

Register of Deeds

**Tammy L. Brunner
Wake County, NC**

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STATE OF NORTH CAROLINA

DECLARATION OF CONDOMINIUM
FOR PARK & OAK AT FIVE POINTS
CONDOMINIUM

WAKE COUNTY

**NOTICE IS HEREBY GIVEN THAT THIS DOCUMENT REGULATES OR
PROHIBITS THE DISPLAY OF POLITICAL SIGNS AND THE FLAGS OF
THE UNITED STATES OF AMERICA AND NORTH CAROLINA AS SET
FORTH IN SECTIONS 7.11 AND 7.12.**

This Declaration of Condominium for Park & Oak at Five Points (the "Declaration") is made this 23 day of April, 2026, by PS at Five Points Partners, LLC, a North Carolina limited liability company ("Declarant"), pursuant to the provisions of Chapter 47C of the North Carolina General Statutes, entitled the North Carolina Condominium Act.

WITNESSETH

WHEREAS, Declarant is the owner of that real property more particularly described on Exhibit A which is attached hereto and made a part hereof and which is further shown upon the Plans as defined herein; and,

WHEREAS, Declarant intends to convert the real property described on Exhibit A, and all existing improvements located on such real property, into a residential condominium project, which project may include condominium subassociations; and

WHEREAS, Declarant executes this Declaration for the purpose of submitting the Condominium Property, as defined below, to Chapter 47C of the North Carolina General Statutes and to the provisions of this Declaration;

STATEMENT OF DECLARATION

NOW, THEREFORE, Declarant hereby declares that all of the Condominium Property, as defined below, shall be held, transferred, sold, conveyed, occupied and used subject to the following covenants, conditions, easements, uses, limitations, obligations, and restrictions, all of which are declared and agreed to be in furtherance of a plan for the division of the Condominium Property into condominium units, and shall be deemed to run with the land and shall be a burden and benefit to Declarant, its successors and assigns, and any person or entity acquiring or owning an interest in the Condominium Property, and their grantees, successors, heirs, executors, administrators, devisees and assigns.

ARTICLE I DEFINITIONS

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

Section 1.1 “Act” or “North Carolina Condominium Act” means the provisions of Chapter 47C of the North Carolina General Statutes as the same now exists or may hereafter be amended, or any new enactment in substitution or replacement thereof as the same by law may be applied to this Condominium.

Section 1.2 “Association” shall mean and refer to Park & Oak at Five Points Owners Association, Inc., a North Carolina non-profit corporation, which shall manage the Condominium as specified in this Declaration, its Articles of Incorporation and corporate Bylaws, and the Act.

Section 1.3 “Board” shall mean and refer to those persons elected or appointed and acting collectively as the Directors of the Association, and on behalf of the Association, as prescribed in the Declaration and the Bylaws.

Section 1.4 “Buildings” shall mean and refer to the buildings located on the Condominium Property that have been made subject to this Declaration, including all Units and Common Elements therein.

Section 1.5 “Bylaws” shall mean and refer to the Bylaws of the Association, and all amendments to such Bylaws which may from time to time be adopted.

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

Section 1.7 “Common Elements Interest” shall mean and refer to the undivided interest in the Common Elements and the Common Expense Liability allocated to each Unit, expressed as a percentage, as set forth on Exhibit B attached hereto. The Common Elements Interests shall be used to allocate each Unit’s share of Common Expenses.

However, votes in the Association are not allocated based on the Common Elements Interests. Instead, one (1) vote is assigned to each Unit.

Section 1.8 “**Common Expenses**” shall mean and refer to any and all expenditures made by or financial liabilities of the Association, together with any allocations to reserves, pursuant to and in accordance with this Declaration, the Bylaws, and N.C.G.S. §47C 1 103(5). Common Expenses include, without limitation:

- (a) Expenses of administration, maintenance, repair, or replacement of the Common Elements including the cost of any management company engaged by the Association;
- (b) Expenses agreed upon as Common Expenses by the Association;
- (c) Expenses declared to be Common Expenses by the provisions of the Act, the Declaration, or by the Bylaws;
- (d) Property, liability and such other insurance premiums as the Act, the Declaration, and/or Bylaws may require or allow the Association to purchase;
- (e) Taxes and public assessments levied against the Common Elements not otherwise assessed against the Units; and
- (f) Any utilities which serve the Common Elements.

Section 1.9 “**Condominium**” shall mean and refer to Park & Oak at Five Points Condominium, as established by the submission of the Condominium Property and all improvements thereon to the terms of the North Carolina Condominium Act by this Declaration (or any supplemental declaration).

Section 1.10 “**Condominium Documents**” shall mean and refer to this Declaration, the Articles of Incorporation of the Association, the Bylaws, and the Rules and Regulations governing the use of the Condominium Property, as amended and supplemented from time to time, and all attachments and exhibits thereto.

Section 1.11 “**Condominium Property**” or “**Property**” shall mean the real property 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 property.

Section 1.12 “**Declarant**” shall mean and refer to PS at Five Points Partners, LLC, a North Carolina limited liability company, its successors and assigns to whom any of its rights hereunder are expressly transferred, in whole or in part, or who succeeds to any Special Declarant Right.

Section 1.13 “**Declarant Control Period**” means the period commencing as of the date of recording of this Declaration, and terminating no later than the earlier of: (i) 120 days after conveyance of the thirty-first (31st) Unit to Owners other than Declarant; (ii) two years after Declarant has ceased to offer Units for sale in the ordinary course of business; or

(iii) the date upon which Declarant voluntarily surrenders control of the Condominium in writing.

Section 1.14 “Declaration” shall mean and refer to this Declaration of Condominium for Park & Oak at Five Points Condominium, as it may be amended or supplemented from time to time.

Section 1.15 “Limited Common Elements” shall mean and refer to those portions of the Common Elements allocated by this Declaration for the exclusive use and benefit of one or more, but fewer than all, of the Units, to the exclusion of all other Units, as more fully described in Section 5.2 of this Declaration or as may be depicted on the Plans.

Section 1.16 “Member” shall mean any person or entity entitled to membership in the Association as provided herein.

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

Section 1.18 “Mortgagee” shall mean and refer to the owner and holder of the indebtedness secured by a Mortgage that has notified the Association in writing of its name and address, that it holds a Mortgage on a Unit, and that it desires to be given the notices and other rights described in Article XV.

Section 1.19 “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Unit, but shall exclude those persons or entities having an interest in any Unit as merely security for the payment or performance of an obligation.

Section 1.20 “Person” shall mean and refer to a natural person, a corporation, limited liability company, a partnership, joint venture, a trust, or any other legal entity.

Section 1.21 “Plans” shall mean and refer to the plat, plans and specifications for the Buildings and Condominium Property, including any amendments thereto, recorded under the name of the Condominium in Condominium Map Number 2026 at pages 111 in the Public Registry.

Section 1.22 “Public Registry” shall mean and refer to the office of the Register of Deeds of Wake County, North Carolina.

Section 1.23 “Rules and Regulations” shall mean and refer to all rules and regulations adopted by the Board in accordance with the terms of this Declaration.

Section 1.24 “Special Declarant Rights” shall have the meaning set forth in N.C.G.S. §47C-1-103 and as more particularly described in Article VI below.

Section 1.25 “Special Declarant Rights Period” shall mean and refer to the period of time during which Declarant may exercise Special Declarant Rights, which period commences as of the recordation of this Declaration and, except as otherwise provided herein,

shall continue for ten (10) years thereafter unless Declarant records a statement of termination of such rights in the Public Registry prior to such time.

Section 1.26 “Unit” shall mean and refer to that physical portion of the Condominium designated for separate ownership or occupancy, the boundaries of which are more particularly described in Article IV below. The Units within the Condominium are all townhome-style condominium units, except for two Units which are stacked Units.

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

ARTICLE II DESIGNATION AND DESCRIPTION OF CONDOMINIUM; EXPANSION

Section 2.1 The Condominium. The Condominium is located in Wake County, North Carolina. The Condominium Property and all improvements thereon are together hereby subjected to the terms of the North Carolina Condominium Act by this Declaration. The name of the resulting Condominium is “Park & Oak at Five Points Condominium.”

The Condominium is being created via the conversion of up to nine (9) existing apartment buildings all located within New Lot 1, as shown on that plat recorded in Book of Maps 2009, Pages 1285-1286 in the Wake County Registry. No guarantee is made that all nine (9) buildings located within New Lot 1 will be made part of the Condominium, and the Declarant reserves the right to add some, all or none of the buildings to the Condominium and/or to create condominium sub-associations consisting of one or more of the nine (9) existing buildings. If Declarant decides to add additional buildings to the Condominium or to create condominium sub-association(s) with respect to any of the buildings, those buildings may become a part of the Condominium in phases. Unless and until all existing apartment buildings are made part of the Condominium, there will be shared features within New Lot 1 serving both the apartment buildings and Condominium. However, the owners of all buildings and/or Units will share in the cost of upkeep of the shared features, regardless of the status of conversion, per the terms of the Cross Access Easement and Maintenance Agreement recorded of even date herewith in the Wake County Registry.

Section 2.2 Maximum Number of Units. The total number of Units in the Condominium may not exceed forty-two (42) Units.

ARTICLE III DESCRIPTION OF BUILDINGS

The Condominium Property and all improvements thereon shall together initially comprise Park & Oak at Five Points Condominium. The initial Property made subject to this Declaration consists of one (1) Building containing six (6) Units. The Units are townhome-style. The location and dimensions of the Building are shown on the Plans. Declarant reserves the right to add up to eight (8) additional buildings to the Condominium, which may be added in phases.

ARTICLE IV DESCRIPTION OF UNITS

Section 4.1 **Units.** The location of Units within the Condominium, their dimensions, and their floor and ceiling elevations, are shown on the Plans. There are a total of six (6) initial Units within the Condominium. The identification number for each Unit is set forth on Exhibit B and on the Plans. Each of the Units is two (2) stories in height. The Units in each Building share one or more party walls, depending on whether the Unit is located at the end of the Building. The Condominium is more particularly described in the Plans.

Section 4.2 **Unit Boundaries.** The boundaries of each Unit are as follows:

- (a) Upper Boundary: The horizontal plane of the topmost surface of the wallboard in the originally constructed ceilings within the Unit. If the ceilings within different portions of the Unit are at different elevations, in such cases, the upper boundary of the Unit shall not be a single plane but shall vary with the differing finished ceiling elevations within different portions of the Unit.
- (b) Lower Boundary: The horizontal plane of the top surface of the subflooring beneath the Unit.
- (c) Vertical Boundaries: The vertical planes which include the back surface of the wallboard of all walls bounding the Unit, extended to intersections with each other, and with the upper and lower boundaries.

As provided in N.C.G.S. §47C-2-102(1), all lath, furring, wallboard, sheetrock, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished flooring, and any other materials constituting any part of the finished surfaces of the walls, floors, and ceilings are part of the Unit. All windows (including glass and frames), doors, door frames and hardware associated with windows and doors are a part of the Unit. Furthermore, all interior walls, partitions, fixtures, appliances, cabinets and other facilities or improvements lying completely within the boundaries of a Unit shall be a part of such Unit. All components of the heating, ventilating, and air-conditioning system designed to serve a single Unit, but located outside that Unit's boundaries, shall be deemed to be part of the Unit.

ARTICLE V COMMON ELEMENTS

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

- (a) The Condominium Property;
- (b) All improvements located within the Condominium Property outside of the Buildings, including without limitation the Limited Common Elements and all

streets, driveways, walkways, parking areas, landscaped areas, stormwater devices, mailbox units, and communal trash enclosures or dumpsters.

- (c) All improvements located within each Building outside of the Units, including without limitation the Limited Common Elements and all foundations, roofs, columns, girders, beams, supports, exterior and interior load-bearing walls, and all other structural elements of each Building.
- (d) Any public connections and facilities for utility services serving the Buildings and Common Elements which are located within the Common Elements that are not owned by the public utility or municipal agency providing such services, until owned or maintained by the public utility or municipal agency providing such service; and
- (e) All tangible personal property required for the operation and maintenance of the Condominium that may be owned by the Association.

Section 5.2 Limited Common Elements. The Limited Common Elements are a subset of the Common Elements that are allocated by the Declaration or by operation of Section 47C-2-102(2) or (4) of the Act for the exclusive use of one or more but fewer than all of the Units. The Limited Common Elements include all of the following:

- (a) Those portions of any chute, flue, duct, wire, pipe for water or sewer, conduit, bearing wall, bearing column, or any other fixture located partially within and partially outside the designated boundaries of the Unit, but which serve exclusively that Unit, shall be a Limited Common Element allocated exclusively to that Unit.
- (b) Any shutters, awnings, window boxes, doorsteps, terraces, stoops, decks, porches, balconies, patios, stairs, stairwells, attics, fence partitions, privacy fences and all other fixtures or exterior improvements which serve one or more but fewer than all of the Units.
- (c) Those areas indicated as Limited Common Elements on the Plans, including one exterior stoop and one exterior patio allocated to the Unit to which they are adjacent, and any attic that exclusively serves and individual Unit.
- (d) Any parking space allocated by Declarant for the exclusive use of a particular Unit as provided in Section 5.6.

References in this Declaration to the “Common Elements” shall include the Limited Common Elements unless the context clearly indicates otherwise. The allocation of use of Limited Common Elements to the Units as provided for in this Declaration shall not be altered without the unanimous consent of the Owners whose Units are affected.

Section 5.3 Undivided Interests of Owners in Common Elements. The percentage ownership interest in the Common Elements allocated to each Unit shall be the Common Elements Interest for that Unit as set forth on Exhibit B attached hereto. The

Common Element Interest is based on the heated square footage of that Unit and is calculated by dividing the heated square footage of that Unit by the total heated square footage of all Units, and multiplying the quotient so calculated by one hundred (100) to express a percentage. Declarant's determination on Exhibit B of the heated square footage shall control for purposes of establishing the Common Elements Interest for each Unit. The Common Elements Interest allocated to each Unit shall not be changed except with the unanimous consent of all the Owners of all the Units and with the consent of all the Mortgagees, except as may be specifically authorized by the Act or elsewhere in this Declaration.

Section 5.4 Maintenance of Common Elements. The Association, at its expense, shall be responsible for the maintenance, repair and replacement of the Common Elements, including but not limited to, roofs, exterior walls (excluding windows and doors), building foundations, exterior building surfaces, gutters and downspouts, mailboxes and exterior lighting fixtures attached to a Building (excluding light bulbs and the cost of electricity to the same). The Association shall also be responsible for the maintenance, repair or replacement of any Limited Common Element unless otherwise stated in this Declaration. Should any incidental damage be caused to any Unit by virtue of any work which may be done or caused to be done by the Association in the maintenance, repair or replacement of any Common Elements, the Association shall, at its expense, repair such incidental damage.

Whenever the maintenance, repair and replacement of any item which the Association is obligated to maintain, replace or repair at its expense is occasioned by the negligence or intentional act of an Owner, any resident of the Unit, a tenant, or the guests or invitees of any of them, and such loss or damage may be covered by any insurance maintained in force by the Association, the proceeds of the insurance received by the Association shall be used for the purpose of making such maintenance, repair or replacement, except that the Owner who is responsible for the act causing the damage (whether done by himself or by his employees, servants, guests, invitees or lessees) shall be required to pay such portion of the cost of such maintenance, repair and replacement as shall, by reason of the applicability of any deductible provision of such insurance, exceed the amount of the insurance proceeds applicable to such maintenance, repair or replacement. If not promptly paid, the Association may assess the Owner thereof and the same shall become a lien against the Unit of the Owner as provided herein.

Whenever the maintenance, repair and replacement of any item which the Association is obligated to maintain, replace or repair at its expense is occasioned by the negligence or intentional act of an Owner, any resident of the Unit, a tenant, or the guests or invitees of any of them, and such loss or damage is not covered by any insurance maintained by the Association, then the Owner shall pay the cost thereof; and, if not promptly paid upon request, the Association may assess the Owner thereof and the same shall become a lien against the Unit of the Owner as provided herein.

Section 5.5 Maintenance Responsibilities of the Unit Owner. Each Unit Owner shall be responsible for the maintenance and repair of all portions of his or her Unit and the cleanliness and orderliness of all Limited Common Elements appurtenant to his or her unit, other than parking spaces. In addition, each unit Owner shall be responsible for the maintenance, repair and replacement of those Limited Common Elements identified below. Such maintenance shall include, without limitation:

- (a) Maintaining in a clean and orderly fashion all Limited Common Elements appurtenant to his or her Unit, other than parking spaces;
- (b) Maintenance, repair and replacement of any chute, flue, duct, wire, pipe for water or sewer, conduit, load bearing wall, load bearing column, or any other fixture lying partially within and partially outside the designated boundaries of a Unit that exclusively serves that Unit;
- (c) Maintenance, repair and replacement of the sewage line serving the Unit from the cleanout to the Unit;
- (d) Maintenance, repair and replacement of any attic space allocated for the exclusive use of a Unit, including attic access, flooring and flooring support, but excluding any roof components;
- (e) Maintenance, repair and replacement of any rear patio or deck allocated for the exclusive use of a Unit;
- (f) Maintenance, repair and replacement of privacy fencing per the provisions of Section 7.16 of this Declaration;
- (g) Maintenance, repair, and replacement of windows and all components thereof, as well as interior and exterior doors and all components thereof, serving the Unit;
- (h) Maintenance, repair, and replacement of any heating, ventilating, and air conditioning systems serving the Unit(s);
- (i) Maintenance, repair, and replacement of all glass surfaces serving the Unit(s); and
- (j) Maintenance, repair and cleanliness of the interior of the Unit so as to prevent any unsanitary or unsafe condition that would tend to adversely affect or cause damage to the Common Elements or another Unit.

The Board may enter upon a Unit or any portion of the Condominium Property to perform maintenance or make repairs thereon which is the responsibility of a Unit Owner who has failed to perform such maintenance or make such repairs (i) after having given such Owner at least ten (10) days prior notice, or (ii) without giving notice in the event of an emergency. The costs of the same shall be assessed against the Owner thereof and the same shall become a lien against the Unit of the Owner as provided herein.

Section 5.6 Parking Spaces. Declarant reserves the right to allocate parking spaces as Limited Common Elements intended for the exclusive use of specific Units. Upon assignment, Declarant shall record specific plats or a supplement to this Declaration setting forth said allocation by Unit. Each allocated parking space may be used only by the Owner

of the Unit to which the parking space is allocated, and the Owner's guests, agents, family members, and invitees. Parking spaces that are not allocated to a specific Unit by Declarant shall be part of the Common Elements, but the Association shall have the right to lease the same to individual Unit Owners upon terms and conditions acceptable to the Board of Directors. The Association shall maintain, repair and replace all components of the parking spaces as deemed necessary in the opinion of the Board.

ARTICLE VI SPECIAL DECLARANT RIGHTS

Section 6.1 **Special Declarant Rights.** Until the expiration of the Special Declarant Rights Period, Declarant will have the right to exercise the following Special Declarant Rights and all Special Declarant Rights described in the Act with respect to all of the Condominium, in addition to any other such rights reserved in this Declaration:

- (a) **Development Rights.** The right to exercise all "development rights" as defined from time to time in the Act with respect to all of the Condominium, including without limitation the right or combination of rights hereby reserved by Declarant, as follows:
 - (1) The right to complete any improvements shown on the Plans.
 - (2) The right to allocate parking spaces as Limited Common Elements as provided in Section 5.6.
 - (3) The right to subdivide Units, combine Units and alter Unit boundaries, and to create Common Elements (including Limited Common Elements), so long as the maximum number of Units does not exceed forty-two (42) Units.
 - (4) The right to locate, relocate and maintain within the Condominium, a sales office, a model Unit, and signs advertising the Condominium. The office, model Unit and signs will be of sizes and styles determined by Declarant and may be relocated by Declarant from time to time.
 - (5) The right to lease or rent Units to third parties without being subject to certain restrictions set forth in Section 7.6.
 - (6) The right to appoint any officer or director of the Association during the Declarant Control Period, as provided in this Declaration or the Bylaws, but subject to the limitations of the Act.
 - (7) The right to amend this Declaration as provided in Article XIII.
 - (8) The right to add any portion of the real property (including structures located thereon) located within New Lot 1 as shown on that plat recorded in Book of Maps 2009, Pages 1285-1286 in the Wake County Registry, to the Condominium and in doing so to create new Units, Common Elements and Limited Common Elements and to reallocate

the Common Elements Interest of existing and new Units in accordance with the formula set forth in this Declaration. Any new Units created by Declarant's exercise of its Special Declarant Rights shall be identified on revised Plans recorded simultaneously with the recordation of a supplemental declaration.

- (9) The right to create condominium sub-associations with respect to any of the existing buildings located within New Lot 1 as shown on that plat recorded in Book of Maps 2009, Pages 1285-1286 in the Wake County Registry.
- (b) Easements to Facilitate the Exercise of Special Declarant Rights. As provided in Section 9.15, Declarant hereby reserves for itself and its successors and assigns a non-exclusive easement upon, across, over, in, and under the Condominium Property as may be reasonably necessary for the purpose of discharging Declarant's obligations or exercising Special Declarant Rights, whether arising under the Act or this Declaration.
- (c) Order of Exercise of Declarant's Rights. The fact that Declarant may exercise one or more of Declarant's development rights or other Special Declarant Rights on one portion of the Condominium Property will not operate to require Declarant to exercise a development right or other Special Declarant Right with respect to any other portion of the Condominium Property. Notwithstanding any terms or provisions herein, Declarant may exercise or not exercise some or all of its Special Declarant Rights in its sole and absolute discretion without need for additional consent of any Person, including, without limitation, any Owner, the Association or any Mortgagee.
- (d) Supplemental Provisions Regarding Declarant's Rights. Declarant reserves the right to amend this Declaration and any Plans, in its sole and absolute discretion without need for additional consent of any Person, including, without limitation, any Owner, the Association or any Mortgagee, in connection with the exercise of any development rights or any other Special Declarant Rights to the extent permitted by the Act, and the Declarant also reserves the additional rights retained for the benefit of Declarant in this Article and in other provisions of this Declaration.

Section 6.2 Transfer of Special Declarant Rights. Declarant may transfer any Special Declarant Rights created or reserved under the Condominium Documents to any person or entity, by an instrument evidencing the transfer duly recorded in the Public Registry. The instrument shall not be effective unless it is executed by the transferor and the transferee. Upon the transfer of any Special Declarant Rights, the liability of the transferor and the transferee shall be as set forth in the Act.

ARTICLE VII RESTRICTIONS ON USE

The following covenants, restrictions, conditions and limitations as to use and occupancy shall run with the Condominium Property and shall be binding upon each Owner,

and the Owner's family members residing in or occupying the Unit, guests, invitees, tenants, licensees, heirs, executors, administrators, successors and assigns.

Section 7.1 Use. Except as otherwise set forth herein, no Unit may be used for any purpose other than residential use and other purposes ancillary to such use. No Unit may be used for business or trade purposes at any time except with the written approval of the Board, which the Board may grant so long as the primary use is residential, no business customers of the resident(s) visit the Unit, such business does not otherwise violate the provisions of the Declaration or Bylaws, and the business does not create a disturbance or unduly increase traffic flow or parking congestion, which shall be judged in the sole discretion of the Board. Notwithstanding the foregoing, leasing of a Unit in accordance with this Declaration shall not be considered a business or business activity. In addition, Declarant or its assigns may maintain and operate any Units as sales or management offices or as model Units, for the marketing of Units for sale or lease, or for marketing its other projects, and such use shall be permitted.

Section 7.2 Nuisance. No obnoxious, offensive or unlawful activity shall be conducted within any Unit, or on or about the Common Elements, nor shall anything be done thereon or therein which may be or which may become an annoyance or nuisance to the other Owners or endanger the health and safety of any Owner. All laws, zoning ordinances and regulations of all governmental authorities having jurisdiction of the Condominium shall be observed. Nothing shall be done or kept in any Unit or in the Common Elements that will result in the termination of, or an increase in the premium for, the policy of property insurance for the Condominium.

Section 7.3 Noise and Disorderly Conduct. No Owner shall engage in any disorderly conduct on the Condominium Property, or cause or allow any disturbance, including, but not limited to, shouting, singing, or playing any musical instruments or electronic equipment (including radios, stereos, televisions, and computer equipment) in a manner that unreasonably disturbs other Owners. The Owner of a Unit shall be responsible for the conduct of such Unit Owner's family members, guests and tenants. It shall be the responsibility of an individual Owner causing unreasonable sound transmissions to remedy the disturbance. Notwithstanding the foregoing, each Unit Owner, by acceptance of a deed for a Unit, acknowledges that sounds within the Condominium (including those from nearby Units) may be difficult to control and may be audible at times or even frequently.

Section 7.4 Prohibitions on Use of Common Elements and Limited Common Elements. Owners shall not utilize the Common Elements for storage of personal property of any kind; except that Owners may store personal property in attics and may place appropriate personal property such as outdoor furniture on patios, consistent with rules promulgated by the Board. Sidewalks, streets, driveways, and parking areas shall not be obstructed in any way or used for other than their intended purposes. Porches, patios, and decks may be used only for their intended purposes. In general, no activity shall be carried on nor conditions maintained by any Owner either in such Owner's Unit or upon the Common Elements or Limited Common Elements which despoils the appearance of the Condominium Property or which interferes with the quiet enjoyment of other Owners with respect to their Units. The Board may enact Rules and Regulations regarding the appearance of Limited Common Elements, which rules may prohibit the storage or placement of items or particular types of items within or upon the Limited Common Elements.

Section 7.5 Garbage. Trash, garbage and other waste shall be kept in sanitary containers within each Unit or deposited in an appropriate trash collection area that may be located within the Condominium. No trash or garbage shall be kept or stored on balconies, porches, patios, or decks.

Section 7.6 Rentals of Units. Declarant shall not be subject to any leasing restriction set forth in this Section 7.6. Except for Units owned by Declaration, no Unit may be leased or rented except pursuant to the following provisions:

- (a) **Definitions.** For purposes of this Section, the following definitions shall apply: (i) "Owner-occupied" shall mean occupancy of a Unit by an Owner of record of the Lot; and (ii) the terms "lease," "leased," or derivations thereof shall refer to the regular, exclusive occupancy of a Unit by any person other than the Owner, regardless of whether such person is paying rent or providing other consideration to the Owner.
- (b) **Leasing Cap.** No more than fifty percent (50%) of the Units shall be leased at any given time (the "Leasing Cap"). Prior to leasing a Unit, the Owner shall apply in writing to the Board for a "Leasing Permit". If granting the permit would exceed the Leasing Cap, no Leasing Permit shall be issued. Owners who have been denied a Leasing Permit shall automatically be placed on a waiting list and shall be issued a Leasing Permit if they so desire when the number of outstanding Leasing Permits falls below the Leasing Cap. Further, in the event a permit is revoked or surrendered, permission to lease shall be granted to the next Unit on the waiting list, on a first-come, first-served basis.
- (c) **Lease Requirements.** All lease agreements shall be in writing and shall be for a term of not less than six (6) months; provided, however, that shorter term leases shall be permitted (subject to the Leasing Cap) if the Owner:
 - i. Registers on an annual basis with the Association;
 - ii. Pays a Five Hundred Dollar (\$500.00) annual fee;
 - iii. Designates a local property manager who is on call on a 24-hour, 7-day a week basis; and
 - iv. Displays emergency contact information and house rules inside the Unit.

Only the whole Unit may be leased; there shall be no partial leases or room leases. All lease agreements shall incorporate the requirements of the Declaration, Bylaws, and rules and regulations of the Association, and shall require any lessee to abide by all the obligations set forth in those documents as a condition of the lease agreement. The lease agreement must state that any failure of a lessee to comply with the terms of such documents shall be a condition of default under the lease agreement. A copy of each lease agreement shall be filed with the Board within ten (10) days of execution.

The Board of Directors may immediately and permanently revoke a Leasing Permit for leases of less than six (6) months in the event occupants of the Unit

create excessive noise, litter or otherwise despoil the appearance of the Common Elements, all as determined in the sole discretion of the Board, or violate the Declaration or the Association's rules and regulations.

A Leasing Permit shall be automatically revoked if (i) the Owner fails to lease the Unit within 90 days of the permit having been issued; (ii) the Owner fails to have the Unit leased for any consecutive 90-day period thereafter; (iii) the Owner sells or otherwise conveys the Unit to another person or entity whether voluntarily or involuntarily; or (iv) the Owner advises the Board that the Owner no longer wishes to lease the dwelling.

- (e) **Investor Ownership.** It is the intent of this Declaration that at least fifty percent (50%) of Units be Owner-occupied and not held for investment purposes. Accordingly, no person or entity may hold an ownership interest in more than three (3) Units at any one time; provided, however, that the foregoing shall not apply to the Declarant or its affiliates until the last Unit within the Condominium has been sold to a person or entity other than Declarant or its affiliates.

Section 7.7 Animals. No animals, livestock, or poultry of any kind shall be kept or maintained in any Unit except that a maximum of two (2) household pets may be kept or maintained in each Unit, provided they are not kept or maintained for commercial purposes. For purposes of this section, the term "household pet" shall not include chickens, pigs, horses, goats, sheep, cows, or other type of livestock of any size, including pygmy and miniature varieties, whether or not the owner considers the animal to be a pet. No pet shall be permitted upon the Common Elements unless carried or leashed by a person that can control the pet. All pets shall be controlled so as not to create a nuisance or unreasonable disturbance (including loud and excessive barking) whether inside or outside the Condominium. Pets shall not at any time be left unattended nor tied or chained in the Common Elements or any terrace or balcony or other Limited Common Element. Pet owners are responsible for the immediate removal and proper disposal of any pet waste.

Section 7.8 Utilities; Sub-metering. The Association shall be responsible for costs of water, sanitary sewer, and electrical service which serve the Common Elements. Each Unit Owner is responsible for the costs of such utilities serving the Owner's Unit, including any repair or maintenance of the submeter serving said Unit.

Section 7.9 Balconies, Porches, Decks, and Patios. All stoops, porches, patios and similar features shall be kept in a clean, neat and orderly condition at all times, and shall not be used for the storage of garbage, or the drying of towels or laundry. Towels or banners shall not be hung on railings, and any dead plants shall be removed promptly. These areas shall not be used for the storage of bicycles or exercise equipment.

Section 7.10 Fires. No open fires shall be permitted on any part of the Condominium Property, other than fires in cooking grills, if the same are permitted by the Board. If permitted by the Board, an Owner may use or store a cooking grill on the rear patio, but such Owner shall be solely responsible for complying with all applicable laws, ordinances, and regulations in connection with such storage and use. Permission by the

Board for the use or storage of a cooking grill shall not be construed as confirmation that the use or storage of such grill is compliant with applicable laws, ordinances, and regulations.

Section 7.11 Flags and Banners. No flags, banners, or similar items shall be displayed on or about the exterior of any Unit, or in the window of any Unit, or on the Common Elements, except that Owners may display the official flag of the United States of America and the official flag of North Carolina in areas in which they have a right of exclusive possession or use, but only in accordance with applicable law regarding the appropriate display of the flag(s); provided, however, the Board may enact reasonable restrictions pertaining to time, place, or manner of displaying the flag of the United States of America as may be necessary to protect a substantial interest of the Association.

Section 7.12 Signs. No sign of any kind shall be erected by an Owner without the prior written consent of the Architectural Review Committee except:

- (a) One (1) professionally lettered "For Sale" sign having dimensions not to exceed 24 inches by 30 inches and a maximum height of two (2) feet above ground level may be posted in the front yard space associated with the Unit;
- (b) Professional security signs may be posted in the front yard space associated with the Unit or in a window;
- (c) Signs required by legal proceedings may be posted on a Unit; and
- (d) One (1) political sign with maximum dimensions of 24 inches by 24 inches may be posted in the front yard space associated with the Unit, but such sign may not be posted earlier than 45 days before the day of the election and must be removed within seven days after election day. For the purposes of this section, "political sign" means a sign that attempts to influence the outcome of an election in which citizens of Wake County generally have a right to vote, including supporting or opposing an issue on the election ballot.

The Board shall have the right to enact reasonable rules and regulations governing the style, number, or size of permitted signs, as well as defining those events for which temporary signs may be utilized. Notwithstanding the foregoing, the Declarant and/or Declarant's assigns or Builders as authorized by Declarant shall be authorized to erect and maintain temporary signs for the sale and construction offices and for marketing of Units and to erect and maintain decorative fencing at any sales or construction office.

Section 7.13 Satellite Dishes and Antennas. Satellite dishes greater than one meter in diameter are prohibited. Satellite dishes one meter in diameter or less may only be placed in areas under the exclusive control of the Owner (i.e., a balcony or patio), and may not extend into or be placed on the Common Elements, unless otherwise approved by the Board. No other exterior radio antennae, television antennae, or other electronic signal-receiving or transmitting equipment shall be placed, allowed, or maintained upon any portion of the Condominium unless otherwise specifically permitted by FCC regulations. Satellite dishes and accompanying equipment should be painted to the extent possible to blend in with the surrounding area where located. Owners are solely responsible for maintaining satellite dishes and antennas and all related equipment. Owners will be required to temporarily

remove their satellite dishes or antennas at the Owner's cost if reasonably necessary for the Association to perform any of its maintenance obligations. Any damage that is caused by the installation of a satellite dish or antenna (including on the roof, if permitted) will be the sole responsibility of the Owner. Each satellite dish or antenna and all related equipment must be removed by an Owner if no longer in service. Each Owner is responsible for the cost of repairs which may be reasonably necessary to restore the any portion of the Common Elements to the condition prior to the installation of the Owner's satellite dish or antenna and related equipment.

Section 7.14 Maintenance. Each Owner shall keep his or her Unit in a clean, neat and sanitary condition and in a good state of maintenance and repair. If an Owner fails to comply with the standards or requirements of the Association relative thereto, the Association may (but shall have no obligation to) undertake to effect said compliance and assess the defaulting Owner the cost thereof as an Individual Unit Assessment.

Section 7.15 Exterior Window Treatments. No curtains or draperies shall be installed or hung in any window of any Unit unless they have a white lining or backing on the side exposed to the window. The Board may enact rules regarding the types of approved window treatments for Units.

Section 7.16 Outdoor Equipment and Improvements; Fences. No above-ground pool or hot tub is permitted on the Condominium Property, including on the patios adjacent to any Unit. Installation of temporary or permanent play equipment (for example, trampolines, tree houses, playhouses, swing sets, sandboxes, and basketball goal) is prohibited. There shall be no outbuildings or storage sheds located on the Property, except those owned and maintained by the Association.

With the written pre-approval of the Board, Owners may be permitted to install a privacy fence in the area directly behind the patio adjacent to the Unit, subject to the following:

- (a) **Location.** Any privacy fence must be aligned with the rear edge of the Unit's patio and may extend from the patio toward the Unit Owner's side of the Unit, in a direction away from the Unit's stairs, but shall not extend beyond the end of the Unit.
- (b) **Obstructions.** Where existing conditions, including but not limited to walkways, decks, utilities, or other obstructions, prevent compliance with the above location requirements, the Board shall determine whether there is another appropriate placement and configuration of the fence, which approval is not guaranteed.
- (c) **Materials.** All fencing must be constructed of materials substantially similar in appearance, color, and quality to the existing patio partition dividers within the Condominium. Final design and materials shall be subject to Board approval.

- (d) Height. Fences must be either a standard six (6) foot fence or match the height of the existing partial patio divider. Any deviation from these heights shall require prior approval from the Board.
- (e) Shared Fences. Where adjacent Unit Owners both wish to install privacy fences, a shared fence between the Units may be constructed, subject to agreement between the Unit Owners and approval by the Board.
- (f) Fire Egress. Each privacy fence enclosure must include a gate or opening sufficient to provide a clear means of egress from the patio area in compliance with all applicable fire and building codes. Such gate shall remain operable at all times and shall not be locked or otherwise obstructed in a manner that would prevent emergency egress.
- (g) Approval. No privacy fence may be installed without prior written approval of the Board. Unit Owners must submit the proposed location, layout, dimensions, materials, and gate design to the Board for review prior to installation.
- (h) Maintenance and Responsibility. All privacy fences installed by a Unit Owner shall be maintained, repaired, and replaced at the sole cost and expense of the Unit Owner. The Unit Owner shall be responsible for ensuring that the fence remains in good condition. If the fence falls becomes unsightly (including due to discoloration or mold/mildew/algae or other growth) is in disrepair, or becomes unsafe, all as determined in the sole discretion of the Board, the Board may require the Unit Owner to repair, replace, or remove the fence.
- (i) No Ownership Interest. The installation of a privacy fence shall not grant the Unit Owner any ownership interest in the land enclosed by the fence, which shall remain part of the Condominium's Common Elements.
- (j) Access and Removal. The Board shall retain the right to access the enclosed area for maintenance, repair, utility work, drainage work, or other Condominium purposes. If access requires temporary removal or modification of the fence, the Unit Owner shall cooperate with such access. Any fence removed for such purposes shall be reinstalled by the Unit Owner at the Unit Owner's expense unless otherwise determined by the Board.

Section 7.17 Insurance. Nothing shall be done or kept in any Unit or in the Common Elements which will increase the rate of insurance on the Buildings or contents thereof without the prior written consent of the Board of the Association. No Unit Owner shall permit anything to be done or kept in his or her Unit or in the Common Elements which will result in the cancellation of insurance on the Buildings, or contents thereof, or which would be in violation of any law. No waste will be committed in the Common Elements.

Section 7.18 Landscaping. No Unit Owner shall install any landscaping and/or plant any vegetable or herb garden in the Common Elements unless the prior written consent of the Board is obtained. The maintenance of any landscaping installed by an Owner shall be the sole responsibility of that Owner and the Owner's successors in title or assigns. If the

Owner fails to maintain any such landscaping in the opinion of the Board, the Association may remove the landscaping and return the area to its original condition, and the cost of the same shall be assessed against the Owner.

Section 7.19 Rules and Regulations. In addition to the use restrictions set forth in this Declaration, Rules and Regulations governing the use of the Condominium Property, including the Units, may be established and amended from time to time by the Board. Copies of such rules, regulations, and amendments thereto shall be furnished by the Association to all Owners prior to their effective date. Failure to comply with said Rule and Regulations, or any provision of this Declaration, shall be grounds for legal and equitable relief by the Association, or any aggrieved Owner. In any such action successfully brought by or on behalf of the Association, the Association shall be entitled to recover its reasonable costs and expenses of any such action, including reasonable attorneys' fees.

Section 7.20 Compliance with Covenants, Conditions and Restrictions. Every Unit Owner and other party described in the first paragraph of this Article shall comply strictly with the covenants, conditions and restrictions set forth in the Condominium Documents and any Rules and Regulations adopted by the Association in relation to the use and operation of the Condominium Property. A violation committed by any persons residing in, occupying or visiting a Unit at the behest or with the implied or express permission of the Unit Owner or any other occupant of the Unit, or committed by any agent, employee, business invitee, or contractor of the Unit Owner or of any person occupying a Unit, shall be attributed to that Unit and the Owner thereof. An Owner may be fined by the Association for failure to comply with the terms of this Declaration, the Bylaws, Articles of Incorporation or published Rules and Regulations in an amount not to exceed One Hundred Dollars (\$100.00) per day per violation, or any higher amount allowed by the Act. Any fine shall be assessed against the Owner and his Unit and, if unpaid, shall be a lien on the Unit as provided herein.

ARTICLE VIII ASSESSMENTS

Section 8.1 Organization of Association. A North Carolina nonprofit corporation known and designated as Park & Oak at Five Points Owners Association, Inc. has been organized to provide for the administration of the Condominium Property, and shall have the authority to administer the operation and maintenance of the Condominium and the Condominium Property and to undertake and perform all acts and duties incident thereto in accordance with the terms of its Articles of Incorporation, the Bylaws, this Declaration and the North Carolina Condominium Act. Every Owner shall be required to be and shall automatically be a Member of the Association by virtue of the Owner's ownership interest in a Unit.

Section 8.2 Authority to Assess Owners. The Association is given the authority to administer the operation and management of the Condominium, it being recognized that the delegation of such duties to one entity is in the best interest of the Owners. To properly administer the operation and management of the Condominium, the Association will incur for the mutual benefit of all of the Owners certain Common Expenses. To provide the funds necessary for such proper operation, management and capital improvement, the Association is granted the right to make, levy, and collect assessments against the Owners and their Units. In furtherance of this grant of authority to the

Association to make, levy, and collect assessments to pay the costs and expenses for the operation, management of, and capital improvements to the Condominium, the following provisions shall be operative and binding upon the Owners of all Units.

Section 8.3 Basis of Assessments. Except as otherwise provided in this Declaration, each Owner shall contribute as its share of the Common Expenses an amount equal to the Owner's Common Elements Interest multiplied by the Common Expenses (the "Common Assessment"). The Association, acting through the Board, also may levy a special assessment (a "Special Assessment") during any calendar year for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any capital improvement comprising or to comprise a portion of the Common Elements, including fixtures and personal property; provided, however, that any such Special Assessment must be approved by the vote of a majority of Owners present in person or by proxy at a meeting duly held for such purpose. Special Assessments, if approved, shall be payable by each Owner of Units for which such assessment is applicable in proportion to their respective Common Elements Interest (or their relative Common Elements Interests where fewer than all Owners are assessed).

In addition to the Common Assessment and the Special Assessment, the Association, acting through the Board, may assess individual Unit Owners (an "Individual Unit Assessment") for: (i) any costs incurred by the Association by reason of the Owner's failure to maintain the Owner's Unit, if the Association takes actions to do so as authorized herein; or (ii) any costs incurred by the Association as a result of such Unit Owner's (or its tenant's, agent's, contractor's, family member's or invitee's) negligence, willful misconduct, or default under its obligations under the Declaration, these Bylaws, or the Rules and Regulations, including any costs for maintenance or repair and reasonable attorney's fees; or (iii) for any other costs or expenses set forth elsewhere in this Declaration, including as set forth in Section 8.12.

Section 8.4 Manner of Payment. Common Assessments and Special Assessments shall be payable in annual, quarterly or monthly installments, or in such other installments and at such times, as may be determined by the Board. Individual Unit Assessments shall be payable within thirty (30) days after written demand by the Association.

Section 8.5 Commencement. In accordance with the Act, until the Association makes a Common Expense assessment, the Declarant shall pay all Common Expenses. After any assessment has been made by the Association, assessments thereafter must be made at least annually by the Association as to all Units then subject to this Declaration. With respect to Units owned by it, Declarant's obligations to pay Common Assessments may be satisfied in the form of cash payments to the Association or "in kind" contributions of services that would otherwise be included within Common Expenses, or any combination of the foregoing.

Section 8.6 Annual Budget. The Board shall establish an annual budget in advance for each fiscal year. Such budget shall project all expenses (including ad valorem taxes and public improvement assessments levied against the Common Elements) for the forthcoming year which may be required for the proper operation, management and maintenance of the Condominium, including a reasonable allowance for contingencies and

reserves. Within thirty (30) days after adoption of any proposed budget for the Condominium, the Board shall provide a summary of the budget to all the Owners and shall set a date for a meeting of the Owners to consider ratification of the budget not less than ten (10) nor more than sixty (60) days after mailing of the summary. There shall be no requirement that a quorum be present at the meeting. The budget is ratified unless at that meeting eighty percent (80%) or more of all the Owners reject the budget. In the event the proposed budget is rejected, the periodic budget last ratified shall be continued until such time as the Owners ratify a subsequent budget proposed by the Board. The assessment for said year shall be established based upon such budget. Lack of receipt of a copy of said budget by each Owner shall not affect the liability of any Owner for such assessment.

Section 8.7 Modification of Assessment. Should the Board at any time determine, in its sole discretion, that the Common Assessment levied is, or may prove to be, insufficient to pay the costs of operation and management of the Condominium, or in the event of emergencies, the Board shall have the authority to levy any additional Common Assessment it may deem to be necessary.

Section 8.8 Default; Interest. The payment of any assessment or installment thereof shall be in default if such assessment or installment is not paid to the Association within thirty (30) days of the due date established by the Association for such payment. When in default, the delinquent assessment or delinquent installment thereof due to the Association shall bear interest at the rate established by the Association not to exceed eighteen percent (18%) per annum, commencing on the date of default and continuing until such delinquent assessment or installment thereof, and all interest due thereon, has been paid in full to the Association.

Section 8.9 Late Payment Penalty. In addition to the accrual of default interest, the Association may impose a penalty for nonpayment of any assessment by the due date. Such penalty shall not exceed the greater of twenty dollars (\$20.00) per month or ten percent (10%) of any assessment installment unpaid and shall otherwise be subject to the provisions of the Act.

Section 8.10 Liability of Owners for Assessments and Other Charges. The Owner of each Unit shall be personally liable, jointly and severally, to the Association for the payment of all assessments, regular or special, which may be levied by the Association against such Unit while such party or parties are Owner or Owners of a Unit. In the event that any Owner is in default in payment of any assessment or installment thereof owed to the Association, such Owner shall be personally liable, jointly and severally, for interest and penalty on such delinquent assessment or installment thereof as above provided, and for all costs of collecting such assessment or installment thereof and interest thereon, including a reasonable attorney's fee, whether suit be brought or not.

Section 8.11 No Exemption. No Owner may exempt himself from liability from any assessment levied against him or his Unit by waiver of the use of enjoyment of any of the Common Elements or by abandonment of the Unit or in any other way.

Section 8.12 Assessments Against Specific Owners. Notwithstanding the requirement of Section 8.3 that assessments be levied against each Owner according to the Common Elements Interest of each Owner, the Association shall assess:

- (a) any Common Expense associated with the maintenance, repair, or replacement of a Limited Common Element against the Unit or Units to which that Limited Common Element is assigned;
- (b) any Common Expense, or portion thereof, benefiting fewer than all of the Units exclusively against the Units benefited;
- (c) the cost of insurance against the Units in proportion to the risk if any Unit or Units can be reasonably determined to create a greater risk than any other;
- (d) the cost of utilities, if not separately metered to each Unit, in proportion to usage if it can be reasonably determined that any Unit or Units use an unusually disproportionate share of any utility;
- (e) the cost of any judgment against the Association against only the Units in the Condominium at the time the judgment was entered in proportion to their common expense liability;
- (f) any Common Expense caused by the misconduct of any Owner exclusively against the Owner; and,
- (g) any fine or penalty or interest for any delinquent assessment installment exclusively against the Unit so charged.

Section 8.13 Assessment Lien Granted. Recognizing the proper operation and management of the Condominium requires the continuing payment of costs and expense thereof, and that such proper operation and maintenance results in benefit to all of the Owners, and that the payment of such Common Expenses represented by the assessments levied and collected by the Association is necessary in order to preserve and protect the investment of each Owner, the Association is hereby granted a lien upon each Unit and its appurtenant Common Elements Interest, which lien shall secure, and does secure, the monies due for all assessments now or hereafter levied against the Owner of each such Unit, which lien shall also secure penalties and interest, if any, which may be due on the amount of any delinquent assessments owing to the Association, and which lien shall also secure all costs and expenses, including a reasonable attorneys' fee, which may be incurred by the Association in enforcing this lien upon said Unit and its appurtenant Allocated Interest.

The lien granted to the Association may be foreclosed in the manner provided in N.C.G.S. §47C-3-116(f), and in any suit for the foreclosure of said lien, the Association shall be entitled to a reasonable rental from the Owner of any Unit from the date on which the payment of any assessment or installment thereof became delinquent, and shall be entitled to the appointment of a Receiver for said Unit. The lien granted to the Association shall further secure such advances for taxes, and payments on account of superior mortgages, liens or encumbrances which may be required to be advanced by the Association in order to preserve and protect its lien, and the Association shall further be entitled to interest at the highest rate allowed by law on any such advances made for such purpose. All persons who shall acquire, by whatever means, any interest in the ownership of any Unit, or who may be given or acquire a mortgage, lien or other encumbrance thereof, are hereby placed on notice

of the lien rights granted to the Association, and shall acquire such interest in any Unit expressly subject to such lien rights.

This Section 8.13 does not prohibit the Association from bringing an action to recover sums due it as an assessment independent of any lien filed or claimed, nor does it prohibit the Association from taking a deed in lieu of foreclosure.

Section 8.14 Fees and Costs. The Association shall be entitled to recover the reasonable attorneys' fees and costs it incurs in connection with the collection of any delinquent assessments or enforcement of the Declaration, Bylaws, or Rules and Regulations.

Section 8.15 Lien Subordinate to Mortgage. The lien provided for herein shall be superior to all liens and encumbrances on a Unit except (i) liens and encumbrances, specifically including, but not limited to, a mortgage or deed of trust on the Unit, recorded before the filing of the claim of lien in the office of the clerk of superior court and (ii) liens for real estate taxes and other governmental assessments and charges against the Unit.

Section 8.16 Statement of Assessments Due. Whenever any Unit may be leased, sold or mortgaged by the Owner thereof, the Association, upon written request of the Owner, shall furnish to the proposed lessee, purchaser or mortgagee, a statement verifying the status of payment of any assessment which shall be due and payable to the Association by such Unit. Such statement shall be executed by any officer of the Association, and any lessee, purchaser or mortgagee may rely upon such statement in concluding the proposed lease, purchase or mortgage transaction, and the Association shall be bound by such statement. The Association may charge reasonable fees for the provision of such statements.

Section 8.17 Purchaser Liable for Delinquent Assessments. In any voluntary conveyance of a Unit, the purchaser thereof shall be jointly and severally liable with seller for all unpaid assessments against seller made prior to the time of such voluntary conveyance, without prejudice to the rights of the purchaser to recover from seller the amounts paid by purchaser therefor.

Section 8.18 Remedies. Institution of a suit at law to attempt to effect collection of the payment of any delinquent assessment shall not be deemed to be an election by the Association which shall prevent it from thereafter seeking, by foreclosure action, enforcement of the collection of any sums remaining owed to it, nor shall proceeding by foreclosure to attempt such collection be deemed to be an election precluding the institution of a suit at law to collect any sum then remaining owing to the Association. All of the rights accruing to the Association shall be deemed cumulative.

Section 8.19 Working Capital Fund. In order to help insure that the Association will have sufficient monies available to meet unforeseen expenditures, at the time of the closing of the first sale of each Unit to a purchaser (other than Declarant or a successor declarant), the purchaser thereof shall pay to the Association a working capital contribution an amount equivalent to two (2) months of the current annual assessment established by the Association, or if no assessment has been established, the amount of \$600.00. No such payment shall be considered an advance or current payment of other assessments. The working capital contribution shall not be available for use by Declarant to defray any of its expenses or constructions costs or to make up any budget deficits while

Declarant is in control of the Association. All working capital contributions shall be held and administered by the Association.

ARTICLE IX EASEMENTS AND PROPERTY RIGHTS

Section 9.1 Cross Access Easements. Subject to the terms of this Declaration, Declarant does hereby grant, declare and establish, for the benefit of (or to burden) all of the Units, and the Unit Owners, a perpetual non-exclusive easement for ingress, egress, and regress, over, across and through those portions of the Common Elements designated as and consisting of roadways, parking areas, entrances and exits, driveways, drive aisles, sidewalks, walkways and similar improvements designed for common use for pedestrian and vehicular access to and from the Condominium Property to public or private rights-of-way benefitting the Condominium Property, to provide access to public rights-of-way surrounding the Property, and for such other purposes for which those common improvements are designed.

Section 9.2 Drainage, Utility and Other Easements.

- (a) Subject to the terms of this Declaration, Declarant does hereby grant, declare and establish, for the benefit of (or to burden) all of the Units, and the Unit Owners, a perpetual, non-exclusive easement over the Property for the flow of storm water, generally, and for the flow of storm water into, together with the use and benefit of, any stormwater facilities or devices benefitting the Condominium Property.
- (b) Subject to the terms of this Declaration, the Declarant does hereby grant, declare and establish an easement under, across, over, and through the Condominium Property for the location, use, operation, maintenance, repair and replacement of public utilities, including without limitation, underground water, electric, gas, and telecommunication facilities and utilities, to serve or benefit the Buildings and other improvements within the Condominium.
- (c) Subject to the terms of this Declaration, Declarant (until such time as Declarant no longer owns any Property) reserves the right to grant easements over the Property, without the consent of any Person (including, without limitation, the applicable Owner or Unit Owner, any Occupant, the Association or any Mortgagee), for services and public and private utilities, including without limitation, storm water, sanitary sewer, domestic water, fire protection water, natural gas, electric, telecommunications, cable television and other utility lines and facilities located or to be located on or within the Project Property (including, without limitation, the Easement Areas), but outside of Buildings, including those facilities (if any) shown and identified on any Plat, but subject to the following limitations:
 - (i) In no event shall any utility line be installed under any Building constructed within the Property, except as permitted by applicable law and sound engineering practices.

- (ii) To the extent reasonably required for the development of the Condominium, if it is determined by Declarant, in Declarant's sole discretion, that the Condominium Property shall have located upon it a temporary stormwater facility or permanent stormwater facility, or reasonable access to such storm water facility, then the Declarant hereby reserves the right to grant, or to allow the Association, as applicable, upon request, to grant to the City (or such other local governmental authority) easement rights for ingress, egress, access, installation, construction, operation, maintenance, repair and replacement over such portion of the Condominium Property as is necessary to meet local requirements for granting such rights to the City for similar storm water facilities.

Section 9.3. Project Sign Easement. The Declarant reserves, for itself and for the benefit of the Association, the easement and right to erect signs within the Property. If the City or another appropriate governmental agency requests that any sign be relocated, as a result of a road widening or otherwise, the Declarant or the Association may relocate the sign without the prior written consent of any Person (including, without limitation, and Unit Owner, any Occupant, or any Mortgagee). Following the installation of a sign, the Association shall have a perpetual non-exclusive easement over the area on which the sign is located (and such surrounding areas as are reasonably necessary for the purposes described herein), for the purpose of installing, maintaining, operating, illuminating, repairing and replacing that sign, including a perpetual non-exclusive right of access as may be reasonably necessary for it to exercise the foregoing easement rights, so long as the Association repairs any damage resulting from its entry. The Association shall exercise its easement rights in a manner that minimizes interference with the operations of any permitted use on the area on which each sign is located, and in particular shall limit its access rights, to the extent practical, to the paved areas on the Condominium Property.

Section 9.4 Construction Easements. Declarant, the Association and each Owner shall have full rights of ingress and egress to and through, over and about the access ways and drives (and otherwise as reasonably necessary) located on the Property during such period of time as such Declarant, Unit Owner, or the Association is engaged in any construction or improvement work permitted under this Declaration, provided that the constructing party complies with the standards set forth in this Declaration. No other Owner, Unit Owner or Occupant, shall in any way interfere with or hamper such constructing party, its employees, successors or assigns in connection with such construction.

Section 9.5 Easement for Maintenance. The Declarant and the Association, or any person authorized by it (including, but not limited to, its management firm) shall have the right of access over all Common Elements and any other areas within the Property to the extent necessary for performance of its obligations of maintenance, repair, or replacement, as provided in this Declaration.

Section 9.6 Easements to Serve Withdrawn Property. To the extent all, or any portion of the Property is withdrawn from this Declaration, the easement rights set forth in this Article benefiting and encumbering the withdrawn property shall survive such withdrawal without modification, unless the Supplemental Declaration filed in connection with the withdrawal of such withdrawn property expressly states otherwise.

Section 9.7 Right of Entry. The Association shall have the right, but not the obligation, to enter upon any Unit or Common Element (and if necessary, upon any Buildings or other improvements contained thereon) for emergency, security, and safety reasons, to perform maintenance pursuant to this Declaration, and to inspect for the purpose of ensuring compliance with this Declaration, and any Supplemental Declaration, and rules and regulations, which right may be exercised by the Association, its officers, agents, employees, managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and only after notice at least 24-hours in advance to the applicable Unit Owner as provided herein, and commercially reasonable efforts shall be made to minimize interference with the Unit Owner's possession and enjoyment of its Unit. This right of entry shall include the right of the Association to enter upon any Unit to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition within a reasonable time after requested by the Association. Any governmental agency, their agents, and employees, shall have the right of immediate access to the Common Elements at all times if necessary for the preservation of public health, safety and welfare.

Section 9.8 Cooperation, Repair and Indemnification. All easements granted in this Declaration, and the use thereof, shall be deemed to be limited to the extent reasonably necessary to accomplish the purposes for which such easements are granted. Declarant, the Association, and each Unit Owner agree to cooperate with the reasonable requests of the others in furtherance of the spirit and intent of the matters addressed in this Declaration. To this end, the Association, Declarant and other Unit Owners may enter into cooperative agreements with each other for the common provision of services and systems, so long as such agreement is consistent with the other terms and conditions contained in this Declaration.

Section 9.9 Access by the Association. The Association, or any person authorized by the Board, shall have the right of access to each Unit and to the Limited Common Elements to the extent necessary for exercise or performance by the Association of its rights and obligations of maintenance, repair, inspection or replacement of the Common Elements; provided however, that, except as set forth in Section 9.7 and 9.12 hereof, the Association shall use good faith efforts to schedule any access to a Unit with the Unit Owner so as not to interfere with the activities taking place within such Unit.

Section 9.10 Encroachment Easements. If any portion of the Common Elements now encroaches upon any Unit; or if any Unit now encroaches upon any other Unit or upon any portion of the Common Elements; or if such encroachment shall occur hereafter as a result of the settling or shifting of a Building; then there shall exist a valid easement for the encroachment and for the maintenance of same for so long as the Building shall stand. If the Building or any Unit, or any portion of the Common Elements, is partially or totally destroyed by fire or other casualty, or as a result of condemnation or eminent domain proceedings, and subsequently is rebuilt, encroachments of parts of the Common Elements upon any Unit, or of any Unit upon any other Unit or parts of the Common Elements due to such rebuilding shall be permitted, and valid easements for such encroachments and the maintenance thereof shall exist so long as the Building shall stand.

Section 9.11 Easements Over Common Elements. Declarant, for so long as it owns any Unit in the Condominium, and the Board, at any time, may grant easements for utility purposes for the benefit of the Condominium Property including the right to install, lay, maintain, repair and replace water lines; pipes; ducts; sewer lines; gas mains; telephone and television or cable television wires, cables, fiber optic lines and equipment; and electrical conduits and wires, over, under, along and on any portion of the Common Elements (including but not limited to those areas within the plenum areas between Units). For so long as Declarant owns any Unit in the Condominium, Declarant shall have an easement over the Common Elements as may be reasonably necessary to complete the construction of the Buildings and the other improvements within the Condominium.

Section 9.12. Emergency Access. In case of any emergency originating in or threatening any Unit or the Common Elements, regardless of whether the Owner is present at the time of such emergency, the Association, or any other person authorized by the Board, shall have the right to enter any Unit or Limited Common Element for the purpose of remedying or abating the cause of such emergency and making any other necessary repairs not performed by the Owners, and such right of entry shall be immediate.

Section 9.13 Partitioning. The interests in the Common Elements allocated to each Unit shall not be conveyed, devised, encumbered, partitioned or otherwise dealt with separately from said Unit, and the interests in the Common Elements allocated to each Unit shall be deemed conveyed, devised, encumbered or otherwise included with the Unit even though such interests are not expressly mentioned or described in the instrument conveying, devising, encumbering or otherwise dealing with such Unit. Any conveyance, mortgage or other instrument which purports to grant any right, interest or lien in, to or upon the Unit, shall be null, void and of no effect insofar as the same purports to affect any interest in a Unit's allocated interests in the Common Elements unless the same purports to convey, devise, encumber or otherwise deal with the entire Unit. Any instrument conveying, devising, encumbering or otherwise dealing with any Unit, which describes said Unit by the identifying number assigned thereto on the Plans and herein without limitation or exception shall be deemed and construed to affect the entire Unit and its allocated interest in the Common Elements. Nothing herein contained shall be construed as limiting or preventing ownership of any Unit and its allocated interest in the Common Elements by more than one person or entity as tenants in common, joint tenants, or as tenants by the entirety or any other form permitted by law.

Section 9.14 Conveyance or Encumbrance of Common Elements. While the Condominium remains subject to this Declaration and to the provisions of the North Carolina Condominium Act, no conveyances of or security interests or liens of any nature shall arise or be created against the Common Elements without the prior written consent of the Owners entitled to cast at least eighty percent (80%) of the votes in the Association, including at least eighty percent (80%) of the votes entitled to be cast by Owners other than Declarant, and at least eighty percent (80%) of all Mortgagees; provided, however, that all of the Owners of Units to which any Limited Common Element is allocated must agree in writing to any conveyance of that Limited Common Element or any grant of a security interest therein. Nothing in this Section 9.14 shall be construed to limit the right of any Owner to convey or to encumber such Unit Owner's allocated interest in the Common Elements as an appurtenance to and in connection with the conveyance or mortgaging of such Unit Owner's Unit.

Section 9.15 Construction Inspection and Correction of Defects. Without limiting any of other rights conferred herein, Declarant reserves for itself, and grants to any of its architects, engineers, contractors, general contractors, prime contractors, or agents, and to their designees, including any of its subcontractors (collectively, a “Contractor”) the following:

- (a) A perpetual, nonexclusive easement throughout the Condominium to the extent reasonably necessary for the purposes of access, inspecting, testing, redesigning, correcting, modifying or improving any portion thereof, including without limitation the Building, Units and Common Elements. Declarant shall have the unilateral right, at any time to redesign, correct, modify or improve any part of the Condominium, including the Building, Units and Common Elements, to the extent reasonably necessary to correct any design defect, construction related defect, or other construction related problem; to change or improve the operational efficiency and structural integrity of any improvement located on the Condominium; and to otherwise provide a modified, superior or enhanced product within the Condominium; and
- (b) A right of entry over any Unit upon reasonable notice to the Owner thereof, provided however, notice shall not be required in the event of an emergency. Except in the event of an emergency, entry into a Unit shall be only after Declarant or a Contractor notifies the Owner of the Unit (or the occupant thereof) and agrees with the Unit Owner as to a reasonable time to enter the Unit to perform such activities. Unit Owners shall cooperate in a reasonable manner with Declarant or a Contractor in the exercise of its rights provided for in this Section. Entry upon the Common Elements may be made by Declarant or a Contractor at any time with advance notice to the Association; provided, however, in an emergency no such notice shall be required and Declarant or a Contractor shall be permitted to enter upon any portion of the Condominium without advance notice or consent.

Section 9.16 Nature of Interest in Unit. Every Unit, together with its allocated interest in the Common Elements, shall for all purposes be and it is hereby declared to be and to constitute a separate parcel of real property. The Owner of each Unit shall be entitled to the exclusive fee simple ownership, access to and possession of such Unit Owner’s Unit subject to the covenants, conditions, restrictions, easements, uses, limitations, obligations, Rules and Regulations set forth in the Condominium Documents or adopted by the Board and/or the board of directors of the Association.

Section 9.17 Easements Run with Condominium. All such easement rights described in this Article IX, unless otherwise provided, shall be appurtenant to, and shall run with title to, the Condominium.

Section 9.18 Project Easements. Every Unit and each Owner thereof shall be benefited by and/or burdened by all such easements as are reserved/granted for the benefit of or as a burden upon the Condominium under the Declaration, including, without limitation a non-exclusive easement to all adjacent parcels for building cornices, overhangs, footings, foundations and stairwells, and such other minor encroachments over or attachments to the

Condominium provided that such encroachments do not and will not substantially interfere with the use and enjoyment of the Condominium created by the construction, reconstruction, renovation, settling, shifting or other causes of movement.

Section 9.19 **Other Easements, Restrictions, and Liens of Record.** The Property is subject to those easements, restrictions, and liens of record listed on Exhibit C, and all easements depicted on the Plans. In addition, the Property is subject to the Cross Access Easement and Maintenance Agreement recorded of even date herewith in the Wake County Registry.

ARTICLE X INSURANCE

Section 10.1 **Property Insurance.** The Association shall obtain and maintain at all times a policy of property insurance on the Buildings, including all Units contained therein, which insurance shall satisfy the following requirements: The Association shall obtain and maintain at all times a policy of property insurance on the Buildings and Common Elements (ISO special form or its equivalent) in an amount not less than one hundred percent (100%) of the replacement cost of the Buildings and as well as all Common Elements located outside of the Buildings at the time such insurance is purchased and at the time of each renewal thereof (excluding the cost of foundations and footings, and the cost of any personal property supplied or installed by Owners), with a commercially reasonable deductible. However, said policy need not include coverage for improvements and betterments installed by the Owner, and need not cover appliances (whether built-in or freestanding) and HVAC equipment.

The policy shall be issued by an insurance company properly licensed to do business in the State of North Carolina. The policy shall provide that the Association is a named insured and that each Owner is an insured person with respect to his Unit and his allocated interest in the Common Elements. The policy shall contain a standard extended coverage endorsement and a standard "all risk" endorsement (unless the policy contains "broad form" covered causes of loss), and an inflation guard endorsement, if available, an earthquake endorsement, if available, and a building ordinance or law endorsement, if available, as well as a special condominium endorsement providing as follows: for waiver of subrogation against any Owner, and any Owner's employees and agents; that it may not be canceled or substantially modified without at least thirty (30) days' prior written notice to the Association and all insureds, including all Owners and Mortgagees named in the mortgage clause; that no act or omission by any Owner will preclude recovery upon such policy; and that if, at the time of a loss under the policy, there is other insurance in the name of an Owner covering the same risk covered by the policy, the Association's policy provides primary insurance. Each property insurance policy shall provide that adjustment of loss shall be made by the Association as insurance trustee. Each property insurance policy shall provide for the issuance of certificates or mortgagee endorsements to each Mortgagee.

Section 10.2 **Liability Insurance.** The Association shall obtain and maintain one or more policies of commercial general liability insurance in such limits as the Board may, from time to time, determine, covering each member of the Board, the managing agent, if any, and each Owner with respect to liability arising out of the use, ownership, maintenance, or repair of the Common Elements. The liability insurance policies shall

include endorsements covering cross liability claims of one insured against another, including the liability of the Board or the Owners as a group to one or more Owners, and shall provide that it may not be canceled or substantially modified without at least thirty (30) days' prior written notice to the Board and to all insureds, including all Owners and Mortgagees. The Board shall review such limits annually.

The Association shall obtain and maintain director and officer liability coverage insuring directors and officers of the Association against liability; such coverage to list officers and directors and the Association as named insureds, and in an amount as determined by the Board.

Section 10.3 Other Insurance Coverage. The Association shall have the right, in the Association's discretion, to obtain other insurance coverage as it may deem appropriate, including fidelity coverage against dishonest acts on the part of all persons handling, or responsible for handling, funds belonging to or administered by the Board.

Section 10.4 Premiums and Deductibles. Premiums upon insurance policies purchased by the Board shall be paid by the Board and charged as a Common Expense. Each Unit Owner shall be responsible for payment of the costs and repairs to his Unit that are not covered by insurance due to the applicability of any deductible provision, and if more than one Unit is damaged, the affected Unit Owners shall pay the cost of the deductible in proportion to the damages sustained. Each Unit Owner agrees that if any portion of the Common Elements which is covered under the Association's insurance policy is damaged or destroyed by any negligent or intentional act of an Owner or his or her family, invitees, or tenants, then such Owner shall be responsible for paying the lesser of: (a) that portion of the insurance deductible applicable to the Common Elements; or (b) the cost to repair and/or replace any damage to the Common Elements, which amount shall be due within ten (10) days after the delivery of written notice of such costs to the responsible Unit Owner.

In the event a Unit Owner refuses or fails to pay the insurance deductible or replacement/repair costs in the time period provided in the preceding sentence, the amount thereof may be advanced by the Board and the amount so advanced shall be assessed to such Owner as an Individual Unit Assessment.

Section 10.5 Insurance Obtained by Owners. Each Owner shall obtain and keep continuously in force coverage upon such Owner's Unit, the improvements therein, including without limitation all betterments, appliances and HVAC equipment, and such Owner's personal property, to the extent the same are not insured under any policy maintained by the Association, as well as liability insurance, and such other insurance coverage as such Owner may desire. All such insurance policies shall include, however, provisions waiving (i) any right of the insurer to subrogation claims against the Association and against unit owners and their household members, employees and invitees, as well as their tenants and such tenant's employees and invitees; and (ii) any right of the insurer to contribution or proration because of the Association's casualty and public liability policy. Each Owner shall file a copy of each such individual policy with the Board upon request.

Section 10.6 Distribution of Insurance Proceeds. All insurance policies procured by the Association shall provide that all losses shall be adjusted with and all proceeds shall be payable to the Association as insurance trustee. The sole duty of the

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

- (a) Proceeds on account of damage to the Common Elements shall be held in undivided shares for each Owner and its Mortgagee, if any, with each Owner's share to be the same as such Owner's allocated Common Elements Interest.
- (b) Proceeds on account of damage to Units shall be held in the following undivided shares:
 - (1) When the damage is to be restored, for the Owners of damaged Units in proportion to the cost of repairing the damage to each such Owner's Unit, which cost shall be determined by the Association.
 - (2) When the damage is not to be restored, an undivided share for each Owner, such share being the same as each such Owner's allocated Common Elements Interest.
- (c) In the event a mortgagee endorsement or certificate has been issued with respect to a Unit, the share of the Owner shall be held in trust for the Mortgagee and the Owner as their respective interests may appear.
- (d) Proceeds of insurance policies received by the Association as insurance trustee shall be distributed to or for the benefit of the Owners in the following manner:
 - (1) If it is determined, as provided in Article XI below, that the damaged property with respect to which the proceeds are paid shall not be reconstructed or repaired, (i) the proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition compatible with the rest of the Condominium; (ii) the insurance proceeds attributable to Units and Limited Common Elements which are not rebuilt shall be distributed to the Owners of those Units to which those Limited Common Elements were allocated or to their Mortgagees, in proportion to their respective Common Elements Interests; and (iii) the remainder of the proceeds shall be distributed to all Owners or Mortgagees, as their interests may appear, in proportion to their respective Common Elements Interests. No Owner shall have priority over any rights of the first mortgagee of the Owner's Unit in the case of payment of proceeds for an insured loss.
 - (2) If the damage for which the proceeds were paid is to be repaired or reconstructed, the proceeds shall be paid to defray the costs thereof. Any proceeds remaining after payment of such repair costs shall be distributed to the beneficial Owners and their Mortgagees, if any, jointly.

ARTICLE XI DUTY TO REPAIR OR RECONSTRUCT

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

Section 11.2 Obligations of Owners. Each Owner will, at his or her sole cost and expense, keep and maintain his or her Unit in good order and repair in accordance with the Plans and any rules duly adopted by the Board, and each Owner will make no structural addition, alteration or improvement to his or her Unit without the prior written consent of the Board, except as specifically permitted by this Declaration or authorized under N.C.G.S. §47C-2-111. Upon the failure of an Owner to so maintain his or her Unit, the Association shall be authorized (but shall not be obligated) to maintain, repair or restore such Unit, and the cost thereof shall be charged to such Owner and constitute a lien on the Unit until paid.

ARTICLE XII UNITS SUBJECT TO CONDOMINIUM DOCUMENTS

All present and future Owners, tenants, occupants and/or guests of the Units shall be subject to and shall comply with the provisions of the Condominium Documents, and any Rules and Regulations as may be adopted in accordance with the same, as all of the foregoing may be amended and supplemented from time to time. The acceptance of a deed of conveyance or the entering into of a lease or the entering into occupancy of any Unit shall constitute an agreement that the provisions of all of the above are accepted and ratified by such Owner, tenant or occupant, and an agreement that such provisions shall be deemed and taken to be covenants running with the Condominium and shall bind any person having at any time any interest or estate in such Unit as though such provisions were made a part of each and every deed of conveyance or lease.

ARTICLE XIII AMENDMENT TO DECLARATION

Except in cases of amendment by the Declarant pursuant to this Declaration or the Act, or other amendment permitted by the Association or Owners under the Act, this Declaration may be amended only by the vote of or by written agreement signed by Owners holding not less than sixty-seven percent (67%) of the votes in the Association. When more than one Person holds ownership interest in any Unit, the vote or written agreement for any proposed amendment shall be exercised as they among themselves determine. If only one of the multiple Owners of a Unit casts a vote or executes written agreement to a proposed amendment, said vote or written agreement shall be binding on all record owners. Majority agreement is conclusively presumed if any one of the multiple owners casts the votes allocated to that Unit or executes a written agreement without protest being made prior to the recording of the amendment.

During the Declarant Control Period, no amendment to this Declaration shall be effective without the written consent of Declarant. Further, during the Special Declarant Rights Period, Declarant may unilaterally without the consent of any Person, including, without limitation, any Owner, the Association or any Mortgagee, amend the Declaration as necessary in its sole and absolute discretion unless such amendment is otherwise prohibited by the Act, including in order to comply with financing requirements of the Department of Veterans Affairs or the Department of Housing and Urban Development, or the rules or guidelines of Fannie Mae or Freddie Mac, and may execute and record such amendment in the Public Registry. Except to the extent expressly permitted by the Act or other provisions of this Declaration, any amendment which amends or alters the percentage of allocated interests of any Unit in the Common Elements, increases the number of Units, changes the boundaries of any Unit, or changes the use to which any Unit is restricted shall require the written approval of all Owners.

Notwithstanding the foregoing, no amendments to the Declaration may be made that materially and adversely affect the interest of any Mortgagee of a Unit ("Material Amendments") unless such amendment is has received approval of at least fifty-one percent (51%) of Mortgagees. This approval requirement does not apply to amendments or changes to the Declaration that are made as a result of the exercise of any Declarant rights as set forth in this Declaration or under the Act. Material Amendments include provisions which establish, provide for, govern or regulate any of the following:

- a. voting rights;
- b. increases in the Common Assessments that raise the previously assessed amount by more than twenty-five percent (25%), assessment liens, or the priority or the priority of assessment liens;
- c. the requirements for insurance or fidelity bonds;
- d. reductions in reserves for maintenance, repair and replacement of Common Elements;
- e. responsibility for maintenance and repairs;
- f. reallocation of interests in the Common Elements or Limited Common Elements, or rights to their use, except for reallocation by Declarant pursuant to its rights or by agreement between Owners, which only requires the consent of such Owners;

- g. redefinition of any Unit boundaries, except when the redefinition is between adjoining Units, which only requires the consent of the Owners and Mortgagees of the adjoining Units;
- h. convertibility of Units into Common Elements or vice versa;
- i. expansion or contraction of the Condominium, or the addition, annexation or withdrawal of Property to or from the Condominium;
- j. imposition of any right of first refusal or similar restrictions on a Unit Owner's right to sell or transfer his/her or their Unit;
- k. restoration or repair of the Condominium (after damage or partial condemnation) in a manner other than that specified in this Declaration;
- l. procedures for amendment or termination of the Declaration;
- m. imposition or modification of any restrictions on the leasing of Units; and
- n. any other provision in this Declaration that expressly benefits the Mortgagees.

Approval of a Mortgagee may be assumed if the Mortgagee fails to respond to the proposed amendment within thirty (30) days of receiving a copy of the same, sent by certified mail or overnight delivery, return receipt requested.

If any amendment to these covenants, conditions and restrictions is executed, each such amendment shall be delivered to the Board of Directors of this Association. Thereupon, the Board of Directors shall do the following: (a) reasonably assure itself that the amendment has been executed by the Owners of the required number of Units, and for this purpose, the Board may rely on its roster of Members and shall not be required to cause any title to any Unit to be examined; (b) attach to the amendment a certification as to its validity, which certification shall be executed by the Association in the same manner that deeds are executed; and (c) record the amendment in the Public Registry. No amendment to the Declaration shall be effective until executed on behalf of the Board by any officer and recorded in the Public Registry.

ARTICLE XIV TERMINATION

The Condominium may be terminated and the Condominium removed from the provisions of the North Carolina Condominium Act in accordance with the provisions of the Act, which requires agreement of Owners holding at least eighty percent (80%) of the votes in the Association, and with the approval of fifty-one percent (51%) of Mortgagees. Approval of a Mortgagee may be assumed if the Mortgagee fails to object to the proposed termination within thirty (30) days of receiving a copy of the agreement to terminate, sent by certified mail or overnight delivery, return receipt requested. The termination shall comply with the requirements of N.C.G.S. §47C-2-118, and must be recorded in the Public Registry before it becomes effective. Following the recordation of the termination agreement, the interests of the Owners and Mortgagees in the Property shall be as provided in N.C.G.S. §47C-2-118.

ARTICLE XV RIGHTS RESERVED TO MORTGAGEES

Section 15.1 Rights of Mortgagees to Examine Books and Records. Any Mortgagee, and any insurer or guarantor of a loan secured by a Mortgage, shall have the right to examine, during normal business hours and upon reasonable notice, the books and

records of the Association, including copies of the Condominium Documents, as amended, and the financial statements of the Association, and to be furnished, upon written request, at least one copy of the annual financial statement and report of the Association, such annual statement and report to be furnished within one hundred twenty (120) days following the end of each fiscal year. If any Mortgagee requests, and agrees to pay the cost of the audit, the financial statement shall be audited by an independent certified public accountant.

Section 15.2 Mortgagee's Rights to Notice. Any Mortgagee or insurer or guarantor of a loan secured by a Mortgage that has notified the Board in writing of its name and address, the address and Unit number of the Unit encumbered by the Mortgage, or that it holds, insures or guarantees a Mortgage on, shall have the right to receive from the Association prompt written notice of the following:

- (a) Default under any of the terms and provisions of the Condominium Documents by any Owner owning a Unit encumbered by a Mortgage held, insured, or guaranteed by such party, which default remains uncured for a period of sixty (60) days.
- (b) Any loss or damage to or condemnation or taking of the Common Elements or any loss or damage to or condemnation or taking of a Unit encumbered by a Mortgage held, insured or guaranteed by such Mortgagee.
- (c) Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.
- (d) Any proposed action by the Association, the Board, or the Owners, which under the terms of the Condominium Documents requires the consent of all or any portion of the Mortgagees.

Section 15.3 Other Mortgagee Rights. Notwithstanding any other provision of this Declaration or the Bylaws, the Association may not change the period for collection of regularly budgeted Common Assessments to other than quarterly or monthly without the consent of all Mortgagees. Any representative of a Mortgagee may attend and address any meeting that an Owner may attend.

Section 15.4 Enforcement. The provisions of this Article XV are for the benefit of all Mortgagees and their successors, and may be enforced by any of them by any available means.

ARTICLE XVI CONDEMNATION

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

No Owner shall have priority over any rights of the first Mortgagee of the Owner's Unit in the case of payment of proceeds from termination, condemnation, or eminent domain.

ARTICLE XVII MISCELLANEOUS PROVISIONS

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

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

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

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

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

Section 17.6 Percentage of Owners. Wherever in the Condominium Documents the approval or consent of a specified percentage of Owners is required, it shall mean the approval or consent of Owners of Units which have allocated to them that specified percentage of votes in the Association, as compared to the total votes in the Association allocated to all Units.

Section 17.7 Incorporation of Exhibits. Exhibits A, B, and C attached hereto are incorporated herein by reference.

ARTICLE XVIII ENFORCEMENT

Section 18.1 Actions by the Association. In addition to and not in lieu of the other remedies for default provided in this Declaration and the other Condominium Documents, the Association acting through the Board may bring a civil action against any Owner to enforce any obligation, covenant or restriction set forth in this Declaration or the other Condominium Documents, and in the event that the Association is the prevailing party,

the Association shall be entitled to recover its reasonable attorneys' fees and costs associated with said action.

Section 18.2 Actions by Owners. Any Owner may also bring a civil action against any other Owner, or against the Association, or against the Board, or any one or more of them to enforce any obligation, covenant or restriction set forth in this Declaration or in the other Condominium Documents.

Section 18.3 Actions Against Declarant. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless pre-approved by Members holding at least seventy-five percent (75%) of the total votes in the Association.

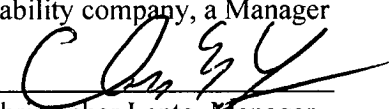
[Signature Page Follows]

IN WITNESS WHEREOF, DECLARANT HAS HEREUNTO CAUSED THIS INSTRUMENT TO BE EXECUTED BY ITS MANAGER, ALL AS AN ACT AND DEED OF THE DECLARANT THIS THE 13 DAY OF April, 2026.

PS AT FIVE POINTS PARTNERS, LLC, a North Carolina limited liability company

By: PS at Five Points MGR LLC, a North Carolina limited liability company, its Manager

By: EM Capital, LLC, a Massachusetts limited liability company, a Manager

By: 
Christopher Lento, Manager

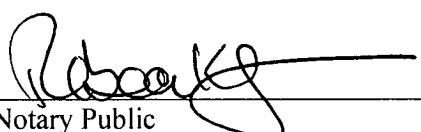
STATE OF MA
COUNTY OF Suffolk

ACKNOWLEDGEMENT

I, Rebecca Egan, a Notary Public of the County and State aforesaid, certify that Christopher Lento of whose identity I have personal knowledge, personally appeared before me and acknowledged that the signature on the record presented is his signature and that he voluntarily executed the foregoing instrument for the purpose stated therein and in the capacity indicated and with full authority to do so.

Witness my hand and official stamp or seal, this 13 day of April, 2026.




Notary Public
Rebecca Egan
Printed Name

My Commission Expires: May 28, 2032

CONSENT OF MORTGAGEE

OAKNORTH BANK PLC, being one of the Beneficiaries (a "Beneficiary") under that certain Construction Deed of Trust, Assignment of Leases and Rents, Security Agreement, and Fixture Filing recorded in Book 19907, Page 33 of the Wake County Registry, conveying the property described on Exhibit A attached to this Declaration, and under that Assignment of Leases and Rents recorded in Book 19907, Page 62 of the Wake County Registry, and being a secured party under that UCC Financing Statement recorded in Book 19907, Page 73 of the Wake County Registry, consents to the recordation of this Declaration and the imposition of the provisions hereof and the provisions of the North Carolina Condominium Act to the real property described on Exhibit A. The execution of this Consent of Mortgagee by the Beneficiary shall not be deemed or construed to have the effect of creating between the Beneficiary and the Declarant the relationship of partnership or of joint venture, nor shall it be deemed to impose upon the Beneficiary any of the liabilities, duties or obligations of Declarant under the Declaration. Beneficiary executes this Consent of Mortgagee solely for the purposes set forth above.

**OAKNORTH BANK PLC, a banking institution
under the laws of the United Kingdom**

By: Karen Feldman

Name: Karen Feldman

Title: Authorized Signatory

COUNTRY OF United States

ACKNOWLEDGEMENT

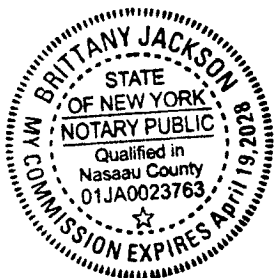
COUNTY OF New York

I, Brittany Jackson, a Notary Public of the County and State aforesaid, certify that Karen Feldman of whose identity I have personal knowledge, personally appeared before me and acknowledged that the signature on the record presented is his/her signature and that he/she voluntarily executed the foregoing instrument for the purpose stated therein and in the capacity indicated and with full authority to do so.

Witness my hand and official stamp or seal, this 16th day of April, 2026.

Brittany Jackson
Notary Public

Brittany Jackson
Printed Name



My Commission Expires: 4/19/2028

CONSENT OF MORTGAGEE

PARKSIDE RALEIGH LENDER LLC, being one of the Beneficiaries (a "Beneficiary") under that certain Construction Deed of Trust, Assignment of Leases and Rents, Security Agreement, and Fixture Filing recorded in Book 19907, Page 33 of the Wake County Registry, conveying the property described on Exhibit A attached to this Declaration, and under that Assignment of Leases and Rents recorded in Book 19907, Page 62 of the Wake County Registry, and being a secured party under that UCC Financing Statement recorded in Book 19907, Page 73 of the Wake County Registry, consents to the recordation of this Declaration and the imposition of the provisions hereof and the provisions of the North Carolina Condominium Act to the real property described on Exhibit A. The execution of this Consent of Mortgagee by the Beneficiary shall not be deemed or construed to have the effect of creating between the Beneficiary and the Declarant the relationship of partnership or of joint venture, nor shall it be deemed to impose upon the Beneficiary any of the liabilities, duties or obligations of Declarant under the Declaration. Beneficiary executes this Consent of Mortgagee solely for the purposes set forth above.

PARKSIDE RALEIGH LENDER LLC,
a New Jersey limited liability company

By: _____

Name: _____

Title: _____

Jonathan Lewis
Authorized Person

STATE OF New YorkCOUNTY OF New York**ACKNOWLEDGEMENT**

I, Linda Diaz, a Notary Public of the County and State aforesaid, certify that Jonathan Lewis of whose identity I have personal knowledge, personally appeared before me and acknowledged that the signature on the record presented is his/her signature and that he/she voluntarily executed the foregoing instrument for the purpose stated therein and in the capacity indicated and with full authority to do so.

Witness my hand and official stamp or seal, this 13th day of April, 2026.

[Signature]

Notary Public

LINDA DIAZ

Printed Name

My Commission Expires: _____

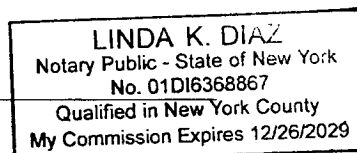


EXHIBIT A

Property Subject to Declaration

Being all of New Lot 1, containing approximately 4.174 acres, as shown on that plat recorded in Book of Maps 2009, Pages 1285-1286 in the Wake County Registry, LESS AND EXCEPT THE FOLLOWING:

- Building 2600 as shown on that plat recorded in Condo Map 2026, Page 111.
- Building 2604 as shown on that plat recorded in Condo Map 2026, Page 111.
- Building 2608 as shown on that plat recorded in Condo Map 2026, Page 111.
- Building 2612 as shown on that plat recorded in Condo Map 2026, Page 111.
- Building 2616 as shown on that plat recorded in Condo Map 2026, Page 111.
- Building 700 as shown on that plat recorded in Condo Map 2026, Page 111.
- Building 704 as shown on that plat recorded in Condo Map 2026, Page 111.
- Building 708 as shown on that plat recorded in Condo Map 2026, Page 111.

Together with a right of ingress, egress and regress over and across that certain asphalt driveway that runs from the eastern right-of-way line of Noble Road, a 60' right-of-way, to the western line of the above-described property, which driveway is depicted on that certain survey entitled "Property of CSC Parkside LLC", dated December 29, 2014 and prepared by B.L. Scott Land Surveying.

EXHIBIT B
COMMON ELEMENTS INTERESTS AND VOTING POWER

Building Number	Unit Number	Street Address Raleigh, NC, 27608	Square Footage	Common Element Percentage Interest (%)	Association Vote
2613	A	2613A McNeil Street	1,050	16.6	1
2613	B	2613B McNeil Street	1,060	16.7	1
2613	C	2613C McNeil Street	1,060	16.7	1
2613	D	2613D McNeil Street	1,060	16.7	1
2613	E	2613E McNeil Street	1,060	16.7	1
2613	F	2613F McNeil Street	1,050	16.6	1
		TOTALS	6,340	100	6

EXHIBIT C

EASEMENTS AND ENCUMBRANCES OF RECORD

1. Easements of record, including those depicted on the Plans recorded in the Wake County Registry.
2. Rights of way of public streets, including those depicted on the Plans.
3. All general utility and service easements affecting the land.
4. Construction Deed of Trust, Assignment of Leases and Rents, Security Agreement, and Fixture Filing recorded in Book 19907, Page 33 of the Wake County Registry.
5. Assignment of Leases and Rents recorded in Book 19907, Page 62 of the Wake County Registry.
6. UCC Financing Statement recorded in Book 19907, Page 73 of the Wake County Registry.
7. The easements and other matters shown on the plat recorded in Book of Maps 2009, page 1285 and 1286 of the Wake County Registry.
8. Easement to Carolina Power & Light Company d/b/a Progress Energy recorded in Book 13749, Page 1132 of the Wake County Registry.
9. Cable Television Installation Agreement recorded in Book 3278, Page 554 of the Wake County Registry.
10. Easement to Carolina Power & Light Company recorded in Book 1476, Page 514 of the Wake County Registry.
11. Easement to Carolina Telephone and Telegraph recorded in Book 999, Page 636 of the Wake County Registry.
12. Cross Access Easement and Maintenance Agreement recorded of even date herewith in the Wake County Registry.
13. All other restrictions and liens of record.