on the eastern right-of-way of Greenwood Cliff, a variable public right-of-way, said existing iron pin being located S 24-35-58 E 4188.17' from NCGS monument "MO 55" having state plane coordinates N 539,784.43, E 1,449,530.96; thence from the point and place of beginning with the southern property line of Judith Keck, now or formerly, as recorded in Deed Book 13040, Page 226 of the Mecklenburg County Public Registry N 80-39-11 E 152.23' to an existing iron rebar; thence with the western property line of Mecklenburg County, now or formerly, as recorded in Deed Book 15130, Page 166 and Book 16054, Page 537, both of the Mecklenburg County Public Registry, the following four courses and distances: (i) S 15-38-50 E 116.67' to an existing nail, (ii) S 05-26-10 W 43.56' to an existing nail, (iii) S 85-57-50 E 15.24' to an existing nail and (iv) S 05-18-59 W 212.31' to an existing iron rebar, said existing iron rebar being situated N 05-50-54 E 859.75' from FEMA benchmark "RM88"; thence with the northern property line of Harold L. Ogburn, now or formerly, as recorded in Deed Book 4376, Page 913 of the Mecklenburg County Public Registry N 76-10-28 W 208.20' to an existing iron rebar situated in the eastern right-of-way of Greenwood Cliff; thence with the eastern right-of-way of Greenwood Cliff the following four courses and distances: (i) N 13-19-45 E 165.42' to a new iron rebar, (ii) with the arc of a circular curve to the left having a radius of 140', arc length 14.42', chord bearing N 13-19-45 E with chord length 14.41' to a new iron rebar, (iii) with the arc of a circular curve to the left having radius 140', arc length 42.11', chord bearing N 0-21-23 E with chord length 41.94' to a new iron rebar, (iv) N 09-20-42 W 77.80' to the point and place of beginning, containing 60,226 square feet (1.3835 acres) all in accordance with survey for Tuscan Development III, LLC dated January 13, 2004 by R.B. Pharr & Associates, P.A.

**Exhibit B**

<u>Unit No.</u>	<u>Square Feet</u>	<u>Percentage in Common Elements and Common Expenses</u>
Unit 100	6160	26.52%
Unit 200	6160	26.52%
Unit 300	3080	13.26%
Unit 301	3080	13.26%
Unit 400	2375	10.22%
Unit 401	2375	10.22%



### **Exhibit C**

All easements, covenants, restrictions and conditions of record in Mecklenburg County, North Carolina and all matters visible and apparent on the ground.

**EXHIBIT D**

**ARTICLES OF INCORPORATION**

**Of**

**THE WATERMARK CONDOMINIUMS ASSOCIATION, INC.**

In compliance with the requirements of Chapter 55A of the North Carolina General Statutes, the undersigned, who is a resident of Mecklenburg County, North Carolina and is of the age of eighteen (18) years or more, does hereby make and acknowledge these Articles of Incorporation for the purpose of forming a corporation not for profit and does hereby certify:

**ARTICLE I**

**Name**

The name of the corporation is The Watermark Condominiums Association, Inc. (hereinafter called the "Association").

**ARTICLE II**

**Duration**

The corporation shall have perpetual duration.

**ARTICLE III**

**Applicable Statute**

The corporation is organized pursuant to the provisions of Chapter 55A of the North Carolina General Statutes.

**ARTICLE IV**

**Principal and Registered Office and Agent**

The principal and registered office of the Association is located at 1355 Greenwood Cliff, Suite 400, Charlotte, Mecklenburg County, North Carolina 28204, and the initial registered agent of the Association is Ray S. Farris, III.

**ARTICLE V**

**Purposes and Powers**

The Association does not contemplate pecuniary gain or benefit, direct or indirect, to its members. In way of explanation and not of limitation, the purposes for which it formed are:

(a) to be and constitute the Association to which reference is made in the Declaration of Condominium for The Watermark Condominiums, as amended (hereinafter the "Declaration") recorded or to be recorded in the Office of the Register of Deeds of Mecklenburg County, North Carolina, to perform all obligations and duties of the Association and to exercise

all rights and powers of the Association, as specified therein, in the Bylaws, and as provided by law; and

(b) to provide an entity for the furtherance of the interests of the owners of units in the development.

In furtherance of its purposes, the Association shall have the following powers, which, unless indicated otherwise by the Declaration or Bylaws, may be exercised by the Executive Board of the Association:

(A) all the powers conferred upon non-profit corporations by common law and the Statutes of the State of North Carolina in effect from time to time;

(B) all the powers necessary or desirable to perform the obligations and duties and to exercise the rights and powers set out in these Articles, the Bylaws, or the Declaration, including without limitation the following:

(i) to fix and to collect assessments or other charges to be levied against the properties;

(ii) to manage, control, operate, maintain, repair and improve the common elements, and any property subsequently acquired by the Association, or any property for which the Association, by rule, regulation, Declaration, or contract, has a right or duty to provide such services;

(iii) to enforce covenants, conditions, or restrictions affecting any property to the extent the Association may be authorized to do so under the Declaration or Bylaws;

(iv) to engage in activities which will actively foster, promote and advance the common interests of all owners of units in the condominium;

(v) to enter into, make, perform, or enforce contracts of every kind and description and to do all other acts necessary, appropriate or advisable in carrying out any purpose of the Association, with or in association with any other Association, corporation, or other entity or agency, public or private;

(vi) adopt, alter, and amend or repeal such Bylaws as may be necessary or desirable for the proper management of the affairs of the Association; provided, however, such Bylaws may not be inconsistent with or contrary to any provisions of the Declaration;

(vii) provide any and all supplemental municipal services as may be necessary or proper; and

(viii) the foregoing enumeration of powers shall not limit or restrict in any manner the exercise of other and further rights and powers which may now or hereafter be allowed or permitted by law; and the powers specified in each of the paragraphs of this Article V are independent

powers, not to be restricted by reference to or inference from the terms of any other paragraph or provisions of this Article V.

**ARTICLE VI**

**Membership**

The Association shall be a membership corporation without certificates or shares of stock. All unit owners, by virtue of their ownership of units in the Association, are members of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation.

**ARTICLE VII**

**Executive Board**

The affairs of this Association shall be managed by an initial Executive Board of three (3) directors appointed by Declarant, who need not be members of the Association. The number of directors may be changed by amendment of the Bylaws of the Association. The names and addresses of the persons who will serve as initial members of the Executive Board until the selection of their successors are:

<u>Name</u>	<u>Address</u>
Ray S. Farris, III	1355 Greenwood Cliff, Suite 400 Charlotte, NC 28203
Keith Brunnemer, Sr.	214 N. Tryon Street, Suite 2350 Charlotte, NC 28202
Keith Brunnemer, Jr.	214 N. Tryon Street, Suite 2350 Charlotte, NC 28202

The method of election and term of office, removal and filling of vacancies shall be as set forth in the Bylaws. The Executive Board may delegate such operating authority to such companies, individuals, or committees as it, in its discretion, may determine.

**ARTICLE VIII**

**Dissolution**

Unless otherwise provided in the Declaration or Bylaws of the Association, upon dissolution, the Association's assets shall be distributed as follows:

- (a) Assets held by the Association upon condition requiring return, transfer or conveyance, which condition occurs by reason of the dissolution, shall be returned, transferred or conveyed in accordance with such requirement; and

(b) Any other assets shall be dedicated to a public body or conveyed to a non-profit organization with similar purposes.

## **ARTICLE IX**

### **Amendments**

These Articles may be amended as provided by the provisions of Chapter 55A of the North Carolina General Statutes.

## **ARTICLE X**

### **Incorporator**

The name and address of the incorporator as follows:

Jeanne A. Pearson  
Johnston, Allison & Hord, P.A.  
610 East Morehead Street  
Charlotte, NC 28202

IN WITNESS WHEREOF, for the purpose of forming this corporation under the laws of the State of North Carolina I, the undersigned, being the Incorporator of this Association, have executed these Articles of Incorporation this \_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
Jeanne A. Pearson, Incorporator

**STATE OF NORTH CAROLINA**

**COUNTY OF MECKLENBURG**

I, \_\_\_\_\_, a Notary Public for said State and County, do hereby certify that Jeanne A. Pearson personally appeared before this day and acknowledged the due execution of the foregoing instrument.

I certify that the following person appeared before me this day, acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Jeanne A. Pearson

WITNESS my hand and notarial seal, this \_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
Notary Public

Print Name: \_\_\_\_\_

My Commission Expires:  
\_\_\_\_\_

(NOTORIAL SEAL)

**Exhibit E**

BYLAWS OF  
THE WATERMARK CONDOMINIUMS ASSOCIATION, INC.

ARTICLE I.

**Name Membership, Applicability and Definitions**

1.1 **Name.** The name of the Association shall be The Watermark Condominiums Association, Inc. (hereinafter sometimes referred to as the "Association").

1.2 **Membership.** All Unit Owners, as that term is defined in the Declaration of Condominium of The Watermark Condominiums, shall be members of the Association and the terms of the above referenced Declaration which pertain to membership are specifically incorporated herein by reference.

1.3 **Definitions.** The words used in these Bylaws shall have the same meaning as set forth in said Declaration, unless the context shall prohibit.

ARTICLE II.

**Association: Meetings, Quorum, Voting, Proxies**

2.1 **Place of Meetings.** Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the members as may be designated by the Board either in The Watermark Condominiums Association, Inc.'s office or as convenient thereto as is possible and practical.

2.2 **Annual Meeting.** A meeting of the Unit Owners shall be held at least once annually for the purpose of electing members of the Board and for the transaction of such other business as may be properly brought before the meeting. The date of the meeting shall be at the discretion of the Board, and notice of said meeting shall be given in compliance with Section 2.4 of this Article.

2.3 **Special Meetings.** Special meetings of the Unit Owners may be called at any time by the Board, the chairman or upon the written request of the Unit Owners owning at least twenty percent (20%) in common interest in the Common Elements other than those Units held by the Declarant.

2.4 **Notice of Meetings.** Written or printed notice stating the place, day and hour of any meeting shall be delivered or mailed not less than ten (10) days nor more than fifty (50) days prior to the date thereof, either personally or by postage prepaid mail, at the direction of the Board, or the chairman or Unit Owners calling the meeting, to each person entitled to vote at such meeting.

The notice of any meeting must state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the Declaration or these Bylaws, and budget changes, and any proposal to remove Board members or officers.

When a meeting is adjourned for less than thirty (30) days in any one adjournment, it is not necessary to give any notice of the adjourned meeting, other than by announcement at the meeting at which the adjournment is effective.

2.5 Quorum. The presence in person or by proxy at any meeting of the Voting Members (as defined in Section 2.6 of this Article) having fifty-one percent (51%) or more of the total votes shall constitute a Quorum. If there is no Quorum at the opening of the meeting of Unit Owners, such meeting may be adjourned from time to time by the vote of a majority of the Voting Members present, either in person or by proxy; and at any adjourned meeting at which a Quorum is present, any business may be transacted which might have been transacted at the original meeting.

The Voting Members at a meeting at which a Quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Voting Members to leave less than a Quorum.

2.6 Voting Rights. There shall be one person with respect to each Unit Ownership who shall be entitled to vote at any meeting of the Unit Owners (the "Voting Member"). The Voting Member may be the Unit Owner, or one of a group composed of all of the Unit Owners of a Unit, or may be some other person designated by such Unit Owner(s) to act as proxy on his or their behalf, and who need not be an Unit Owner. Each Unit Owner or group of Unit Owners (including the Board, if the Board or its designee shall then hold title to one (1) or more units) shall be entitled to one (1) vote for each squarefoot of area within the Unit.

2.7 Majority Vote. A majority of the votes cast by the Voting Members present at a meeting at which a Quorum shall be present shall be binding upon all Unit Owners for all purposes except where a higher percentage vote is required by the Declaration, these Bylaws or by law.

2.8 Proxies. The Voting Members may vote either in person or by agents duly authorized by written proxy executed by such Unit Owner or his duly authorized attorney-in-fact. A proxy shall be valid only for the particular meeting designated therein, unless the person executing it specifies therein the length of time for which it is to continue in force, which time shall not extend beyond eleven months from the date of its execution. Unless a proxy otherwise provides, any proxy holder may appoint in writing a substitute to act in his place. In order to be effective, all proxies must be filed with the secretary or duly acting secretary of the Association, either during or prior to the meeting in question.

2.9 Waiver or Notice. A Voting Member may, at any time, waive notice of any meeting of the Association in writing, and such waiver shall be deemed to be equivalent to the giving of such notice. Attendance by a Voting Member at any meeting of the Association shall constitute a waiver of notice by him of the time and place thereof, except



where a Voting Member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called. If all of the Voting Members are present at any meeting of the Unit Owner, no notice shall be required, and any business may be transacted at said meeting.

2.10 Informal Action by Unit Owners. Any action which may be taken at a meeting of the Association may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Voting Members and filed with the secretary of the Association to be kept in the Association's minute book.

### ARTICLE III. Executive Board

3.1 Number. The business and property of the Condominium shall be managed and directed by the Executive Board (the "Board"), composed of three (3) persons, or by such executive committees as the Board may establish pursuant to the Bylaws.

3.2 Initial Members. The initial members of the Board (referred to as "directors" herein) shall be selected by the Declarant, and need not be Unit Owners. Such initial directors shall serve at the election of the Declarant from the date upon which the Declaration is recorded in the Mecklenburg County Public Registry, until such time as their successors are duly elected and qualified.

The names of the persons who shall serve on the initial Board from the date upon which the Declaration is recorded in the Mecklenburg County Public Registry until such time as their successors are duly elected and qualified, are as follows:

Ray S. Farris, III

Keith Brunnemer, Jr.

Keith Brunnemer, Sr.

3.3 Election. Except as provided herein, the directors shall be elected at the meeting of the Association, and those persons who receive the highest number of votes shall be deemed to have been elected. Notwithstanding anything herein to the contrary, the Board shall consist of three (3) directors during the period that Declarant is entitled to appoint a majority of the directors. The Declarant shall have the right to appoint all of the directors until the earlier of the following four (4) dates: (a) within 120 days after the date by which 75% of the Units which Declarant has created on the Property have been conveyed to the Unit purchasers, or (b) the date upon which Declarant surrenders control of the Condominium to the Unit Owners, or (c) two (2) years after all Declarants have ceased to offer Units for sale in the ordinary course of business, or (d) two (2) years after exercise by Declarant of any development right to add Additional Units under the Act was last exercised.

The Declarant may turn over control of the Association to such Unit Owners other than the Declarant prior to such dates in its sole discretion by causing all or part of its appointed directors to resign, whereupon it shall be the affirmative obligation of Unit Owners other than the Declarant to elect directors and assume control of the Association. Provided at least thirty (30) days' notice of Declarant's decision to cause its appointees to resign is given to Unit Owners, neither the Declarant, nor such appointees, shall be liable in any manner in connection with such resignations even if the Unit Owners other than the Declarant refuse or fail to assume control.

Within sixty (60) days after conveyance of twenty-five percent (25%) of the maximum number of Units which Declarant may create on the Property to Unit Owners other than the Declarant, at least one director and not less than twenty-five percent (25%) of the directors of the Board shall be elected by Unit Owners other than the Declarant. Within sixty (60) days after conveyance of fifty percent (50%) of said Units to Unit Owners other than the Declarant, not less than thirty-three percent (33%) of the directors of the Board shall be elected by Unit Owners other than the Declarant.

Within sixty (60) days after the Unit Owners other than the Declarant are entitled to elect such director or directors, or sooner if the Declarant has elected to accelerate such event as aforesaid, the Association shall call, and give not less than ten (10) days' nor more than fifty (50) days' notice of a meeting of the Unit Owners to elect such director or directors of the Board. The meeting may be called and the notice given by any Unit Owner if the Association fails to do so.

The size of the Board may be increased or decreased from time to time upon the affirmative vote of three-fourths (3/4) of the votes of all Unit Owners, provided that said Board shall not be less than three (3) in number.

3.4 Term and Qualification. Each director shall hold office for the term for which he was elected, or until his death, resignation, retirement, removal, disqualification or until his successor is elected and qualified. At the meeting of the Association in which the Unit Owners are entitled to elect a majority of the directors, the directors of the Board shall be divided into three (3) classes, with each class consisting of one (1) director. The directors in the first class shall initially hold office for a term of three (3) years, and the directors of the second class shall initially hold office for a term of two (2) years; and the director of the third class shall initially hold office for a term of one (1) year. At all annual elections thereafter, one director shall be elected by the Voting Members to succeed the director whose term then expires. Each such director shall serve for a three (3) year term. Nothing herein contained shall be construed to prevent the election of a director to succeed himself. Each director, except those selected by the Declarant pursuant to the Bylaws, shall be one of the Unit Owners or co-owners, or a spouse of a Unit Owner or co-owner; provided, however, that in the event a Unit Owner is a corporation, partnership, trust or other legal entity other than a natural person or persons, then an officer or director of such corporation, partner of such partnership, beneficiary of such trust or manager of such other legal entity, shall be eligible to serve as a director.

3.5 Removal. Directors may be removed from office with or without cause by the affirmative vote of at least sixty-seven (67%) percent of votes cast by the Voting Members. If any directors are so removed, new Board members may be elected at the same meeting; provided, however, that the person(s) selected by Declarant cannot be removed without the prior written consent of Declarant.

3.6 Vacancies. A vacancy occurring in the Board may be filled by a majority of the remaining directors, though less than a quorum, or by the sole remaining director; but a vacancy created by increase in the authorized number of directors shall be filled only by election at an annual meeting or a special meeting of Unit Owners called for that purpose. The Voting Members may elect a director at any time to fill any vacancy not filled by the Board.

In the event that Declarant, in accordance with the rights herein established, selects any person to serve on any Executive Board of the Association, Declarant shall have the absolute right at any time, in its sole discretion, to replace such person with another person to serve on any Board. Replacement of any person designated by Declarant to serve on the Board shall be made by written instrument delivered to any officer of the Association, which instrument shall specify the name of the person to be replaced and the name of the person designated as successor to the person so removed from the Board. The removal of any such Board member and the designation of his successor shall be effective immediately upon delivery of such written instrument by Declarant to any officer of the Association.

3.7 Compensation. The Board members shall receive no compensation for their services.

3.8 Executive Committees. The Board may, by resolution adopted by a majority of the number of directors fixed by these Bylaws, designate two or more of its members to constitute an executive committee, which committee, to the extent provided in such resolution, shall have and may exercise all of the authority of the Board in the management of the Condominium.

The Board may, in like manner, create such other committees as it deems necessary and appropriate in aiding the Board to carry out its duties and responsibilities with respect to the management of the Condominium.

3.9 Powers and Duties. The Board shall have the powers and duties necessary for the administration of the affairs of the Condominium, and may do all such acts and things, except such acts as by law or the Declaration or by these Bylaws may not be delegated to the Board. Such powers and duties of the Board shall include, but shall not limited to, the following:

- (a) Determining the Common Expenses required for the affairs of the Condominium, including, without limitation, the operation and maintenance of the Property.
- (b) Collecting the Common Expenses from the Unit Owners.

(c) Supervising the operation, care, upkeep and maintenance of the Common Elements.

(d) Employing and dismissing the personnel necessary for the maintenance and operation of the Common Elements.

(e) Adopting and amending such reasonable rules and regulations as it may deem advisable for the maintenance, conservation and beautification of the Property, and for the health, comfort, safety and general welfare of the owners and occupants of the Property. Written notice of such rules and regulations shall be given to all Unit Owners and occupants, and the entire Property shall at all times be maintained subject to such rules and regulations.

(f) Opening bank accounts on behalf of the Condominium and designating the signatories required therefor.

(g) Selling, mortgaging, voting the votes appurtenant to or otherwise dealing with Units acquired by the Association, or its designee, corporate or otherwise, on behalf of all Unit Owners, subject to the Declaration and other applicable restrictions, and organizing corporations to act as designees of the Board in acquiring title to Units on behalf of all Unit Owners.

(h) Maintaining and repairing any Unit, if such maintenance or repair is necessary in the discretion of the Board or by operation of applicable restrictions to protect the Common Elements, or any other portion of the Property, and a Unit Owner has failed or refused to perform such maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair has been delivered or mailed by the Board to said Unit Owner; provided, that the Board shall levy a specific assessment against such Unit Owner for the costs of said maintenance or repair, including a reasonable amount of supervision.

(i) Entering any Unit when necessary in connection with any maintenance or construction for which the Board is responsible; provided, that except in the event of emergencies, such entry shall be made during reasonable hours with as little inconvenience to the Unit Owner as practical, and any damage caused thereby shall be repaired by the Board, with such expenses being treated as a Common Expense.

(j) Signing all agreements, contracts, deeds and vouchers for the payment of expenditures and other instruments in such manner as from time to time shall be determined by written resolution of the Board, However, any contracts or leases executed on behalf of the Association prior to the passage of control of the Board to the Association must be terminable by the Association without penalty on not more than ninety (90) days' written notice. In the absence of such determination by the Board, such document shall be signed by the treasurer and countersigned by the President.

(k) Obtaining insurance for the Property, including the Units, pursuant to the applicable provisions of the Declaration.

(l) Making or contracting for repairs, additions and improvements to or alterations or restoration of the Property in accordance with the other provisions of these bylaws and the Declaration, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceeding.

(m) Contracting for all goods, services and insurance, payment for which is to be made from the Common Expense fund.

(n) Instituting, defending, or intervening litigation or administrative proceedings in the name of or on behalf of the Association or two or more Unit Owners on matters affecting the Condominium.

(o) Borrowing money on behalf of the Condominium when required in connection with the operation, care, upkeep and maintenance of the Common Elements or the acquisition of property, and granting mortgages on and/or security interests in Association owned property; provided, however, that the affirmative vote of two-thirds (2/3) of the votes of the Unit Owners represented at a meeting at which a quorum has been attained in accordance with the provisions of these Bylaws shall be required for the borrowing of any sum in excess of \$10,000.00.

(p) Imposing charges for late payment of assessment and, after notice and opportunity to be heard, levy reasonable fines for violations of the Declaration, the Bylaws, or rules and regulations established by the Association, all in accordance with Sections 47C-3-107 and 47C-3-107.1 of the Act.

(q) At its discretion, authorizing Unit Owners or other persons to use portions of the Common Elements for private parties and gatherings and imposing reasonable charges for such private use.

(r) Exercising (i) all powers specifically set forth in the Declaration, the Articles of Incorporation, these Bylaws and in the Act, (ii) all powers incidental thereof, and (iii) all other powers of a non-profit North Carolina corporation.

(s) Suspending the right of any Unit Owner to vote as long as said Unit Owner is delinquent in the payment of Common Expenses or is otherwise in violation of the

Declaration or any exhibits thereto or applicable rules and regulations after notice and an opportunity to be heard in accordance with Section 47C-3-107.1 of the Act.

3.10 Managing Agent. The Board may engage the services of any person, firm, or corporation to act as managing agent at a compensation established by the Board, to perform such duties and services as the Board shall authorize, other than the powers set forth in subdivisions (a), (e), (g), (h), (i), (p), and (q) of Section 3.9 of this Article III.

3.11 Duties of Declarant. Within a reasonable time after Unit Owners other than the Declarant elect a majority of the members of the Board (but not more than sixty (60) days after such event), the Declarant shall deliver control of the Association and shall deliver to the Association all property [noted in Subsection (a) through (o) below] of the Unit Owners and of the Association held or controlled by the Declarant, including, if applicable:

(a) The original or a photocopy of the recorded Declaration of Condominium, and all amendments thereto. If a photocopy is provided, the Declarant must certify by affidavit that it is a complete copy of the actual recorded Declaration.

(b) A copy of the Articles of Incorporation of the Association.

(c) A copy of the Bylaws of the Association.

(d) The minute books, including all minutes, and other books and records of the Association.

(e) Any rules and regulations which have been adopted. Resignations of resigning officers and Board members.

(f) Association funds or the control thereof.

(g) A copy of the plans and specifications utilized in the construction or remodeling of improvements on the Property and the supplying of equipment; and for the construction and installation of all mechanical components servicing the improvements and the Condominium, with a certificate, in affidavit form, of an officer of the Declarant or an architect or engineer authorized to practice in North Carolina, that such plans and specifications represent, to the best of their knowledge and belief, the actual plans and specifications utilized in the construction or improvement of the Condominium and the construction or installation of the mechanical components servicing the Improvements and the Condominiums.

(h) Insurance policies.

(j) Copies of any Certificates of Occupancy which may have been issued for the Condominium.

(k) Any other permits issued by governmental bodies applicable to the Condominium in force or issued within one (1) year prior to the date the Unit Owners take control of the Association.

(l) All written warranties of contractors, subcontractors, suppliers and manufacturers, if any, that are still effective.

(m) A roster of Unit Owners and their addresses and telephone numbers, if known, as shown on the Declarant's records.

(n) Employment contracts or service contracts in which the Association is one of the contracting parties, or service contracts in which the Association or Unit Owners have an obligation or responsibility, directly or indirectly, to pay some or all of the fee or charge of the person or persons performing the service.

(o) All other contracts to which the Association is a party.

#### ARTICLE IV. Meetings of Directors

4.1 Organizational Meeting. The first meeting of the initial Board designated in these Bylaws shall be held at such time as the Declarant shall determine, but in no event later than one year from the date of incorporation of the Association. The first meeting of a newly elected Board shall be held within fifteen (15) days following the meeting of the Unit Owners at which the Board was elected. No notice to the newly elected members of the Board shall be necessary in order to legally constitute such meeting, providing that a quorum is present.

4.2 Regular Meeting. A regular meeting of the Board shall be held immediately after, and at the same place as, the annual meeting or substitute annual meeting of the Unit Owners. In addition, the Board may provide by resolution the time and place, either within or without the State of North Carolina, for the holding of a regular meeting of the Board, with such meeting to be held as decided by the Board during each fiscal year.

4.3 Special Meetings. Special meetings of the Board may be called by or with the request of the Chairman, or by any two (2) directors. Such meetings may be held either within or without the State of North Carolina.

4.4 Notice of Meetings. Regular meetings of the Board may be held without notice. The person(s) who called a special meeting of the directors shall, at least two (2) days prior to said meeting, give notice thereof by any usual means of communication. Such notice need not specify the reason for which the meeting is called.

Attendance by a director at a meeting shall constitute a waiver of notice of such meeting except where a member attends the meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called. Meetings of the

Board shall be open to all Unit Owners and notices of meeting shall be posted conspicuously for the attention of Unit Owners in advance of the meeting, except for regular meeting of the Board, which may be held without notice.

4.5 Waiver of Notice. Any member of the Board may at any time waive notice of any meeting of the Board in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Board shall constitute a waiver of notice by him of the time and place thereof. If all of the directors are present at any meeting of the Board, no notice shall be required, and any business may be transacted at such meeting.

4.6 Quorum. A majority of the number of directors fixed by these Bylaws shall be required for and constitute a quorum for the transaction of business at any meeting of the Board.

4.7 Manner of Acting. Except as otherwise provided in this section, the act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board. A vote of a majority of the number of directors fixed by these Bylaws shall be required to adopt a resolution constituting an executive committee. Vacancies in the Board may be filled as provided in Section 3.6 of these Bylaws.

4.8 Organization. Each meeting of the Board shall be presided over by the Chairman, and in the absence of the Chairman, by a person selected to preside by vote of the majority of the Board members present. The secretary, or in his absence, an assistant secretary, or in the absence of both the secretary and the assistant secretary, any person designated by the chairman of the meeting shall act as secretary of the meeting.

4.9 Informal Action of Board. Action taken by a majority of the directors without a meeting is nevertheless Board action if written consent to the action in question is signed by all of the directors and filed with the minutes of the proceedings of the Board, whether done before or after the action so taken.

4.10 Minutes. The Board shall keep minutes of its proceedings, which shall be available for inspection by the Unit Owners during reasonable business hours.

4.11 Liability of the Board and Officers. The directors and the officers provided for in Article V hereof shall not be liable to the Unit Owners for any mistake of judgment, negligence or otherwise, except for their own individual willful misconduct or bad faith. The Unit Owners shall indemnify and hold harmless each of the directors and the officers against all contractual liability to others arising out of contracts made by the Board or the officers on behalf of the Condominium, unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or these Bylaws. It is intended that the directors or any officer shall have no personal liability with respect to any contract made by them on behalf of the Condominium, except to the extent that they are Unit Owners and have liability as such. It is also intended that the liability of any Unit Owner arising out of any contract made by the Board or the officers, or out of the aforesaid indemnity in favor of



the directors of the officers, shall be limited to such proportion of the total liability thereunder as his interest in the Common Elements bears to the interests of all the Unit Owners in the Common Elements. Every agreement made by the Board, by the managing agent or by the officers on behalf of the Condominium shall provide that the members of the Board, the managing agent or the officers, as the case may be, are acting only as agents for the Unit Owners, and shall have no personal liability thereunder.

4.12 Mediation. With respect to actions required to be taken by the Board of Directors, in the event the Directors are unable to arrive at a decision resulting in an impasse, then they shall call a Special Meeting of the Owners as set forth in paragraph 2.3 of these Bylaws. The Notice shall specify the date of the Special Meeting which shall be the date which is fifteen (15) days after the date of such Notice (unless such date falls on a weekend or federal holiday in which case the meeting shall be held on the next day which is not a weekend or federal holiday). If the Unit Owners are unable to resolve the issue by a vote of more than 50% at such Special Meeting, the Directors shall present the issue giving rise to the impasse to an agreed upon mediator (the "Mediator"). If the Directors are unable to agree upon a mediator, the Directors shall notify the Unit Owners and proceed directly to arbitration pursuant to Section 4.13 below. Mediation shall be confidential and non-binding on any of the Directors and Unit Owners. Mediation shall take place within ten (10) days of the selection or appointment of the mediator, and shall be conducted in Charlotte, North Carolina.

4.13 Arbitration. If at any time thereafter, any Unit Owner or the Mediator deems further efforts to resolve the dispute by mediation to be futile, then the issue giving rise to the impasse shall be referred to the American Arbitration Association to be decided pursuant to arbitration conducted according to its Commercial Arbitration Rules. The arbitrator shall be agreed to by the Unit Owners, or if the Unit Owners are unable to agree upon an arbitrator, by an arbitrator selected in accordance with the Commercial Arbitration Rules. If any Unit Owner declares in writing that it wants the dispute resolved by three (3) Arbitrators, then the American Arbitration Association shall appoint three (3) Arbitrators; otherwise, the American Arbitration Association shall only appoint one (1) Arbitrator. The arbitration shall be conducted in Charlotte, North Carolina. Any ruling by the arbitrator shall be binding upon the parties, and may be enforced in any court having jurisdiction over the matter.

4.14 Fees And Costs. The Association shall pay all fees and costs associated with the mediation and arbitration, except attorneys' fees, which shall be the responsibility of each Unit Owner.

4.15 Continued Performance. Pending resolution of any dispute, the Directors and Unit Owners agree to continue diligent performance of this Agreement.

## ARTICLE V. Officers

5.1 Number. The principal officers of the Condominium shall consist of a Chairman of the Board, a secretary, and a treasurer. In its discretion, and from time to time,

the Board may elect such vice chairmen, assistant secretaries, and other officers it deems necessary. Any two or more offices may be held by the same person, except the offices of chairman and secretary.

5.2 Election and Term. The officers of the Condominium shall be elected by the Board. The chairman, vice chairman, secretary and treasurer shall be elected from among the Board and all other officers, if any, need only be a Unit Owner. The officers elected by the initial Board are not required to be Unit Owners. The election of officers may be held at the regular annual meeting of the Board.

Each officer shall hold office for a period of one year or until his death, resignation, retirement, removal, disqualification, or until his successor is elected and qualifies.

5.3 Removal. Any officer or agent elected or appointed by the Board may be removed by the Board, with or without cause; but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

5.4 Compensation. No officer shall receive any compensation from the Condominium for acting as such.

5.5 Chairman of the Board. The Chairman of the Board shall be the principal executive officer of the Condominium; and, subject to the control of the Board, shall supervise and control the management of the Condominium. The chairman shall, when present, preside at all meetings of the Board and of the Unit Owners and, in general, shall perform all duties incident to the office of chairman of the Board, and such other duties as may be prescribed from time to time by the Board.

5.6 Vice Chairman. The vice chairman, and if there be more than one, the vice chairman, designated by the Board, shall, in the absence or disability of the chairman, have the powers and perform the duties of said office. In addition, each vice chairman shall perform such other duties and have such other powers as shall be prescribed by the Chairman of the Board.

5.7 Secretary. The secretary shall keep accurate records of the acts and proceedings of all meetings of the Unit Owners and directors. He shall give, or cause to be given, all notice required by law and by these Bylaws. He shall have general charge of the minute books and records of both the Association and the Board. He shall sign such instruments as may require his signature, and, in general, shall perform all duties incident to the office of secretary, and such other duties as may be assigned from him from time to time by the chairman of the Board or by the Board.

5.8 Treasurer. The treasurer shall have custody of all Condominium funds and securities, and shall receive, deposit or disburse the same under the direction of the Board. He shall keep full and accurate accounts of the finances of the Condominium in books especially provided for that purpose. He shall cause a true statement of its assets and liabilities as of the close of each fiscal year, and of the results of its operations and changes in surplus for each

fiscal year, all in reasonable detail, to be prepared and distributed to all Unit Owners and members of the Board on or before the 15th day of the second month following the close of each fiscal year. The statement so filed shall be kept available for inspection by an Unit Owner for a period of three (3) years. The treasurer shall also prepare and file all reports and returns required by federal, state or local law, and shall generally perform all other duties as may be assigned to him from time to time by the chairman of the Board.

5.9 Assistant Secretaries and Treasurers. The assistant secretaries and assistant treasurers, if any, shall, in the absence of the secretary and treasurer, respectively, have all the powers and perform all of the duties of those officers, and they shall in general perform such other duties as shall be assigned to them by the secretary or the treasurer, respectively, or by the chairman of the Board or the Board.

## ARTICLE VI.

### Operation of the Property

6.1 Initial Assessment. At its organizational meeting the Board shall adopt a proposed budget for the Condominium and shall levy assessments against the Units for Common Expenses based upon said budget, which assessments shall commence in accordance with the provisions of Section 6.4 of the Declaration. The assessments so levied shall remain in effect until future assessments are determined in accordance with the provisions of Section 6.2 of these Bylaws.

6.2 Assessment and Determination of Common Expenses. The Board shall from time to time, and at least annually, prepare a budget for the Condominium, for the purpose of determining the amount of the Annual Assessments to be collected from the Unit Owners in order to provide for the Common Expenses of the Condominium, and allocate and assess such Common Expenses amount to the Unit Owners, according to their Percentage of Interest in the Common Elements as set forth in the Declaration, taking into consideration any expected income and any surplus from the prior year's operation. The Common Expenses shall include, without limitation, the expenses, costs and charges incurred in connection with the administration, operation and management of the Condominium property; the cost of maintenance, repair, replacement and restoration of the Common Elements, or any part thereof; the cost of all insurance premiums on all policies of insurance required to be or which have been obtained by the Board pursuant to the provisions of the Declaration; such amounts as the Board may deem proper for the convenience, comfort and well-being of the Unit Owners, and for the operation, management and maintenance of the Property, including, without limitation, an amount for working capital of the Condominium, for a general operating reserve, for a reserve fund for replacements, and to make up any deficit in the Common Expenses for any prior year; in proper cases, the cost of administration and of maintenance and repair of the Limited Common Elements; and any other expenses lawfully agreed upon.

In establishing a reserve fund for replacements, the Board shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall then set the required capital contribution in an

amount sufficient to permit meeting the projected capital needs of the Association with respect to both amount and timing by equal annual installments over the applicable period.

Within thirty (30) days after adoption by the Board of any proposed budget for the Condominium, the Board shall provide a summary of the budget to all Unit Owners and shall give notice of a date for a meeting of the Unit Owners to consider ratification of the budget not less than fourteen (14) nor more than thirty (30) days after mailing of the summary and notice. A quorum must be present at the meeting. The budget is ratified unless, by a majority of the votes cast by the Voting Members, the Voting Members consent to reject the budget. In the event the proposed budget is rejected, the periodic budget last ratified shall be continued until such time as the Voting Members ratify a subsequent budget proposed by the Board. Provided, however, the requirements of this Section relating to budget adoption shall not be applicable to the adoption of the initial budget or the levy of the initial assessment by the Board at its organizational meeting as provided for in Section 6.1 hereof.

6.3 Payment of Assessments. All Unit Owners shall be obligated to pay (1) Annual Assessments for Common Expenses assessed by the Board pursuant to the provisions of this Article VI; (2) special assessments to be established and collected as provided herein; and (3) specific assessments against any Unit which may be established pursuant to the terms of these Bylaws. Annual Assessments shall be due and payable annually, upon the last day of the first month of the fiscal year. A late payment charge in an amount to be determined by the Board shall be assessed for any installment not paid by the tenth of the subsequent month. Any installment not paid during the month in which it is due shall be subject to the late payment charge and shall accrue interest as provided in Section 6.5, and shall constitute a lien on the Unit as provided in Section 6.6 of this Article VI.

No Unit Owner shall be liable for the payment of any part of the Common Expenses assessed against his Unit subsequent to a sale, transfer or other conveyance by him (made in accordance with the provisions of the Declaration and applicable restrictions of record) of such Unit, together with his interest in the Common Elements. A purchaser of a Unit shall be jointly and severally liable with the seller for the payment of Assessments assessed against such Unit prior to the acquisition by the purchaser of such Unit only if the purchaser expressly assumes such obligation in writing; provided, however, the lien assessed against such Unit shall remain in full force and effect. Any such purchaser shall be entitled to a statement from the Board setting forth the amount of the unpaid Assessments against the seller, and the Unit conveyed shall not be subject to a lien for any unpaid assessments in excess of the amount shown on the statement. Provided, however, that a First Mortgagee or other purchaser of a Unit at a foreclosure sale of such Unit or a First Mortgagee who takes a deed in lieu of foreclosure shall not be liable for, and such Unit shall not be subject to, a lien for the payment of Common Expenses assessed prior to the foreclosure sale or deed in lieu of foreclosure. Such unpaid Common Expenses shall be deemed to be Common Expenses collectible from all of the Unit Owners, including such purchaser, his successors or assigns.

6.4 Special Assessments. The Association may levy Special Assessments for Common Expenses not covered by the Annual Assessment, applicable to that year only 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 two-thirds (2/3) of the votes cast by Voting Members at a meeting duly called for this purpose. Such Special Assessments shall be charged to the Units according to their Percentage Interest in the Common Elements. In addition, the Board may levy Special Assessments against one or more, but less than all, of the Units to cover repairs or maintenance for which such Unit Owner or Unit Owners are responsible and which they have failed to make, or for repairs or maintenance required of a Unit Owner or Unit Owners which impair the value of the Common Elements or the Unit or Units, or expenses which are incurred in the abatement of or as a result of a violation by a Unit Owner or Unit Owners of the provisions of the Declaration, the Bylaws or the rules, regulations, or for fines levied for said violations, or where the Board has purchased a Unit on behalf of one or more Unit Owners. The period of assessment and manner of payment of such assessment shall be determined by the Board.

6.5 Collection of Assessments. The Board shall determine Common Expenses against the Unit Owners from time to time, at least annually, and may, as the Board shall determine, take prompt action to collect any Assessments due from any Unit Owner which remain unpaid for more than thirty (30) days from their due date.

The Board shall notify First Mortgagees pursuant to the provisions of the Declaration for which any amount assessed pursuant to these Bylaws remains unpaid for more than sixty (60) days, from their due date, and in any other case where the Unit Owner of such Unit is in default with respect to the performance of any obligation hereunder for a period in excess of sixty (60) days.

6.6 Default in Payment of Assessment. In the event of default by any Unit Owner in paying to the Board any amounts assessed by the Board and upon the giving of any notice and right to be heard in accordance with Section 47C-3-107.1 of the Act, such Unit Owner shall be obligated to pay a late payment charge of one hundred (\$100.00) dollars or such rate as established by the Board from time to time, and interest at the initial rate of eighteen percent (18%) per annum on such amounts from their due date or at a rate as established by the Board; together with all expenses, including reasonable attorneys fees (if permitted by law), incurred by the Board in collecting such unpaid sums. If a Unit Owner shall be in default in payment of an installment of an Assessment, including but not limited to, the annual installment based on the annual budget, the Board may accelerate the remaining installments upon ten (10) days' written notice to such Unit Owner, whereupon the entire unpaid balance of such Assessment shall become due upon the date dated in such notice.

6.7 Lien and Personal Obligation. Each Assessment provided for in this Article, together with late payment charges, interest and expenses, including attorneys' fees (as permitted by law), shall be a charge on and a continuing lien upon the Unit against which the Assessment is made when a notice of such lien has been filed of record in the Office of the Clerk of Superior Court of Mecklenburg County, North Carolina, in the manner provided by Article 8, Chapter 44, of the North General Statutes, provided such notice of lien shall not be recorded until such sums assessed remain unpaid for a period of thirty (30) days after the same

shall become due. Said notice of lien shall also secure all Assessments against the Unit becoming due thereafter until the lien has been satisfied. Said lien may be foreclosed in the same manner as a deed of trust on real property. In addition, each Unit Owner shall be personally liable for any Assessment against his Unit becoming due and payable while he is the Owner of such Unit.

6.8 Priority of Assessment Lien. The lien of the Assessments provided for in this Article shall be prior and superior to all other liens except (a) ad valorem taxes, and (b) all sums unpaid on first lien deeds of trust, mortgages or other encumbrances against the Unit prior to the docketing of the Assessment lien. The sale or transfer of any Unit shall not affect the Assessment lien against such Unit. Provided, however, the sale of a Unit pursuant to the foreclosure sale or execution sale instituted by a superior lien holder or conveyance to First Mortgagee by deed in lieu of foreclosure shall extinguish the inferior Assessment lien against the subject Unit but no such sale or transfer shall relieve each Unit from liability for any Assessments thereafter becoming due or for any future lien in connection therewith. The Association shall share in the excess, if any, realized by the sale of any Unit pursuant to a foreclosure or action instituted by a superior lien holder, to the extent of its lien.

6.9 Foreclosure of Liens for Unpaid Assessments. Following the institution of any action by the Board to foreclose on a Unit because of unpaid Assessments, the Unit Owner shall pay a reasonable rental for the use of his Unit, and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the rental. The Board, acting on behalf of the Association, or on behalf of any one or more individual Unit Owners, if so instructed, shall have the power to purchase such Unit at the foreclosure sale and to acquire, hold, lease, mortgage, vote the votes appurtenant to, convey or otherwise deal with the same, subject, however, to applicable restrictions of record. A suit to recover a money judgment for unpaid Assessments shall be maintainable without foreclosing or waiver of the Assessment lien. Where a First Mortgagee or the purchaser of a Unit obtains title to the Unit as a result of foreclosure of the First Mortgage, such purchaser, its successors and assigns, shall not be liable for the share of the Common Expenses or Assessments by the Board chargeable to such Unit which become due prior to the acquisition of title to such Unit by such purchaser. Such unpaid share of Common Expenses or Assessments shall be deemed to be a Common Expense collectible from all Unit Owners, including such purchaser, its successors and assigns.

6.10 Statement of Common Expenses. The Board shall promptly provide any Unit Owner so requesting the same in writing with a written statement of all unpaid charges due from such Unit Owner, for which it may institute a reasonable charge at its discretion.

6.11 Abatement and Enjoinment of Violations by Unit Owners. The violation of any rule or regulation adopted by the Board or the breach of any bylaw contained herein, or the breach of any provision of the Declaration, shall give the Board the right, in addition to any other rights set forth in these Bylaws: (a) to enter the Unit in which, or as to which, such violation or breach exists, and to make any repairs, and to summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition which may exist therein contrary to the intent and meaning of the provisions hereof, and the Board shall not thereby be deemed guilty in any manner of trespass; or, (b) to enjoin, abate, or remedy by

appropriate legal proceedings, either at law or in equity, the continuance of any such breach at the expense of the defaulting Unit Owner; (c) in any case of flagrant or repeated violation by a Unit Owner, to require such Unit Owner to give sufficient sureties for his future compliance with such condominium documents; or (d) after notice and an opportunity to be heard, to levy reasonable assessments and fines in accordance with Sections 47C-3-107 and 47C-3-107.1 of the Act for such violations. The failure of the Board to so act with respect to any such violation or breach shall not be deemed a waiver of the Board's right to act with respect to the same or any other breach or violation.

#### 6.12 Maintenance and Repair.

(a) Each Unit Owner shall maintain, repair and replace, at his sole cost and expense, all portions of his Unit which may become in need thereof, including the components of the heating and air conditioning system within and appurtenant to exclusively each Unit, if any, all fixtures and appliances, light fixtures, interior, non-load bearing walls, doors, floors, ceilings, carpeting, drapes and other items within the Unit, whether structural or non-structural, ordinary or extraordinary (other than maintenance of and repairs to any Common Elements not specifically set forth herein contained therein and not necessitated by the negligence, misuse or neglect of the Unit Owner, his guests, agents, servants, lessees, employees or contractors). Each Unit Owner shall clean the Limited Common Elements appurtenant to exclusively his Unit and replace all light bulbs in fixtures (if any) located in such Limited Common Elements. Each Unit Owner shall be responsible for replacing all heating and air conditioning filters, if any, required and located in his Unit. Each Unit Owner shall further be responsible for all damages to any and all other Units and/or to the Common Elements which his failure to undertake his maintenance responsibility may engender. All damages to the Common Elements or other Units intentionally or negligently caused by the Unit Owner, his guests, agents, servants, lessees, employees or contractors shall be promptly repaired by the Unit Owner at his sole cost and expense; provided that there is excluded from the provisions contained in this section such repairs necessitated by casualties insured against by the Association to the extent the Association receives insurance proceeds for such repairs. In such event, the Unit Owner shall be required to pay such portion of the costs of such maintenance, repair and replacement as shall exceed the amount of the applicable insurance proceeds. If the Unit Owner does not make those repairs to be made by him within thirty (30) days from written demand by the Board, the same may be repaired by the Board, and the cost thereof shall be assessed against the Unit owned by the subject Unit Owner.

(b) The Association, through its Board, shall maintain, repair and replace all portions of the Common Elements and Limited Common Elements (except as provided in Section 6.12(a) above) which shall require same, whether located inside or outside of the Units (unless necessitated by the negligence, misuse or neglect of a Unit Owner, his guests, agents, servants, lessees, employees or contractors, in which case such expense shall be charged to such Unit Owner, or unless herein provided to the contrary), and the cost thereof shall be charged to all the Unit Owners as a Common Expense.

6.13 Restrictions on Unit Owners. No Unit Owner shall perform or cause to be performed any maintenance, repair or replacement work which disturbs the rights of the other Unit Owners, jeopardizes the soundness or the safety of the Condominium property, or reduces the value thereof. Each Unit Owner shall cause any work so performed or being performed on the Unit, which, in the sole opinion of the Board, violates the terms of this section, to be immediately corrected, and he shall refrain from recommencing or continuing any such work without written consent of the Board.

6.14 Duty to Report. Each Unit Owner shall promptly report to the Board or its agent any defect or need for repairs or replacement the responsibility for which is that of the Association.

6.15 Additions, Alterations or Improvements by the Association. Whenever in the judgment of the Board the Common Elements shall require additions, alterations or improvements, the Board shall proceed with such additions, alterations or improvements, and shall assess all Unit Owners for the costs thereof, as a Common Expenses, subject, however, to the provisions of Sections 6.2 and 6.3 of this Article.

6.16 Additions, Alterations or Improvements by Unit Owners. No Unit Owner shall make any addition, alteration or improvement in or to his Unit, which impairs the structural integrity or mechanical systems or lessens the support of any part of the Condominium. No Unit Owner shall make any addition, alteration or improvement which affects the exterior portion or outward appearance of such Unit, without the prior written consent thereof of the Board. The Board shall have the obligation to answer any written request by a Unit Owner for approval of a proposed addition, alteration or improvement in or to such Unit Owner's Unit within thirty (30) days after such request, and failure to do so within the stipulated time shall constitute a consent by the Board to the proposed addition, alteration or improvement.

6.17 Use of Common Elements and Facilities. A Unit Owner shall not interfere with the use of the Common Elements by the remaining Unit Owners and their guests.

6.18 Right of Access. A Unit Owner shall grant a right of access to his Unit to the managing agent and/or any other person authorized by the Board or the managing agent, for the purpose of making inspections or for the purpose of correcting any condition originating in his Unit and threatening another Unit or a Common Element, or for the purpose of performing installations, alterations or repairs to the mechanical or electrical services or other Common Elements in his Unit or elsewhere in the Building, or to correct any condition which violates the provisions of any mortgage covering another Unit, provided that requests for entry are made in advance, and that any such entry is at a time reasonably convenient to the Unit Owner. In the case of an emergency, such right of entry shall be immediate, whether or not the Unit Owner is present at the time such request for entry is made, or such entry is at a time reasonably convenient to the Unit Owner.

6.19 Rules of Conduct. Rules and regulations concerning the use of the Units and the Common Elements may be promulgated and amended by the Board. Such rules and regulations shall be equally applicable to all Unit Owners similarly situated and shall be



uniform in their application and effect. Copies of such rules and regulations shall be furnished by the Board to each Unit Owner prior to their effective date.

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

6.21 Nonwaiver of Remedies.

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

(b) The failure of Declarant to enforce any rights, privileges, covenants or conditions which may be granted to it by the Declaration or other above mentioned documents shall not constitute a waiver of the right of Declarant to thereafter enforce such rights, provisions, covenants or conditions in the future.

(c) The failure of a First Mortgagee to enforce any rights, provisions, privileges, covenants or conditions which may be granted to it or them by the Declaration or other above-mentioned documents, shall not constitute a waiver of the right of said party or parties to thereafter enforce such right, privilege, covenant or condition in the future.

ARTICLE VII.  
Records and Audits

7.1 Reports. The Board shall keep detailed records of the actions of the Board and the managing agent, minutes of the meeting of the Board, minutes of the meetings of the Association, and financing records and books of account of the Condominium, including a chronological listing of receipts and expenditures, as well as a separate account for each unit, which, among other things, shall contain the amount of each Assessment against each Unit, the date when due, the amounts paid and the balance remaining unpaid. The financial records and books of account shall be available for examination by all Unit Owners, their duly authorized agents or attorneys, and all lien holders, their attorneys and authorized agents, at convenient hours that shall be set and announced for general knowledge. A written annual summary of all receipts and expenditures of the Condominium shall be rendered by the Board to all Unit Owners on or before the 15th day of the second month following the close of each fiscal year. In addition, an annual report of the receipts and expenditures of the Condominium shall be rendered by the Board to all Unit Owners who have requested the same, promptly after the end of each fiscal year.

7.2 Common Expense Funds. All sums collected by the Association, either as Assessments for the Common Expenses or Special Assessments may be commingled in a single fund, but they shall be held for the Owners for the purposes for which they are paid, and shall, subject to the right of withdrawal or refund provided herein, be credited to accounts from which shall be paid the charges for which the Assessments are made. Such accounts shall include the following, or such other and further accounts as the Board from time to time shall determine.

(a) General Common Expense Account--to which shall be credited collection of that portion of the Common Expense Assessments received for defraying the costs of operating the Condominium on a day-to-day basis, including normal maintenance and repairs, insurance and related charges.

(b) Capital Reserve Account--to which shall be credited, all sums collected which are to be allocated for capital expenditures for the reconstruction, repair and replacement of Common Elements at a future date.

All sums collected by the Association, either as assessments of the Common Expenses or Special Assessments, during any fiscal year and allocated to the General Common Expense Account or to any other account from which non-capital expenditures may be made, in excess of expenditures during such fiscal year made from or chargeable to said account or accounts shall be deemed contributions to capital at the end of said fiscal year, and shall be transferred to the Capital Reserve Account. All amounts credited to said Capital Reserve Account shall be contributions to capital, and shall be held in trust by the Association for future expenditures of a capital nature, and shall serve to reduce the Assessments required for said capital expenditures.

7.3 Audits. All books of account and financial records shall be kept in accordance with generally accepted accounting practices. The Board shall have a review of the books of account and financial records of the Association made by an independent accountant immediately following the close of each fiscal year and the report of such accountant shall be received by the Board and made available for inspection upon request by all Units Owners on or before the 15th day of the third month following the close of each fiscal year.

## ARTICLE VIII. Amendments to Bylaws

8.1 Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of a meeting at which a proposed amendment is to be considered.

8.2 Adoption. A resolution for the adoption of a proposed amendment may be proposed either by a majority of the Board or by not less than one-third (1/3) of the total votes of the Voting Members of the Association. Directors and members of the Association not present in person or by proxy at the meeting considering the amendment may express their approval in writing, provided that such approval is delivered to the Secretary at or prior to the meeting. The approval must be by not less than a majority of the votes of all Voting Members of the Association represented at a meeting at which a quorum has been attained.

8.3 Limitation. No amendment may be adopted which would eliminate, modify, prejudice, abridge or otherwise adversely affect any rights, benefits, privileges or priorities granted or reserved to the Declarant without the consent of said Declarant in each instance. No amendment shall be made that is in conflict with the Articles of Incorporation of the Association or Declaration without satisfaction of the requirements therein contained.

8.4 Execution and Recording. A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted as an amendment to the Declaration and bylaws, which certificate shall be executed by the Chairman or vice chairman and attested by the Secretary or Assistant Secretary of the Association with the formalities of a deed, or by the Declarant alone if the amendment has been adopted consistent with the provisions of the Declaration allowing such action by the Declarant. The amendment shall be effective when the certificate and a copy of the amendment is recorded in the Register of Deeds for Mecklenburg County, North Carolina.

#### ARTICLE IX. Condemnation

9.1 General. Whenever all or any part of the Condominium Property shall be taken by any authority having the power of condemnation or eminent domain, each Unit Owner shall be entitled to notice thereof and to participate in the proceedings incident thereto unless otherwise prohibited by law. The award made for such taking shall be payable to the Association. Unless otherwise provided by law at the time of such taking, any award made therefor shall be disbursed by the Association as provided in this Article IX.

9.2 Common Elements. If the taking is confined to the Common Elements (general or limited) on which improvements shall have been constructed, and by agreement of Unit Owners of Units to which at least eighty percent (80%) of the votes in the association are allocated, within sixty (60) days after such taking to replace the improvements, or any part thereof, on the remaining land included in the Common Elements (general or limited) and according to the plans therefor first approved by the Association, then the Board shall arrange for such replacement and the Association shall disburse the proceeds of such award in the same manner as they are required to disburse insurance proceeds where damage or destruction to the Common Elements (general or limited) is to be repaired or reconstructed provided for herein; subject, however, to the right hereby reserved to the Association by a majority of the votes of the Voting Members, to provide for the disbursement by the Association of the remaining proceeds held by it (after the payment of all costs incident to such replacement) to the Unit Owners or any one or more of them or to their First Mortgagees as their interest may appear in amounts disproportionate to their percentages of undivided interest in the Common Elements (general or limited) established herein, which disproportionate amounts shall correspond with disproportionate damage sustained by the Unit Owners or any one or more of them as the Association may determine. If the Unit Owners to which at least eighty (80%) percent of the votes in the Association are allocated shall not decide within sixty (60) days after such taking to replace said improvements or if the taking is confined to the Common Elements (general or limited) on which no improvements shall have been constructed, then the Association shall disburse the proceeds

of the award in the manner hereinabove provided for the disbursement of the remaining proceeds of an award after payment of all costs incident to the replacement of improvements taken has been made, including the right reserved to the Association to provide for the disbursement of the remaining proceeds held by it to the Unit Owners in disproportionate amounts. All disbursements made under this Section 9.2 shall be in strict compliance with Section 47C-1-107 of the Act.

9.3 Units. If the taking includes one or more Units, or any part or parts thereof; whether or not there is included in the taking any part of the Common Elements (limited or general), then the award shall be disbursed and all related matters shall be handled pursuant to and in accordance with the consent of all Unit Owners and First Mortgagees affected and the Executive Board of the Association thereafter, expressed in a duly recorded Amendment to the Declaration of Condominium, all in accordance with Section 47C-1-107 of the Act.

9.4 Termination. The Board shall call a meeting of all Unit Owners at least forty-five (45) days prior to any final taking by the condemning authority to determine the action to be taken pursuant to Sections 9.2 and 9.3 above. Except in the event of a taking of all the Units by eminent domain, in the event the condemnation involves more than ten (10%) percent of the value of the Common Elements (limited or general) and/or more than fifteen (15%) percent of the total value of all Units, the Condominium may be terminated at such meeting by written approval of the Unit Owners of Units to which at least eighty percent (80%) of the votes of the Association are allocated. Any termination agreement shall be in compliance with 47C-2-118 of the Act.

## ARTICLE X. Miscellaneous

10.1 Ad Valorem Taxes. Each Unit shall be deemed to be a separate parcel and shall be separately assessed and taxed. Each Unit Owner shall be liable solely for the amount of tax assessed against his Unit and shall not be affected by the consequences resulting from the tax delinquency of other Unit Owners. All tangible personal property owned by the Association in connection with the maintenance, upkeep and repair of the Common Elements shall be listed for said taxes in the name of and paid by the Association. Each Unit Owner is also responsible for his pro rata share of taxes assessed on his portion of the Common Elements, if any.

10.2 Notification to Mortgagees. Any Owner who mortgages his Unit shall notify the Association of the name and address of the Mortgagee, and the Association shall maintain such information in a book entitled "Mortgagees of Condominiums." In addition to any other notification provided for in the Declaration or these Bylaws, the Association, may, at the written request of a Mortgagee of any such Unit, report any unpaid assessments due from the Owner of such Unit. The Association shall notify each Mortgagee appearing in said book of the name of each company insuring the Condominium Property under the master policy and the amounts of the coverage thereunder.

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

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

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

10.6 Principal Offices-Registered Office. The initial principal office and registered office of the Association shall be located at 1355 Greenwood Cliff, Suite 400, Charlotte, Mecklenburg County, North Carolina 28204, and the initial registered agent of the Association is Ray S. Farris, III.

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

10.8 Seal. The seal of the Association shall contain the name of the Association, the word "Seal", the year of incorporation and such other words and figures as is desired by the Board of Directors. When obtained, the seal shall be impressed in the margin of this Section of the Bylaws.

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

CERTIFICATION

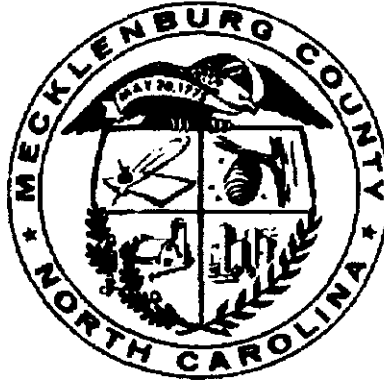
I, the undersigned, do hereby certify:

THAT I am the duly elected and acting secretary of The Watermark Condominiums Association, Inc., a North Carolina corporation, and

THAT the foregoing Bylaws constitute the original Bylaws of said Association, as duly adopted at a meeting of the initial Executive Board thereof held on the \_\_\_ day of \_\_\_\_\_, 2006.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association, this \_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
\_\_\_\_\_  
Secretary



JUDITH A. GIBSON  
REGISTER OF DEEDS, MECKLENBURG  
COUNTY & COURTS OFFICE BUILDING  
720 EAST FOURTH STREET  
CHARLOTTE, NC 28202

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