

Drafted by: Edward V. Zotia  
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DECLARATION OF CONDOMINIUM  
of  
KEBCO OFFICE CONDOMINIUMS

KOYT EVERHART BUILDING COMPANY, INC., (hereinafter referred to as "Declarant") do hereby make, declare and establish this Declaration of Condominium as and for the plat of ownership of KEBCO OFFICE CONDOMINIUMS, being the property and improvements hereinafter described.

1. Establishment of Condominium

Declarant is the owner of the fee simple title to that certain real property situate in Winston Township, Forsyth County, North Carolina, and which property is more particularly described in Exhibit "A" attached hereto and incorporated herein by reference, and on which property there is located an office building containing 4,068 square feet (excluding Common Areas) comprised of four (4) units. Declarant does hereby submit the above-described property and improvements to condominium ownership under the provisions of Chapter 47C of the General Statutes of North Carolina (North Carolina Condominium Act) and hereby declares the same to be a condominium to be known as KEBCO OFFICE CONDOMINIUMS (hereinafter called "Condominium").

2. Survey and Description of Improvements

Filed simultaneously herewith and expressly made a part hereof in Condominium and Unit Ownership Book Number 4 (herein "Unit Ownership File") at Page(s) 58-59, is a survey of the land and graphic descriptions and plans of the improvements constituting the Condominium identifying the condominium Units, Common Areas and Facilities, and the Limited Common Areas, as said terms are hereinafter defined, and their respective locations and approximate dimensions. Each Condominium Unit is identified by specific designation in said Unit Ownership File, and no Condominium Unit bears the same description as any other Condominium Unit.

3. Definitions

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

- A. "Association of Unit Owners" shall mean all of the Unit Owners acting as a group in accordance with the By-Laws and Declaration.
- B. "Building" shall mean building, containing four (4) units.

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- C. "Common Areas and Facilities" unless otherwise provided in this Declaration or lawful amendments thereto, means and includes:
- (1) The land on which the building stands and such other land and improvements thereon as may be specifically included in this Declaration, except any portion thereof included in a unit;
  - (2) The foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, restrooms, lobbies, stairs, stairways, fire escapes, and entrances and exits of the building;
  - (3) The yards and parking areas;
  - (4) Installations of central services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning and incinerating;
  - (5) The tanks, pumps, motors, fans, compressors, ducts, and in general, all apparatus and installations existing for common use;
  - (6) Such community and commercial facilities as may be provided for in this Declaration; and
  - (7) All other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use; including driveways and roads unless otherwise designated on the recorded plat.
- D. "Common Expenses," unless otherwise provided in this Declaration or lawful amendments thereto, means and includes:
- (1) All sums lawfully assessed against the Unit Owners by the Association of Unit Owners;
  - (2) Expenses of administration, maintenance, repair or replacement of the Common Areas and Facilities;
  - (3) Expenses agreed upon as common expenses by the Association of Unit Owners;
  - (4) Premiums for hazard and liability insurance for the condominium project and fidelity bond coverage on the officers of the Homeowners Association.
- E. "Common Profits" shall mean the balance of all income, rents, profits and revenues from the Common Areas and Facilities remaining after the deductions of the common expenses.
- F. "Condominium" means the ownership of single units in a multi

unit structure with Common Areas and Facilities.

- G. "Limited Common Areas and Facilities" shall mean and include those Common Areas and Facilities which are agreed upon by all the Unit Owners to be reserved for the use of a certain number of units to the exclusion of the other units, such as the vestibules common to certain specific units.
- H. "Majority" or "Majority of Unit Owners" shall mean the Owners of fifty-four percent (54%) or more of the aggregate interest in the Common Areas and Facilities as established by this Declaration assembled at a duly called meeting of the Unit Owners. The foregoing notwithstanding, at such time as each of the four (4) Units are owned by separate Owners, "Majority" or "Majority of Unit Owners" shall mean the Owners of seventy percent (70%) or more of the aggregate interest in the Common Areas and Facilities.
- I. "Person" shall mean individual, corporation, partnership, association, trustee or other legal entity.
- J. "Property" shall mean and includes the land, the building, all improvements and structures thereon and all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith, which have been or are intended to be submitted to the provisions of this Declaration.
- K. "Unit" or "Condominium Unit" shall mean an enclosed space consisting of one floor and shall include such accessory spaces and areas as may be described in this Declaration. Each unit is bounded by the walls, floors, and ceilings of each individual unit as designated on the plat or plats hereinafter referred to, and all lath, furring, wallboard, plasterboard, plaster, panelling, 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 thereof are a part of the unit; and all other portions of such walls, floors, or ceilings are a part of the common areas set forth in Paragraph C above.
- If any chute, flue, duct, wire, conduit, bearing wall, bearing column or any other fixture lies partially within and partially outside the designated boundaries of a unit, any portion thereof serving that unit is a Limited Common Area, allocated exclusively to that area, and any portion thereof serving more than one (1) unit or any portion of the Common Areas is a part of the Common Areas.
- L. "Unit Designation" shall mean the letter designating the unit in this Declaration.
- M. "Unit Owner" shall mean a person, corporation, partnership,

association, trust or other legal entity, or any combination thereof, who owns a unit within the building.

**4. Nature and Incidents of Unit Ownership**

Unit ownership as created and defined in this Declaration shall vest in the holder exclusive ownership and possession with all the incidents of real property. A Condominium Unit in the building may be individually conveyed, leased and encumbered and may be inherited or devised by will, as if it were solely and entirely independent of the other Units in the building of which it forms a part. Such a unit may be held and owned by more than one person either as tenants in common or tenants by the entirety or in any other manner recognized under the laws of this State.

**5. Undivided Interests in Common Areas and Facilities**

- A. Each Unit Owner shall be entitled to an undivided interest in the Common Areas and Facilities in the ratio expressed in this Declaration. Such ratio shall be in the approximate relation that the fair market value of the unit at the date of this Declaration bears to the then aggregate fair market value of all the units having an interest in said Common Areas and facilities.
- B. The ratio of the undivided interest of such Unit Owner in the Common Areas and Facilities as expressed in this Declaration shall have a permanent character and shall not be altered except with the unanimous consent (which consent is absolutely granted as stated in paragraphs below) of all Unit Owners expressed in an amended declaration duly recorded.
- C. The undivided interest appurtenant to each unit in KEBCO Office Condominiums shall be as set out in Exhibit "B" attached hereto, incorporated herein by reference, and made a part hereof. The undivided interest in the Common Area that is appurtenant to each unit has been determined by the ratio of the approximate fair market value of each unit to the aggregate approximate fair market value of all of the units having an undivided interest in the Common Area at the date of this Declaration (or of any supplements or amendments hereto which affect undivided interests in Common Area).

**6. Restrictions Against Further Subdivision of Condominium Units; Separate Conveyance of Appurtenant Common Property Prohibited**

No Condominium Unit may be divided or subdivided into a smaller Unit or Units than as shown in the Unit Ownership File nor shall any Condominium Unit or portion thereof be added to or incorporated into any other Condominium Unit. The undivided interest in the Common Property declared to be an appurtenance to

each Condominium Unit shall not be conveyed, devised, encumbered or otherwise dealt with separately from said Condominium Unit, and the undivided interest in Common Property appurtenant to each Condominium Unit shall be deemed conveyed devised, encumbered or otherwise included with the Condominium Unit even though such undivided interest with the Condominium Unit is not expressly mentioned or described in the instrument conveying, devising encumbering or otherwise dealing with such Condominium Unit. Any conveyance, mortgage or other instrument which purports to grant any right, interest or lien in, to or upon a Condominium Unit shall be null and void insofar as it purports to affect any interest in a Condominium Unit and its appurtenant undivided interest in Common Property unless it purports to convey, devise or encumber the entire Condominium Unit, which described said Condominium Unit by the letter designation assigned thereto in the Unit Ownership File shall be construed to affect the entire Condominium Unit and its appurtenant undivided Common Property. No limitation is placed on the ownership of any Condominium Unit by any person as tenants in common, joint tenants, tenants by the entirety, or by any other legal entity.

**7. Condominium Subject to Restrictions**

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

**8. Perpetual Non-Exclusive Easement in Common Property**

The Common Property is hereby declared to be subject to a perpetual non-exclusive easement in favor of all Owners of Condominium Units for their use and the use of their immediate families, guests, and invitees, for all proper purposes and for the furnishing of services and facilities for which they are intended and for the enjoyment of the Owners. Notwithstanding the foregoing, the Association hereinafter defined shall have the exclusive right to establish the rules and regulations pursuant to which the Owner of any Condominium Unit, his family, guest and invitees, may be entitled to use the Common Property, including the right to assign parking spaces, and to establish the regulations concerning their use. The Owners of Condominium Units shall be responsible for all acts of their guests, invitees or lessees in connection with the provisions of this Declaration.

9. Easement for Unintentional and Non-Negligent Encroachments

In the event that any Condominium Unit or any of its appurtenant improvements shall encroach upon any Common Property, or any other Condominium Unit Owners, then an easement appurtenant to such Condominium Unit shall exist for the continuance of such encroachment upon the Common Property or upon a Condominium Unit for as long as such encroachment shall naturally exist; and, in the event that any portion of the Common Property shall encroach upon any Condominium Unit, then an easement shall exist for the continuance of such encroachment of the Common Property upon any Condominium Unit for so long as such encroachment shall naturally exist. If any Condominium Unit or Common Property shall be partially or totally destroyed as a result of fire or other casualty, or as a result of condemnation or eminent domain proceedings and, if upon reconstruction of such Unit and/or Common Property in accordance with Paragraph 22 hereof, there exist encroachments of portions of the Common Property, then such encroachments shall be permitted and a valid easement for the maintenance thereof shall exist so long as such encroachments shall naturally remain.

10. Restraint upon Separation and Partition of Common Property

Recognizing that the proper use of a Condominium Unit by an Owner or Owners is dependent upon the use and enjoyment of the Common Property in common with the Owners of all other Condominium Units and that it is in the interest of all Owners that the Ownership of the Common Property be retained in common by the Owners, it is hereby declared that the proportional undivided interest in the Common Property appurtenant to each Condominium Unit shall remain undivided and no Unit Owner shall bring or have any right to bring any action for partition or division, unless and until the Condominiums are terminated in accordance with North Carolina law.

11. Administration of Condominium by KEBCO OFFICE CONDOMINIUM ASSOCIATION, INC.

To efficiently and effectively provide for the administration of the Condominium by the Owners of the Condominium Units, a non-profit North Carolina corporation known and designated as KEBCO OFFICE CONDOMINIUM ASSOCIATION, INC. (hereinafter called "Association") has been organized and said corporation shall administer the operation and management of the Condominium and undertake and perform all acts and duties incident thereto in accordance with the terms of its Articles of Incorporation and By-Laws. The Owner or Owners of each Condominium Unit shall automatically become members of the Association upon acquiring an ownership interest in title to any Condominium Unit and its appurtenant undivided interest in Common Property; such membership shall terminate automatically upon the Owner or Owners being divested of such ownership interest in the title to such Condo-

minium Unit, regardless of how such ownership may be divested. No person, firm or corporation holding any lien, mortgage, or other encumbrance upon any Condominium Unit shall be entitled by virtue of such lien, mortgage or other encumbrance, to membership in the Association or to any of the rights or privileges of such ownership. In the administration of the operation and management of the Condominium, the Association is hereby granted the authority and power to enforce the provisions of this Declaration; to levy and to collect assessments in the manner hereinafter provided; and to adopt, promulgate and enforce such rules and regulations governing the use of the Condominium Units and Common Property, as the Board of Directors may deem to be in its best interest.

**12. Office Use Restrictions Application to Condominium Units**

Each Condominium Unit is hereby restricted to office use by its Owner. Any lease agreement must provide that it shall be subject to the provisions of this Declaration, and that shall be in writing and any failure by the Lessee to comply with the terms hereof shall be a default under the Lease.

**13. Use of Common Property Subject to Rules of Association**

The use of all Common Property by the Owner or Owners of all Condominium Units, and all other parties authorized to use the same, shall be subject to such rules and regulations as may be prescribed and established by the Association, which may be enforced by monetary fines in such amounts as the Association, in its sole discretion, decides.

**14. Condominium to be Used for Lawful Purposes; Restrictions Against Nuisances**

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

**15. Right of Entry into Condominium Units in Emergencies and for Maintenance of Common Property**

In case of any emergency originating in or threatening any Condominium Unit, regardless of whether the owner is present at the time of such emergency, the Board of Directors of the

Association or any other person authorized by it shall have the right to enter such Condominium Unit for the purpose of remedying or abating the cause of such emergency, and such right of entry shall be immediate.

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

**16. Limitation upon Right of Owners to  
Alter and Modify Condominium Units;  
No Right to Alter Common Property**

No Owner of a Condominium Unit shall permit any structural modifications or alterations to be made to such Condominium Unit without first obtaining the written consent of the Association which consent may be withheld in the event that a majority of the Board of Directors of the Association shall determine that such structural modifications or alterations would adversely affect or in any manner endanger the Condominium in part or in its entirety. No Owner shall cause any improvements or changes to be made on the exterior of the Condominium (including any improvements or changes which exist at the time of the filing of the Declaration of Condominium, and also including painting or other decoration, or the installation of electrical wiring, television or radio antennae, including dish antennae, chimneys, solar devices or solar collection devices, or any other objects or machines which may protrude through the walls, windows or roof of the condominium, or in any manner alter the appearance of the exterior portion of any building) without the written consent of the Association being first obtained. No Unit Owner shall cause any object to be fixed to the Common Property or to any Limited Common Area (including the location or construction of fences and the planting or growing of flowers, trees, shrubs or any other vegetation) or in any manner change the appearance of the Common Property or Limited Common Area without the written consent of the Association being first obtained. No Unit Owner shall install any wood or coal burning stove.

**17. Right of Association to Alter  
and Improve Common Property  
and Collect Assessments Therefor**

The Association shall have the right to make such alterations or improvements to the Common Property which do not prejudice the rights of the Owner of any Condominium Unit in the use and enjoyment of his Condominium Unit, providing the making of such alterations or improvements are approved by the Board of Directors of the Association, and their costs shall be Common Expenses to be assessed and collected from all of the Owners of



Condominium Units. However, where any alterations or improvements are exclusively or substantially for the benefit of the Owner or Owners of the Condominium Unit or Units requesting them, then the costs of such alterations or improvements shall be assessed against and collected solely from the Owner or Owners of the Condominium Unit or Units exclusively or substantially benefited and the assessment shall be levied in such proportion as may be determined by the Board of Directors of the Association.

**18. Maintenance and Repair by Owners of Condominium Units**

Every Owner shall promptly perform all maintenance and repair work in and out of his Condominium Unit, which, if omitted, would affect the Condominiums either in their entirety or in any part belonging to other Owners, every Owner being expressly responsible for the damages and liability which his failure to do so may endanger. The Owner of each Condominium shall be liable and responsible for the maintenance, repair and replacement of heating and air-conditioning equipment (if any), stoves, refrigerators, fans or other appliances or equipment, including any fixtures and/or their connections required to provide water, light, power, telephone, gas, sewage and sanitary service to his Condominium Unit. Such Owner shall further be responsible and liable for the maintenance, repair and replacement of the interior surfaces of all walls, ceilings and floors within his Unit including painting, decorating and furnishings and all other accessories which such Owner may desire to plan or maintain in his Condominium Unit. Owners shall be responsible for maintenance of any improvements in the Limited Common Areas adjacent to their Condominium Unit, to include but not be limited to patios, porches, and fences. The Board of Directors shall set maintenance standards, and in the event any individual Owner fails to properly maintain the improvements in accordance with such standards, the Board of Directors shall cause the maintenance to be done and shall add such costs to the Owner's next monthly assessment after such maintenance is completed. The Association shall have all rights to collect these sums in accordance with Paragraph 24 of this Declaration. Whenever the maintenance, repair and replacement of any item which the Owner is obligated to maintain, replace or repair at his own expense is occasioned by any loss or damage which may be covered by an insurance maintained in force by the Association, the proceeds of the insurance received shall be used for the purpose of making such maintenance, repair or replacement except that the Owner of such Condominium Unit shall, in said instance, be required to pay such portion of the costs of such maintenance, repair and replacement as shall, by reason of the applicability of any deductibility provision of such insurance, exceed the amount of the insurance proceeds applicable to such maintenance, repair or replacement. The Owner of a Condominium Unit who has exclusive use of any limited Common Area shall maintain all floor and building supports. All doors, window frames, panes and screens are a part of the respective Condominium Units and shall be maintained by the respective Unit Owners, save and except exterior painting.

**19. Maintenance and Repair of Common Property by the Association**

The Association, at its expense, shall be responsible for the maintenance, repair and replacement of all of the Common Property, including those portions thereof which contribute to the support of the buildings and conduits, ducts, plumbing, gas, water lines outside the dedicated street right of way, wiring and other facilities located in the Common Property for the furnishing of utilities and other services to the Condominium Units and said Common Property, and should any incidental damage be caused to any Condominium Unit by virtue of any work which may be done by the Association in the maintenance, repair or replacement of any Common Property, the Association shall, at its expense, repair such incidental damage. Whenever the maintenance, repair and replacement of any item for which the Association is obligated to maintain, replace or repair as its expense is occasioned by any act of a Condominium Unit Owner, his immediate family, guests or invitees, and such loss or damage may be covered by any insurance maintained in force by the Association, then and in that event the proceeds from such insurance shall be used for the purpose of making such maintenance, repair or replacement, except that the Unit Owner who is responsible for the act causing the damage (whether done by himself or by his family, guests or invitees) shall be required to pay such portion of the costs as shall, by reason of the applicability of any deductibility provision of such insurance, exceed the amount of the insurance proceeds applicable to such maintenance, repair or replacement.

**20. Insurance and Authority to Purchase Insurance**

Insurance policies upon the Property (other than title insurance) shall be purchased by the Association in the name of the Board of Directors of the Association as Trustees for the Condominium Unit Owners and their respective mortgagees as their interest may appear, and shall provide for the issuance of certificates or mortgage endorsements to the holders of first mortgages on the Condominium Units or any of them, and if the companies writing such policies will agree, the policies shall provide that the insurer waives his rights of subrogation as to any claims against Condominium Unit Owners, the Association and their respective servants, agents, and guests. In addition, each Condominium Unit Owner shall obtain insurance, at his own expense, affording coverage upon his Condominium Unit, his personal property including any built-in appliances not covered under the master policy maintained by the Association, and for his personal liability and as may be permitted or required by law, but all such insurance shall contain the same waiver of subrogation referred to above if available.

**21. Insurance Coverage to be Maintained; Use and Distribution of Insurance Proceeds**

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

- (1) Casualty Insurance, issued by a company having a Best Rating of "A+" and covering the buildings and all improvements upon the land and all personal property described in Exhibit "A" except such personal property as may be owned by the Condominium Unit Owners, shall be procured in an amount equal to the maximum insurance replacement value thereof (exclusive of excavation, foundations, streets and parking facilities), to be adjusted annually in accordance with increased construction costs in the local area. Such coverage shall afford protection against:
  - (a) The loss or damage by fire and other hazards covered by the standard extended coverage endorsement;
  - (b) Such other risks as from time to time customarily shall be covered with respect to buildings similar in construction, location and use, including vandalism and malicious mischief.

For the purpose of clarity, underground utilities and any system of utilities owned by owners will not be covered by insurance.

- (2) Public liability and property damage insurance in such amounts and of such forms as shall be required by the Association, including legal liability, hired automobile, non-owned automobile and off-premise employee coverage if appropriate. Said liability insurance must cover bodily injury and the property damage that results from the operation, maintenance, or use of the Common Areas; and any legal liability that results from lawsuits related to employment contracts in which the Homeowners Association is a party. Said liability insurance shall provide coverage of at least \$1,000,000 for bodily injury or property damage for any single occurrence, or the minimum limits set for condominium projects by the Federal National Mortgage Association, whichever is less.
- (3) All liability insurance shall contain cross-liability endorsements to cover liabilities of the Condominium Unit Owners as a group to a Condominium Unit Owner.
- (4) Blanket fidelity bond insurance coverage for anyone who either handles or is responsible for funds held or administered by the Association whether or not he or she receives compensation for services. These bonds should name the Association as the obligee and the premiums are paid as a Common Expense by the Association.

- B. In addition to the premiums for the bonds, premiums upon all other insurance policies purchased by the Association shall be paid by the Association as Common Expenses to be assessed and collected from all of the Owners of Condominium Units.
- C. All insurance policies purchased by the Association shall be for the benefit of the Association and the Condominium Unit Owners and their mortgagees, as their respective interests may appear, and shall provide that all proceeds received thereon shall be held in trust for the benefit of the Association, the Condominium Unit Owners and their respective mortgagees in the following shares:
- (1) Proceeds on account of damage to common property: In undivided shares for each Condominium Unit Owner and his mortgagee, if any which shares are shown on Exhibit "B" or as subsequently adjusted.
  - (2) Proceeds on account of damages to Condominium Units shall be held in the following undivided shares:
    - (a) Partial destruction when the Condominium is to be restored for the Owners of damaged Condominium Units in proportion to the costs of repairing the damage suffered by each damaged Condominium Unit;
    - (b) Total destruction of the Condominium or where the Condominium is not to be restored for all Condominium Unit Owners and their mortgagees, the share of being set forth in Exhibit "B" or as subsequently adjusted.
- D. In the event a mortgagee endorsement has been issued as to a Condominium Unit, the share of the Condominium Unit Owner shall be held for the mortgagee and the Condominium Unit Owner as their interests may appear, but no mortgagee shall have the right to participate in the determination of reconstruction or repair.
- E. Proceeds of insurance policies received by the Association shall be distributed to or for the benefit of the Condominium Unit Owners in the following manner:
- (1) If the damage for which the proceeds were paid is to be repaired or reconstructed, the proceeds shall be paid to defray the costs of repair or reconstruction. Any proceeds remaining after defraying such costs shall be distributed to the beneficial Condominium Unit Owners, all remittances to Condominium Unit Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a Condominium Unit and may be enforced by him.

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

22. Reconstruction or Repair of Casualty Damage; Damage to Common Property; Damage to Condominium Units

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

- (1) Partial destruction shall be destruction which renders two-thirds (2/3) or less of the Condominium Units untenable. In the event of partial destruction, the Common Property shall be reconstructed or repaired unless this Declaration is terminated by a vote of a Majority of Unit Owners.

- (2) Total destruction shall be destruction which renders more than two-thirds (2/3) of the Condominium Units untenable. In the event of total destruction, the Common Property shall not be reconstructed or repaired if at a meeting which shall be called within thirty (30) days after such adjustment, a Majority of Unit Owners vote for reconstruction or repair.

- (3) Any such reconstruction or repair shall be substantially in accordance with the plans and specifications of the original construction.

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

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

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

**23. Association to Maintain Register of Owners and Mortgagees**

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

**24. Assessments; Liability, Lien and Enforcement**

The Association is given the authority to administer the operation and management of the Condominium as being in the best interest of the Owners of all Condominium Units. To properly administer the operation and management of the condominium, the Association will incur for the mutual benefit of all of the Owners of Condominium Units, costs and expenses (here "Common Expenses"). To provide the funds necessary for such property operation, management and capital improvements, the Association has been granted the right to make, levy, and collect assessments against the Unit Owners and the Condominium Units. In furtherance thereof, the following provisions shall be operative and binding upon the Owners of all Condominium Units.

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

- B. Assessments provided for in Paragraph A above shall be payable in monthly installments, or in such other manner as the Board of Directors of the Association shall determine. Statutory assessments shall commence for each Unit on the first day of the first month following the recordation of this Declaration.
- C. The Board of Directors of the Association shall establish an Annual Budget in advance for each fiscal year (which shall correspond to the calendar year, except that in the initial year of operation of the Condominium, the fiscal year shall commence with the closing of the sale of the first Condominium Unit). Such budget shall project all expenses for the forthcoming year which may be required for the proper operation, management and maintenance of the Condominium, including a reasonable allowance for contingencies and reserves, such budget to take into account anticipated income which is to be applied in reduction of the amounts required to be collected as an assessment each year. The Board of Directors shall keep separate, in accordance with Paragraph E hereof, items relating to operations and maintenance from items relating to capital improvements. Upon adoption of such Annual Budget by the Board of Directors of the Association, copies shall be delivered to each Owner of a Condominium Unit although the delivery of a copy of it to each Owner shall not affect the liability of any Owner for such assessment. Should the Board of Directors at any time determine that the assessments levied are insufficient to pay the costs of operation and management of the Condominium or in the event of emergencies, the Board of Directors shall have the authority to levy such additional assessments as they may deem necessary; provided, however, that the Board of Directors may not increase assessments by more than five (5%) percent above the previous year's assessment without the affirmative vote of a Majority of Unit Owners at a meeting of the Association where a quorum is present. In the event the Association is faced with unexpected expenses of whatever nature, the Board of Directors may call for special assessments to pay for such expenses, provided, however, that no special assessment may be levied against the members without the affirmative vote of a Majority of Unit Owners.
- D. The Board of Directors of the Association, in establishing the Annual Budget for operation, management, and maintenance of the condominium shall designate a sum to be collected and maintained as a reserve fund for replacement of and capital improvements to, the Common Property (herein "Capital Improvement Fund") which shall be for the purpose of enabling the association to replace structural elements and mechanical equipment constituting a part of the Common Property, and the replacement of personal property constituting a portion of the Common Property. The amount to be allocated to the Capital Improvement Fund may be established by the

Board of Directors to collect and maintain a sum reasonably necessary to anticipate the need for replacement of Common Property. The amount collected for the Capital Improvement Fund shall be maintained in a separate account by the Association, and shall be used only to make capital improvements to Common Property. Any interest earned on the Capital Improvement Fund may be expended for current operation and maintenance.

- E. All funds collected by the Association shall be treated as the separate property of the Association, and such funds may be applied by the Association to the payment of any expense of operating and managing the Condominium or to the proper undertaking of all acts and duties imposed upon it by this Declaration, the Articles of Incorporation, and the Bylaws of the Association. Although all funds and common surplus including other assets of the Association, and any increments thereto or profits derived therefrom or from the leasing or use of Common Property, shall be held for the benefit of the members of the Association, no member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his Condominium Unit. When the Owner of a Condominium Unit shall cease to be a member of the Association, the Association shall not be required to account to such Owner for any share of the funds or assets of the Association, or which may have been paid to the Association by such Owner, as all funds which any Owner has paid to the Association shall constitute an asset of the Association which may be used in the operation and management of the Condominium.
- F. The payment of any assessment or installment thereof shall be in default, if such assessment or installment is not paid to the Association within thirty (30) days of its due date. When in default, the delinquent assessment or delinquent installment thereof due to the Association shall bear interest at the rate of ten percent (10%) per annum until paid in full by the Association.
- G. The Owner or Owners of each Condominium Unit shall be personally liable, jointly and severally, to the Association for the payment of all assessments, regular, special, or contractual, which may be levied by the Association against such Condominium Unit while such party or parties are owner or Owners of a Condominium Unit. In the event that any Unit Owner or Owners are in default in the payment of any assessment or installment owed to the Association, such Unit Owner or Owners shall be personally liable, jointly and severally for interest on such delinquent assessment or installment thereof as above provided, and for all costs of collecting such assessment or installment and interest thereon, including reasonable attorney fees, whether suit be brought or not.



- H. No Owner of a Condominium Unit may exempt himself from liability from any assessment levied against his or her Condominium Unit by waiver of the use or enjoyment of any of the Common Property, or by abandonment of the Condominium Unit, or in any other way.
- I. Recognizing that proper operation and management of the Condominium requires the continuing payment of costs and expenses therefor, and that such proper operation and maintenance results in benefit to all of the Owners of Condominium Units, and that the payment of such common expenses represented by the assessments levied and collected by the Association is necessary in order to preserve and protect the investment of each Unit Owner, the Association is hereby granted a lien upon each Condominium Unit and its appurtenant undivided interest in Common Property, which lien shall secure the funds due for all assessments now or hereafter levied against the Owner of each such Condominium Unit, which lien shall also secure all costs and expenses, including a reasonable attorney's fee, which may be incurred by the Association in enforcing this lien upon said Condominium Unit. The lien granted to the Association may be enforced under Article 8, Chapter 44 or Article 2A of Chapter 45 of the North Carolina General Statutes and under N.C.G.S. 47C-3-116. The lien granted to the Association shall further secure such advances for taxes and payments on account of superior mortgages, liens or encumbrances, which may be required to be advanced by the Association in order to preserve and protect its lien, including interest at the rate of ten percent (10%) per annum on any such advances so made. All persons who shall acquire any interest in the ownership of any Condominium Unit, or who may be given or acquire a mortgage, lien or other encumbrances thereon, are hereby placed on notice of the lien rights granted to the Association, and shall acquire such interest in any Condominium Unit expressly subject to such lien rights.
- J. The lien herein granted to the Association shall be enforceable from the time of recording a claim of lien in the Public Records of Forsyth County, North Carolina, which claim shall state the description of the Condominium Unit encumbered thereby, the name of the record owner, the amount due and the date when due. The claim of lien shall be recordable any time after default and the lien shall continue in effect until all sums secured by the said lien shall have been fully paid. Such claims of lien shall include only assessments which are due and fully payable. Such claims of lien shall include only assessments which are due and payable when the claim of lien is recorded, plus interest, costs, attorney fees, advances to pay taxes and prior encumbrances and interest thereon. It shall be signed and verified by an officer or agent of the Association. Upon full payment of all sums secured by such claim of lien, it shall be satisfied of record.

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

- K. Whenever any Condominium Unit may be leased, sold or mortgaged by the Owner thereof, the Association, upon written request of the Unit Owners, shall furnish to the proposed lessee, purchasee 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 a statement.

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

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

25. Common Surplus

"Common Surplus" , meaning all funds and other assets of the Association (including excess receipts of the Association, including but not limited to assessments, rents, profits, and revenues from whatever source over the amount of the common expense), shall be owned by the Owners of all Condominium Units in the same proportion that the undivided interest in Common Property appurtenant to each Condominium bears to the total of all undivided interest in Common Property appurtenant to all Condominium Units; provided, however that said common surplus shall be held by the Association in the manner and subject to the terms, provisions, and conditions of this Declaration, imposing certain limitations and restrictions upon the use and distribution thereof. Except for distribution of any insurance indemnity herein provided, or upon termination of the condominium, any attribution or distribution of common surplus which may be made from time to time shall be made to the then Owners of Condominium Units in accordance with their percentage interest in common surplus as declared herein.

26. Termination

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

- A. The termination of the Condominium may be effected only by the unanimous agreement of all Condominium Unit Owners expressed in an instrument duly recorded; and, provided that the holders of all liens affecting any of the Condominium Units consent thereunto, or agree, by instrument duly recorded, that their liens be transferred to the percentage of the undivided interest of the Condominium Unit Owner in the property as provided in Paragraph C below. The termination shall become effective when such agreement has been recorded in the public records of Forsyth County, North Carolina.
- B. If it is determined, in the manner elsewhere provided, that the condominium shall not be reconstructed after casualty, the Condominium Ownership shall be terminated and the Declaration of Condominium revoked. The determination not to reconstruct after casualty shall be evidenced by a Certificate of the Association certifying as to the facts effecting the termination, which Certificate shall become effective upon being recorded in the public records of Forsyth County, North Carolina.
- C. After termination of the Condominium, the Condominium Unit Owners shall own the Property as tenants in common in undivided shares and the holders of mortgages and liens against the Condominium Units formerly owned by such Condominium Unit Owners shall have mortgages and liens upon the respective undivided shares of the Condominium Unit Owners.

The undivided share or interest owned as tenants in common shall be that percentage of the undivided interest in the Common Areas and Facilities previously owned by each Unit Owner. All funds held by the Association and insurance proceeds, if any, shall be held for the Unit Owners in the same proportion. The costs incurred by the Association in connection with the termination shall be a Common Expense.

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

27. Amendment of Declaration of Condominium

This Declaration of Condominium may be amended in the following manner:

- A. An amendment to this Declaration of Condominium may be proposed by the Board of Directors of the Association acting upon a vote of a majority of the Directors, or by the members of the Association owning a majority of the Condominium Units, whether meeting as members or by instrument in writing signed by them. Upon any Amendment to this Declaration being proposed by the Board of Directors or members such proposed Amendment shall be transmitted to the President of the Association, or other officer of the Association in the absence of the President, who shall thereupon call a Special Meeting of the members of the Association for a date not sooner than twenty (20) days and not later than sixty (60) days from receipt by him of the proposed Amendment. It shall be the duty of the Secretary to give each member written notice of such special meeting, stating the time and place, and reciting the proposed Amendment in reasonably detailed form, which notice, if mailed, shall be mailed not less than ten (10) days before the date set for such Special Meeting. If mailed, such notice shall be deemed to be properly given when deposited in the United States Mail addressed to the member at his Post Office Address as it appears on the records of the Association, the postage thereon prepaid. Any member may, by written waiver of notice signed by such member, waive such notice, and such waiver, when filed in the records of the Association, whether before or after the holding of the meeting, shall be deemed equivalent to the giving of the notice to such member. At the meeting, the Amendment proposed must be approved by an affirmative unanimous vote of Unit Owners in order for such Amendment to become effective. At any meeting held to consider such amendment, the written vote of any member of the Association shall be recognized if such member is not in attendance at such meeting or represented thereat by proxy, provided such written vote is delivered to the Secretary of the Association prior to such meeting or at such meeting. Thereupon such Amendment of this Declaration shall be trans-

cribed and certified by the President and Secretary of this Association as having been duly adopted. The original or an executed copy of such Amendment so certified and executed with the same formalities as a Deed, shall be recorded in the Forsyth County Public Registry within ten (10) days from the date on which the same became effective.

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

28. Remedies in Event of Default

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

- A. Failure to comply with any of the terms of this Declaration or other restrictions and regulations contained in the Articles of Incorporation or By-Laws of the Association, or other rules which may be adopted pursuant thereto, shall be grounds for relief including, without limitation, an action to recover sum due for damages, injunctive relief, foreclosure of lien, or any combination thereof. Such relief may be sought by the Association or, if appropriate, by an aggrieved Unit Owner.
- B. Each Unit Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness, or by that of any member of his family, or his or their guests, employees, agents or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy, or abandonment of a Unit or its appurtenances. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation.
- C. In any proceeding arising because of an alleged default by a Unit Owner, the Association shall be entitled to recover the costs of the proceeding and reasonable attorney fees.
- D. The failure of the Association or any Unit Owner to enforce any right, provision, covenant or condition which may be granted by this Declaration of the other above-mentioned documents shall not constitute a waiver of the right of the Association or of the Unit Owner to enforce such right, provision, covenant or condition in the future.

- E. All rights, remedies and privileges granted to the Association or the Owner or Owners of a Condominium Unit pursuant to any terms, provisions, covenants or conditions of this Declaration or other above-mentioned documents, shall be cumulative, and the exercise of any one or more shall not constitute an election of remedies, nor shall preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be available to such party at law or in equity.
- F. The failure of Declarant to enforce any right, privilege, covenant or condition which may be granted to it by this Declaration or other above-mentioned documents shall not constitute a waiver of right of the Declarant to thereafter enforce such right, provisions, covenant or condition in the future.
- G. The failure of a lender to enforce any right, provisions, privilege, covenant or condition which may be granted to it or them by this Declaration or other above-mentioned documents, shall not constitute a waiver of right of said party or parties to thereafter enforce such right, privilege, covenant or condition in the future.

29. Rights Reserved unto Lenders and First Mortgage Holders

As long as any Lender or First Mortgage Holder shall hold any mortgage upon any Condominium Unit or Units, or shall be the Owner of any Condominium Unit or Units, such Lender or First Mortgage Holder shall have the following rights:

- A. To examine upon request and at reasonable times and upon reasonable notice, the books and records of the Association; and to be furnished at least one copy of the Annual Financial Statement and Report of the Association, such Financial Statement and Report to be furnished by April of each calendar year.
- B. To be given written notice by the Association of the call of any meeting of the membership, which notice shall state the purpose of such meeting, and to designate a representative to attend.
- C. To be given written notice of default of any Owner owning a Condominium Unit encumbered by a mortgage held by a Lender or First Mortgage Holder, such notice to be sent to the place which it may designate in writing.
- D. To be given written notice of any loss to, or taking of, the common elements of the Condominium if such loss or taking exceeds \$10,000.00 or damage to a Condominium is in excess of \$1,000.00.

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

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

30. Voting Rights of Unit Owners in the Association

Members of the Association shall be entitled to vote in accordance with such members' percentage of undivided interests in the common elements, as described in Paragraph 5 above.

31. Additional Provisions

- A. The Association is required to make available to Unit Owners and lenders and to holders, insurers or guarantors of any first mortgage, current copies of the Declaration, By-Laws, other rules concerning the Project, and the books, records and financial statements of the Association. "Available" means available for inspection, upon request, during normal business hours or under other reasonable circumstances.
- B. The Association, prior to passage of control from Declarant, is not bound either directly or indirectly to contracts or leases (including a management contract) unless there is a right of termination of any such contract or lease, without cause, which is exercisable without penalty at any time after transfer of control upon not more than ninety days' notice to the other party.
- C. The Association shall have the right to grant permits, licenses, and easements over the Common Area for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance of operation of the Project.
- D. Notwithstanding any provision to the contrary hereinabove, the Association is required to establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Areas and those Limited Common Areas which the Association may be obligated to maintain. The fund is maintained out of regular assessments for Common expenses. In addition to said reserve fund, a Working Capital Fund is required for the initial months of the Project's operation equal to at least

BOOK 1624E1221

two months' assessment for each Unit. Each Unit's share of the Working Capital Fund shall be collected and transferred to the Association at the time of closing of the sale of each Unit and maintained in an account for the use and benefit of the Association. The purpose of the fund is to insure that the Association Board will have cash available to meet unforeseen expenditures, or to acquire additional equipment or services deemed necessary or desirable. Amounts paid into the fund are not to be considered as advanced payments of regular assessments.

- E. In addition to the lender's rights as set forth above, upon written request to the Association, identifying the name and address of the holder, insurer or guarantor and the Unit number or address, any mortgage holder, insurer, or guarantor will be entitled to timely written notice of:
- (1) Any condemnation or casualty loss that effects either a material portion of the Project or the Units securing its mortgage;
  - (2) Any 60-day delinquency in the payment of assessments or charges owed by the owner of any Unit on which it holds the mortgage;
  - (3) A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Owner's Association; and
  - (4) Any proposed action that requires the consent of a specified percentage of mortgage holders.

35. Miscellaneous

- A. In the event that any of the terms, provisions or covenants of this Declaration are held to be partially or wholly invalid or unenforceable, such holding shall not affect, alter, modify or impair in any manner any of the other terms, provisions or covenants hereof or the remaining portions of any terms, provisions, or covenants held to be partially invalid or unenforceable. In the event of any conflict between any provisions of this Declaration and the North Carolina Condominium Act, the provisions of the North Carolina Condominium Act shall control.
- B. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan of Condominium ownership. Throughout this Declaration, whenever appropriate, the singular shall include the plural and the masculine gender the feminine or neuter. The article headings are for convenience of reference only and shall not be considered terms of this Declaration.
- C. The restrictions and burdens imposed by the covenants of

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

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

Edward V. Zotian, Esquire  
 Hendrick, Zotian, Cocklereece & Robinson  
 305 First Stratford  
 Winston-Salem, North Carolina 27104-4213

IN WITNESS WHEREOF, the undersigned has hereunto subscribed his name and affixed the seal of the Association, this the 21st day of August, 1989

KOYT EVERHART BUILDING COMPANY, INC. ✓

ATTEST:

Edward V. Zotian, Secretary

(CORPORATE SEAL)

NORTH CAROLINA )  
 FORSYTH COUNTY )



By: Koyt Everhart, Jr., Pres.

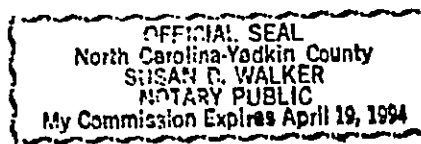
This the 21st day of August, 1989, personally came before me Susan D. Walker, a Notary Public, Edward V. Zotian, who being duly sworn, says that he knows the common seal of KOYT EVERHART BUILDING COMPANY, INC., and is acquainted with Koyt Everhart, Jr., President of said corporation, and that he, the said Edward V. Zotian, is the Secretary of said corporation, and saw the said President sign the foregoing instrument, and saw the said common seal of said corporation affixed to said instrument by said President, and that he, the said Edward V. Zotian, signed his name in the attestation of the execution of said instrument in the presence of said President of said corporation.

Witness my hand and notarial seal, this the 21st day of August, 1989.

*Susan D. Walker*  
 Notary Public

My Commission Expires:

April 19, 1994



STATE OF NORTH CAROLINA—Forsyth County

The foregoing (or annexed) certificate of Susan D. Walker N.P.  
(here give name and official title of the officer signing the certificate passed upon)

Yadkin is ~~not~~ certified to be correct. This the 21st day of August, 1989

AUG 22 4 32 PM '89 L. E. Speas, Register of Deeds

By: Jessie Holden Deputy

Probate and Filing Fee \$ 122.00  
 REGISTER OF DEEDS  
 FORSYTH COUNTY, N.C.

PD

BOOK 1674 P 1223

EXHIBIT A to  
Declaration of Condominium of  
KEBCO OFFICE CONDOMINIUMS

BEGINNING at an old iron found in the southwesternmost corner of that parcel of property described in Deed Book 1463 at page 1146, Forsyth County Registry, in the name of J. A. G., Inc., said iron being in the northern right-of-way of Vest Mill Road; running thence with the northern right-of-way of Vest Mill Road North 86 degrees, 13 minutes, 11 seconds West 165.05 feet to an old iron found; running thence North 1 degree, 57 minutes, 28 seconds East 105.00 feet to a new iron placed; running thence South 86 degrees, 14 minutes, 16 seconds East 168.38 feet to a new iron placed in the westernmost boundary of J. A. G., Inc.; running thence with J. A. G., Inc.'s western boundary South 3 degrees, 46 minutes, 31 seconds West 105.00 feet to the point and place of BEGINNING, containing 0.4018 acres, more or less, according to a plat of survey prepared by Kenneth L. Foster, R.L.S., on July 28, 1988.

SUBJECT, HOWEVER, to an easement for ingress and egress over and upon the property described above for the purpose of serving a 0.6644 acre tract lying immediately to the north of the property described above, which easement for ingress and egress is more particularly described as follows:

BEGINNING at an old iron found in the northern right-of-way of Vest Mill Road, said iron being North 86 degrees, 13 minutes, 11 seconds West 165.05 feet from the southwesternmost corner of that parcel of property in the name of J. A. G., Inc. and described in Deed Book 1463 at page 1146, Forsyth County Registry; running thence North 1 degree, 57 minutes, 28 seconds East 105.00 feet to a new iron placed; running thence south 86 degrees, 14 minutes, 16 seconds East 25.01 feet to a point; running thence South 1 degree, 57 minutes, 28 seconds West 105.00 feet to a point in the northern right-of-way of Vest Mill Road; running thence with said northern right-of-way North 86 degrees, 13 minutes, 11 seconds West, 25.01 feet to the point and place of BEGINNING, containing 2,625 square feet, more or less, according to a plat of survey prepared by Kenneth L. Foster on July 28, 1988.

BOOK 1674 P 1224

EXHIBIT B

to

DECLARATION OF CONDOMINIUM OF  
KEBCO OFFICE CONDOMINIUMS

<u>Unit Designation</u>	<u>Undivided Percentage Interest</u>
A	25%
B	25%
C	25%
D	25%

RULES OF THE ASSOCIATION  
OF  
KEBCO OFFICE CONDOMINIUM ASSOCIATION, INC.

The following rules and regulations apply to all Unit Owners, their guests, invitees and lessees:

1. Office Use Restriction. Each Unit shall be occupied, within the limitations set forth herein and in the By-Laws of KEBCO OFFICE CONDOMINIUM ASSOCIATION, INC., (hereinafter referred to as the "Association") attached hereto, and used by the respective Owner(s) only as an office for the Owner(s), his or their tenants, and for no other reason.

2. Use Limitations on Common Areas. Only the Owners, lessees of Owners and invitees of such owners or lessees, may use the Common Areas provided that use of the Common Areas shall be in accordance with and subject to the limitations set forth in the Rules of the Association. There shall be no obstruction of any Common Areas. Nothing shall be stored in any Common Areas without the approval of the Association.

3. Insurance. Nothing shall be done or kept in any Unit, or in any Common Area, which will increase the rate of insurance on any Common Area without the approval of the Association. No Owner shall permit anything to be done or kept in his Unit or in any Common Area which will result in the cancellation of insurance on any Common Area, or which would be in violation of any law.

4. Signs. No sign of any kind shall be displayed to the public view on or from any Unit or any Common Area without the approval of the Association.

5. Nuisance. No noxious or offensive activity shall be carried on in any Unit or in any Common Area, nor shall anything be done therein which will constitute a nuisance to the other Owners.

6. Structural Integrity. Nothing shall be done in any unit or in, on or to any building in any Common Area which would structurally change any such building, except as is otherwise provided herein.

7. Interference. Nothing shall be done, either willfully or negligently, which may be or become an annoyance or nuisance of the other Unit Owners or occupants. No Unit Owner shall make or permit any disturbing noises in the buildings by himself, his employees, agents, visitors and licensees, nor do or permit anything by such persons that will interfere with the rights, comforts or conveniences of other Unit Owners. Each Unit Owner

shall keep his Unit in a good state of preservation and cleanliness and shall not sweep or throw or permit to be swept or thrown therefrom or from the doors, windows, yards, porches or patios thereof, any dirt or other substance.

8. Electrical Equipment. All radio, television or other electrical equipment of any kind or nature installed or used in each Unit shall fully comply with all rules, regulations, requirements or recommendations of the Public Authorities having jurisdiction and the Unit Owner alone shall be liable for any damage or injury caused by any radio, television or other electrical equipment in such Unit.

9. Exterior. No garbage cans shall be placed on terrace landings, nor shall anything be hung from the windows or placed upon the window sills.

10. Flammable Substances. No Unit Owner or occupant or any of his agents, servants, employees, licensees or visitors shall at any time bring into or keep in his Unit any flammable, combustible or explosive fluid, material, chemical or substance.

11. Equipment Installation. The installation and use of any equipment in a Unit shall conform to the generally accepted or recommended technical specifications for the equipment involved and shall not interfere with the use and enjoyment or create any danger to any other Unit. Prior to the installation thereof, the Owner shall submit to the Association all technical data regarding installation and use for approval. The Association may, at any time, require the installation of insulation or detector machines or designate the hours of use of the equipment involved.

12. Interior Partitions. Each Unit Owner shall have the right to install partitions within the Unit and accordingly create a layout to suit the Unit Owner's requirements, provided however, that there shall be no encroachment or attachment to or through any Common Area or any mechanical, plumbing or electrical additions within the Unit without first obtaining approval of the Association.

There shall be no structural alteration, construction or removal of any building, fence or other structure in any Common Area other than repairs or rebuilding as provided in this instrument without the approval of the Association. No building, fence or other structure shall be constructed upon any portion of any Common Area other than such building and structures as shall be constructed by the Association.

13. Prohibited Uses. Except for usual office and professional use, no commercial or industrial operations of any kind shall be conducted in or upon any Unit or Common Areas.

14. Vehicles. Except as permitted by the Rules of the Association, no trailer or vehicle of any type shall be stored in

any Common Area. No vehicle shall be repaired or rebuilt in any Common Area.

15. Enforcement. All Owners shall be members of the Association. There shall be no violation of the By-Laws or the Rules of the Association for the use of Units or the Common Areas, as the Rules or By-Laws presently exist, or as they are hereafter adopted or amended by the Association, as provided in its By-Laws. If any Owner or occupant of a Unit violates the Rules of the Association, the Association may impose a special assessment upon such Owner of not more than One Hundred Dollars (\$100.00), and may also suspend the right of such Owner and any occupant in his, or her, Unit to use the properties of the Association for a period not to exceed thirty (30) days for each violation, and under such conditions as the Association shall specify. Before invoking any such assessment or suspension, the Association shall give the Owner any opportunity to be heard, either in person or by counsel. Any assessment imposed hereunder which remains unpaid for a period of ten (10) days, shall become a lien upon the Owner's Unit if included in a notice of assessment duly recorded.

16. Anti-Discrimination. The right to use or occupy a Unit or the sale, lease or other transfer or conveyance of the right to use or occupy a Unit shall not be based on race, religion or place of national origin.

SDW/36/25

ARTICLES OF INCORPORATION

OF

KEBCO OFFICE CONDOMINIUM ASSOCIATION, INC.

THIS CERTIFIES that the undersigned does hereby organize a corporation under the Non-Profit Corporation Act of the State of North Carolina, and to that end, does hereby set forth: DOCUMENT #459626 DATE 07/25/89 TIME 12:47

ARTICLE I

Name

The name of the Corporation is KEBCO OFFICE CONDOMINIUM ASSOCIATION, INC. (hereinafter referred to as the "Association").

FILED  
RUFUS L. EDMISTEN  
SECRETARY OF STATE  
NORTH CAROLINA

ARTICLE II

Duration

The period of duration of the Association shall be perpetual.

ARTICLE III

Purposes

The purposes for which the Association is organized are to provide for the acquisition, construction, management, maintenance, care, preservation and architectural control of Association property including the Common Area within that certain tract of property located in Winston-Salem, Forsyth County, North Carolina, known as Lot No. 103M, Block 3826A, Vest Mill Road, and to promote the health, safety and welfare of the residents within such property and within any additional property as may be brought within the jurisdiction of the Association. In carrying out these purposes, the Association shall have the following powers:

- (a) To exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in that certain Declaration of Condominium (hereinafter referred to as the "Declaration") applicable to the property and recorded or to be recorded in the Office of the Register of Deeds of Forsyth County, North Carolina, as amended from time to time, which Declaration is incorporated herein by reference;
- (b) To fix, levy, collect and enforce payment by any lawful means all charges or assessments pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of

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the business of the Association including all licenses, taxes or governmental charges levied against the property of the Association;

- (c) Upon the unanimous consent of Unit Owners, to acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use, or otherwise dispose of real or personal property in connection with the affairs of the Association;
- (d) Upon the unanimous consent of Unit Owners, to borrow money, mortgage, pledge, deed in trust or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;
- (e) To dedicate, sell or transfer all or any part of the Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Board of Directors, with the unanimous consent of Unit Owners;
- (f) To participate in mergers or consolidations with other non-profit corporations organized for the same purposes, provided that any such merger or consolidation shall have the unanimous consent of Unit Owners;
- (g) To have and exercise any and all powers, rights and privileges which a corporation organized under the Non-Profit Corporation Act of the State of North Carolina may now or hereafter have or exercise.

#### ARTICLE IV

##### Membership

Every person or entity who or which is a record owner of a fee or undivided fee interest in any Unit which is subject to assessment by the Association, pursuant to the terms of the Declaration (hereinafter referred to as an "Owner") shall be a Member of the Association. Persons or entities that hold an interest merely as security for the performance of an obligation shall not be members. Membership shall be appurtenant to, and may not be separated from, ownership of any Unit which is subject to assessment by the Association.

#### ARTICLE V

##### Voting Rights

The Association shall have one class of members, each member having voting power based upon their aggregate percentage interest in the Common Areas.



ARTICLE VI

Board of Directors

The affairs of the Association shall be managed by a Board of not more than five (5) Directors who need not be members of the Association. The number of Directors may be changed by amendment of the By-Laws of the Association. The names and addresses of the persons who are to serve as the initial Board of Directors are:

<u>Name</u>	<u>Address</u>
Koyt W. Everhart, Jr.	1300 Westgate Drive Winston-Salem, NC 27103
Chris Keefe	1300 Westgate Drive Winston-Salem, NC 27103
Edward V. Zotian	305 First Stratford Winston-Salem, NC 27104-4213
Susan D. Walker	305 First Stratford Winston-Salem, NC 27104-4213
S. Elaine Hudspeth	305 First Stratford Winston-Salem, NC 27104-4213

Except as otherwise provided in the Charter, the method of election of Directors shall be as set forth in the By-Laws of the Association.

ARTICLE VII

Registered Office and Agent

The address of the initial registered office of the Association is 305 First Stratford, Winston-Salem, Forsyth County, North Carolina. 27104-4213; and the name of the initial registered agent of the Association at such address is Edward V. Zotian.

ARTICLE VIII

No Net Earnings to Individuals

No part of the net earnings of the Association shall inure to the benefit of or be distributable to any Member, Director, Officer or to any other private individual, except that the Association shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of its purposes as set forth in the Charter.

ARTICLE IX

Dissolution

The Association may be dissolved with the unanimous written consent of Unit Owners. Upon dissolution, other than incident to a merger or consolidation, the assets of the Association shall be dedicated and transferred to a public agency as selected by the Board of Directors to be used for purposes similar to those for which this Association was created. In the event that such a public agency cannot be identified that will accept the assets and use them for such purposes, then the assets shall be dedicated and transferred to any non-profit corporation, association, trust or other organization as selected by the Board of Directors that shall be, to the extent practicable, devoted to similar purposes.

ARTICLE X

Amendments

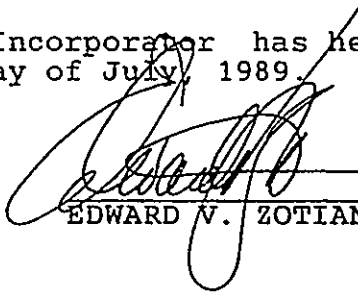
The amendment of these Articles of Incorporation shall require the unanimous consent of Unit Owners.

ARTICLE XI

Incorporator

The name and address of the Incorporator is Edward V. Zotian, 305 First Stratford, Winston-Salem, Forsyth County, North Carolina 27104-4213.

IN WITNESS WHEREOF, the Incorporator has hereunto set his hand and seal, this the 21st day of July, 1989.

  
EDWARD V. ZOTIAN

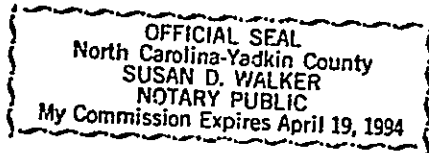
(SEAL)

NORTH CAROLINA )

FORSYTH COUNTY )

I, Susan D. Walker, a Notary Public of the County of Yadkin, State of North Carolina, do hereby certify that EDWARD V. ZOTIAN, personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and notarial seal this the 21st day of July, 1989.



*Susan D. Walker*  
Notary Public

My Commission Expires: 4-19-94

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**BY-LAWS  
OF  
KEBCO OFFICE CONDOMINIUM ASSOCIATION, INC.**

**ARTICLE I**

**Name, Seal and Offices**

**Section 1. Name:** The name of this corporation is KEBCO OFFICE CONDOMINIUM ASSOCIATION, INC., (herein referred to as the "Association").

**Section 2. Seal:** The seal of the Association shall be circular in form and shall bear the words 'CORPORATE SEAL'. The Board of Directors may change the form of the seal or the inscription thereon at its pleasure.

**Section 3. Offices:** The principal office of the Association shall be at 3775 Vest Mill Road, Suite D, Winston-Salem, North Carolina, or at such other place as the Board of Directors may from time to time designate.

**ARTICLE II**

**Definitions**

**Section 1. Plan of Ownership:** The real properties located in County of Forsyth and State of North Carolina as shown on certain maps entitled Professional Owners Condominiums, will be submitted to the provisions of a certain Declaration of Condominium dated August 29, 1989 (herein referred to as the "Declaration"), by the Declarant and will be subdivided into Units and Common Properties in accordance with the maps, creating a system of ownership of the Units to be located thereon by individual Owners, each Unit having a non-exclusive easement of enjoyment over the Common Properties (except as may be limited in the Declaration or noted on any recorded plat of the Properties), and each Unit being subject to a reciprocal obligation to contribute assessments for the maintenance and operation of the Common Properties and certain exterior improvements on the Units all in accord with the Declaration.

**Section 2. Applicability of By-Laws:** The provisions of these By-Laws are applicable to The Properties and to the use and occupancy thereof.

**Section 3. Personal Application:** All present and future Unit Owners, trust beneficiaries, mortgagees, lessees, and occupants of the Units, and their employees, and any other person who may use any portion of The Properties in any manner are subject to these By-Laws, the Declarations and to the rules and Regulations established by the Board of Directors as hereinafter set forth. The acceptance of a deed of conveyance or the entering

into a lease or act of occupancy of a Unit shall constitute an agreement that these By-Laws, the Rules and Regulations, and the provisions of the Declaration, as they may be amended from time to time, are accepted, ratified and will be complied with.

**Section 4. Other Definitions:** The following words when used in the Declaration, any amended or supplemental Declaration, or these By-Laws or any amendment hereto (unless the context shall require otherwise) shall have the following meanings:

- (a) "Assessments" or "assessments" or "Common Charges" shall mean and refer to the assessments and charges levied against the Owners of Units in The Properties, as hereinafter defined, and the words Assessments or Assessment shall be and mean the same thing as Common Charges, unless the context requires otherwise.
- (b) "Association" shall mean and refer to the KEBCO OFFICE CONDOMINIUM ASSOCIATION, INC.; and "By-Laws" shall mean and refer to the By-Laws of the Association.
- (c) "Board" shall mean and refer to the Board of Directors of the Association.
- (d) "Common Expense" shall mean and refer to:
  - (1) Expense of administration, maintenance, repair or replacement of the Common Properties.
  - (2) Expense declared Common Expense by the provisions of the Declaration of these By-Laws.
  - (3) Expense agreed upon as Common Expense by the Association and lawfully assessed against Owners of Units in accordance with these By-Laws or the Declaration.
  - (4) Any valid charge against the Association or against the Common Properties as a whole.
- (e) "Common Properties" shall mean and refer to those areas of land shown on any recorded subdivision plat of The Properties labeled as "Common Properties" or shown as streets or roads (together with all improvements located thereon) and as such intended to be devoted to the common use and enjoyment of the Owners of the Units, subject to special rights, if any, granted Owners of particular Units, which are a part of The Properties.
- (f) "Declarant" shall mean and refer to Koyt Everhart Building Company, Inc., and any person or entity who is specifically assigned the rights and interests of Declarant hereunder.
- (g) "Limited Common Expense" shall mean and refer to expense of administration, maintenance, repair or replacement of Limi-

ted Common Properties or Limited Common Areas which shall be assessed against those Units having the exclusive or special rights in the use or enjoyment thereof.

- (h) "Limited Common Properties" or "Limited Common Areas" shall mean and refer to those areas of land (including without limitation any common entrances to a Unit) shown on or designated as Limited Common Properties or Limited Common areas on any recorded subdivision map of The Properties, and intended for the use of the Owners of particular units to the exclusion of other Owners. Any property so designated shall be for the exclusive use of the Owners of the Units so designated on the recorded plats.
- (i) "Majority" of "Majority of Unit Owners" shall mean and refer to the Owners of fifty-four percent (54%) or more of the aggregate interest in the Common Areas and Facilities as established by the Declaration assembled at a duly called meeting of the Unit Owners. The foregoing notwithstanding, at such time as each of the four (4) Units are owned by separate Owners, "Majority" or "Majority of Unit Owners" shall mean the Owners of seventy percent (70%) or more of the aggregate interest in the Common Areas and Facilities.
- (j) "Member" shall mean and refer to all those Owners who are members of the Association as provided in the Declaration.
- (k) "Office Area" shall mean and refer to those heated and/or air-conditioned areas within a Unit.
- (l) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Unit situated upon The Properties, but notwithstanding any applicable theory of any lien or mortgage law, shall not mean or refer to any mortgagee or trust beneficiary unless and until such mortgagee or trust beneficiary has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.
- (m) "The Properties" shall mean and refer to all the Existing Property and any additions thereto as are made subject to the Declaration by any Supplemental Declaration under the provisions of Article One of Declaration.
- (n) "Unit" shall mean and refer to any improved property intended for use and occupancy as one (1) office.

### ARTICLE III

#### Membership

**Section 1. Members:** Every person or entity who is a record Owner of a fee simple interest in any Unit shall be a Member of the Association pursuant to the Declaration with the limitations and voting powers therein.

**Section 2. Assessments:** The rights of membership are subject to the payment of annual and special assessments levied by the Association, the obligation of which assessments is imposed against each Owner, of, and become a lien upon, the property against which such assessments are made and the personal obligation of the then Member as provided by the Declaration pursuant to the terms therein.

**Section 3. Suspension of Voting Rights:** The voting rights of any Member whose membership or interest in The Properties is subject to assessments under the Declaration, whether or not he be personally obligated to pay such assessments, may be suspended by action of the Directors during the period when the assessments remain unpaid but, upon payment of such assessments, his rights and privileges shall be automatically restored. If the Directors have adopted and published rules and regulations governing the use of the Common Properties as provided herein, the Directors may, in their discretion, suspend the rights of any such person for violation of such rules and regulations for a period not to exceed thirty (30) days, in addition to levying the liquidated charges provided herein.

#### ARTICLE IV

##### Property Rights and Rights of Enjoyment of Common Properties

**Section 1.** Each Member shall be entitled to the use and enjoyment of the Common Properties and facilities as may be provided by the Declaration.

**Section 2.** Any Owner may share its rights of enjoyment in the Common Properties or delegate said rights to any of its tenants who occupy said Unit under any leasehold interest or rental agreement. Such Owner shall notify the secretary of the Association in writing of the name of any such tenant together with a copy of said lease. The rights and privileges of such persons are subject to suspension under Section 3 of ARTICLE III herein, to the same extent as those of the Member.

#### ARTICLE V

##### Purposes and Powers

The Association shall operate on a not-for-profit basis in accordance with its Articles of Incorporation. The Association will not provide pecuniary gain or profit, direct or indirect, to its Members. The purposes for which it is formed are.

**Section 1. General:** To promote the recreation, health, safety and welfare of the residents within The Properties, and for this purpose, to:

- (a) Own, acquire, build, operate and maintain any roads, utilities, trails, parking lots, open space, streets, footways and including building structures and personal properties incident thereto, any and all of which is hereinafter referred to as the "Common Properties";
- (b) Provide exterior maintenance for the Units within The Properties in order to maintain the character of The Properties for the mutual benefit of all the Owners;
- (c) Maintain unkept lands or trees;
- (d) Supplement municipal services;
- (e) Fix assessments or Common Charges to be levied against The Properties;
- (f) Enforce any and all covenants, restrictions and agreements applicable to The Properties;
- (g) Pay taxes, if any, on the Common Properties; and
- (h) Insofar as permitted by law, to do any other thing that, in the opinion of the Board of Directors, will promote the common benefit and enjoyment of the resident of The Properties.

**Section 2. Dispose of Assets:** To mortgage, pledge, hypothecate or otherwise grant any form of security interest in and to its properties or accounts receivable, to dispose of its assets, provided that upon dissolution, the assets shall be dedicated to an agency or utility to be devoted to purposes, as nearly as practicable, the same as those to which they were required to be devoted by the Association. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the Association. No such disposition of association properties shall be effective to divest or diminish any right or title of any Member vested in him under the recorded covenants and deeds applicable to The Properties unless made in accordance with the provisions of such covenants and deeds.

**Section 3. Mortgages:** Other Indebtedness - The Association shall have the power to mortgage or grant deeds of trust (hereinafter referred to as "mortgages") on Common Properties only to the extent authorized in this Section 3.

The total debts of the Association including the principal amount of such mortgages, outstanding at any time, shall not exceed the total of two (2) years' annual Assessments established at that time, provided that authority to exceed said maximum in



any particular case may be given by an affirmative vote of a Majority of Unit Owners at a meeting duly called for this purpose, written notice of which shall be mailed to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

**Section 4. Dedication of Properties or Transfer of Function to Public Agency or Utility:** The Association shall have power to dispose of the Common Properties only as authorized under the recorded covenants and restrictions applicable to said properties.

**Section 5. Dissolution:** The Association may be dissolved only with the assent given in writing and signed by all Unit Owners eligible to vote. Written notice of a proposal to dissolve, setting forth the reasons therefor and the disposition to be made of the assets shall be mailed to every Member and mortgagee at least ninety (90) days in advance of any action taken.

**Section 6. Disposition of Assets upon Dissolution:** Upon dissolution of the Association, the assets, both real and personal of the Association, shall be dedicated to an appropriate public agency or association to be devoted to purposes as nearly practicable the same as those to which they were required to be devoted by the Association.

## ARTICLE VI

### Members

**Section 1. Eligibility:** Membership in the Association shall be in accordance with the Declaration.

**Section 2. Voting:** Voting shall be in accordance with the Declaration. A Majority of votes cast at a meeting at which a quorum is present shall be binding upon all Owners for all purposes except when a higher percentage is required by these By-Laws, the Declaration or by law.

**Section 3. Vote in the Event of Multiple Ownership of a Unit:** In the event a Unit is owned by more than one person, if such persons cannot agree upon the exercise of their right to vote pursuant to these By-Laws, each person shall have a fractional vote based upon his fractional share of ownership of the Unit. A co-owner of a Unit may permit the other co-owner of the Unit to vote his interest by furnishing the other co-owner with a proxy. In the absence of any co-owner, a vote for a Unit cast by a co-owner shall be held to be by valid proxy of the absent co-owner, unless challenged at the time the vote is cast.

**Section 4. Annual Meetings:** Annual meetings shall be held on the third Saturday in April of each year. At each annual meeting, there shall be elected by ballot of the Owners, a Board of Directors in accordance with the provisions of Section 1 of

ARTICLE VII herein, and Members may also transact such other business as may properly come before them.

**Section 5. Place of Meetings:** Meetings of the Members shall be held at the principal office of the Association or such other suitable place convenient to the Members as may be designated by the President of the Association.

**Section 6. Special Meetings:** It shall be the duty of the President to call a special meeting of the Members when so directed by resolution of the Board of Directors, or, upon petition signed by a majority of Unit Owners. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

**Section 7. Notice of Meetings:** It shall be the duty of the Secretary to mail a notice of each annual or special meeting of the Members, at least ten (10) days but not more than eighty (80) days prior to such meeting, stating the purpose thereof as well as the time and place where it is to be held, to each Member as recorded on the records of the Association, at the Unit address or at such other address as such Member shall have designated by notice in writing to the Secretary. The mailing of a notice of meeting in the manner provided in this Section shall be considered service of notice.

**Section 8. Waiver of Notice:** Any Member may at any time waive notice of any meetings of the Members in writing and such waiver shall be deemed equivalent to the giving of such notice. Presence by a member at the meeting will be considered a waiver of the right to such notice.

**Section 9. Order of Business:** The order of business at all meetings of the Members shall be, to the extent required as follows:

- (a) Roll Call.
- (b) Proof of notice of meeting or waiver of notice.
- (c) Reading of minutes of preceding meeting.
- (d) Reports of officers.
- (e) Report of Board of Directors.
- (f) Report of Committee.
- (g) Election of members of the Board of Directors.
- (h) Unfinished business.
- (i) New business.

(j) Adjournment.

**Section 10. Parliamentary Procedure:** At all meetings of the Members, or of the Board of Directors, Roberts' Rules of Order, as to such date amended, shall be followed except in the event of conflict, these By-Laws or Declaration, as the case may be, shall prevail.

**Section 11. Quorum:** A Majority of Unit Owners, in person or by proxy, shall constitute a quorum at any meeting of the Members.

**Section 12. Proxies:** Votes may be cast in person or by proxy. A Member may designate any person, who need not be a Member, to act as proxy. The designation of any such proxy shall be made in writing, signed by the Member, and shall be revocable at any time by written notice to the Secretary by the Member designating the proxy.

## ARTICLE VII

### Board of Directors

**Section 1. Function, Numer and Qualification:** The affairs of the Common Properties, and appurtenant duties on the Units shall be operated by the Association, which in turn shall be goverend by a Board of Directors (not more than five (5) in number), who need not be Members of the Association. Unless the Members shall otherwise determine at a meeting duly noticed, the Board of Directors shall consist of five (5) directors who shall hold office until the election of their successors. Each of the initial directors shall have one (1) vote. Beginning with the first annual meeting to be held on April 1st 1989, the Members shall elect two directors for terms of one (1) year, and two directors for terms of two (2) years, and a director for a term of three (3) years, and at each annual meeting thereafter, the Member shall elect directors in the number of directorates expiring in such year.

**Section 2. Powers and Duties:** The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and shall do all such acts and things as are not by law or by the By-Laws directed to be exercised and done by the Owners. Such powers and duties of the Board of Directors shall include, but shall not be limited to, the following:

- (a) Operation, care, upkeep and maintenance of the Common Properties and such duties with respect to the Units as provided in the Declaration.
- (b) Determination of an annual budget and the Common Expenses required for the affairs of The Properties.

- (c) The establishment, levying, assessment and collection of the Assessments (Common Charges) from the Owners.
- (d) The employment and dismissal of the personnel necessary for the maintenance, repair, replacement and operation of the Common Properties.
- (e) Opening of bank accounts in the name of the Association and designating the signatories required therefor.
- (f) Obtaining and maintaining insurance on The Properties, and designating a commercial bank, insurance company or similar institution with trust powers as Trustee.
- (g) Making of repairs and improvements to or alterations to and restoration of The Properties.
- (h) Adopting and amending reasonable Rules and Regulations governing the conduct of all people on The Properties and the operation and use of The Properties. The Board shall have the power to levy liquidated damages against the Owners for violation thereof or for violation of any provision of these By-Laws or the Declaration, for which any Owner (or its invitees) is responsible, provided that no such levy may be for more than \$100.00 for any one violation; but for each day a violation continues after notice, it shall be considered a separate violation. Collection of damages may be enforced against the Owner or Owners responsible as if the damages were a Common Charge owed by the particular Owner or Owners.
- (i) The Board of Directors may also enforce, by any legal means, the provisions of the Declaration, the By-Laws, and The Rules and Regulations for the use of The Properties.
- (j) To appoint and remove at pleasure all officers, agents and employees of the Association, prescribe their duties, fix their compensation, and require of them such security or fidelity bond as it may deem expedient. Nothing contained in these By-Laws shall be construed to prohibit the employment of any Member, Officer or Director of the Association in any capacity whatsoever.

**Section 3. Management:** The Board or Directors may employ or enter into a contract or agreement with a Manager for The Properties, for a period of not more than twelve (12) months with the right of the Association to cancel such contract with thirty (30) days notice for cause, at a compensation or consideration established by the Board to perform such duties and services as the Board shall authorize. The Board of Directors shall send all Owners a copy of any such cancellation notice. The Board of Directors may authorize such Manager to perform such duties as it deems appropriate.

**Section 4. Removal of Directors:** At any time, at any regular or special meeting of the Owners, any one or more of the members of the Board of Directors may be removed with cause by a Majority of Unit Owners following notice thereof in the call of the meeting and a successor or successors may then or thereafter be elected to fill the vacancy thus created.

**Section 5. Vacancies:** Vacancies on the Board of Directors caused by any reason other than the removal of a member thereof by a vote of the Owners eligible to vote shall be filled by vote of a majority of the remaining directors at a regular or special meeting of the Board of Directors held promptly after the occurrence of any such vacancy, even though the directors present at such meeting shall constitute less than a quorum and each person so elected shall be a member of the Board of Directors for the remainder of the term of the director so replaced, and until his successor shall be duly elected.

**Section 6. Organizational Meeting:** The first regular meeting of the Board of Directors following a meeting of the Owners at which directors are elected, shall be held at within ten (10) days thereafter at such time and place as shall be fixed by the Owners at such meeting. No notice shall be necessary to the members of the Board of Directors in order legally to constitute such a meeting, provided a quorum shall be present at such first regular meeting.

**Section 7. Regular Meetings:** Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by at least four (4) directors. Notice of regular meetings of the Board of Directors shall be given by the Secretary to each director personally or by mail or telegraph at least three (3) days prior to the day named for the meeting.

**Section 8. Special Meetings:** Special meetings of the Board of Directors may be called by the President on three (3) days' notice to each director, given personally or by mail or telegraph, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of at least two (2) directors.

**Section 9. Waiver of Notice:** Any director may at any time waive notice of any meeting of the Board of Directors in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Board shall constitute a waiver of notice by him of the time and place thereof. If all members of the Board are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

**Section 10. Quorum of Board of Directors:** At all meetings of the Board of Directors, four (4) directors being present shall constitute a quorum for the transaction of business, and the votes of at least four (4) directors present shall constitute the decision of the Board of Directors.

**Section 11. Fidelity Bonds:** The Board of Directors shall have the option, but not the obligation to obtain, to the extent reasonably available, for all officers, employees and agent of the Association handling or responsible for Association funds, a fidelity bond in the amount of 150% of anticipated funds to be held by such officers, employees and agents. The premiums on such bonds shall constitute a Common Expense.

**Section 12. Compensation:** No member of the Board of Directors shall receive any compensation from the Association for acting as a director.

**Section 13. Liability of the Board of Directors:** The Directors shall not be liable to the Association or to the Members for any mistake of judgment, negligence, or otherwise, except for their own individual willful misconduct or bad faith. The Association shall defend, indemnify and hold harmless, to the extent permitted by law, each of the directors against all liability arising out of their conduct on behalf of the Association, unless such conduct shall have been willful misconduct or in bad faith. It is intended that the directors shall have no personal liability with respect to any contract made by them on behalf of the Association (except as Members). It is also intended that the liability of any Member arising out of any contract made by the Association with respect to the Common Properties, or out of the aforesaid indemnity in favor of the Board of Directors, shall be limited to the Member's interest in the Common Properties

**Section 14. Fiscal Year:** The Board of Directors shall establish a fiscal year.

**Section 15. Fiscal Affairs:** It shall be the duty of the Board of Directors:

- (a) To cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members or at any special meeting when such is requested in writing by a Majority of Unit Owners
- (b) To supervise all officers, agents and employees of this Association, and to see that their duties are properly performed.
- (c) As more fully provided in the Declaration applicable to The Properties:

- (1) To fix the amount of the assessment against each Unit for each assessment period at least thirty (30) days in advance of such date or period and, at the same time;
  - (2) Cause to be prepared a roster of the Units and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Member of his designee, and, at the same time;
  - (3) To cause to be sent written notice of each assessment to every Owner subject thereto.
- (d) To issue or to cause an appropriate officer to issue, upon demand by any person a certificate setting forth whether any assessment has been paid. Such certificate shall be conclusive evidence of any assessment therein stated to have been paid.

## ARTICLE VIII

### Officers

**Section 1. Designation:** The principal officers of the Association shall be the President, the Secretary, and the Treasurer, all of whom shall be elected by the Board of Directors. The President and the Vice President shall be elected from among the members of the Board of Directors. The Board of Directors may elect a Treasurer, Assistant Treasurer, Secretary, Assistant Secretary and such other officers as, in its judgment, may be necessary and who need not be Owners. Any person or officer or employee of a corporate, partnership or fiduciary Owner shall be eligible for such election.

**Section 2. Election of Officers:** The officers of the Association shall be elected annually by the Board of Directors and shall hold office at the pleasure of the Board.

**Section 3. Removal of Officers:** Upon the affirmative vote of a majority of members of the Board of Directors, any officer may be removed, either with or without cause and his successor elected at any regular meeting of the Board of Directors, or at any special meeting of the Board called for such purposes.

**Section 4. President:** The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Members and of the Board of Directors. He shall have all general powers and duties which are usually vested in the office of the president of a corporation, organized under the laws of the State of North Carolina, including but not limited to the power to appoint committees from time to time as he may, in his discretion, decide is appropriate to assist in the conduct of the affairs of the Association.

**Section 5. Vice-President:** The Vice-President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice-President is able to act, the Board of Directors shall appoint some other member of the Board to act in the place of the President on an interim basis. The Vice-President shall also perform such other duties as shall, from time to time, be assigned to him by the Board of Directors or by the President.

**Section 6. Secretary:** The Secretary shall keep the minutes of all meetings of the Members and of the Board of Directors; he shall have charge of such books and papers as the Board of Directors and these By-Laws may direct; he shall give all notices required by the By-Laws unless otherwise provided; and he shall, in general, perform all the duties incident to the office of the Secretary of a corporation organized under the laws of the State of North Carolina.

**Section 7. Treasurer:** The Treasurer shall have responsibility for Association funds and securities and shall cause the financial records and books of account in books belonging to the Association to be kept. He shall be responsible for the deposit of all monies and other valuable effects in the name and to the credit of the Association, in such depositories as may from time to time be designated by the Board of Directors, and he shall, in general, perform all the duties incident to the office of Treasurer of a corporation organized under the laws of the State of North Carolina.

**Section 8. Signatories to Documents:** All agreements, contracts, deeds, leases, checks and other documents of the Association shall be executed by any officer of the Association or by such other person or persons as may be designated by the Board of Directors. Vouchers for the payment of Association funds shall be approved by the Treasurer before payment.

**Section 9. Compensation of Officers:** No officer shall receive any compensation from the Association for acting as such.

#### ARTICLE IX

##### Operation of the Properties

**Section 1. Determination of Common Expenses and Fixing of Common Charges:** The Board of Directors shall, from time to time, and at least annually, prepare a budget for The Properties, determine the amount of the Common Charges payable by the Owners to meet the Commons Expenses and allocate and assess such Common Charges among the Owners according to their share as established by the Declaration. The Board of Directors shall advise all Owners promptly, in writing, of the amount of Common Charges payable by each of them respectively, as determined by the Board of Directors, as aforesaid, and shall furnish copies of each



budget on which such Common Charges are based to all Owners and to their mortgagees upon request. The Common Expense shall include, among other things:

- (a) The cost of repairs and maintenance of the Common Properties and appurtenant interest;
- (b) All insurance premiums on all policies of insurance required to be or which have been obtained by the Board of Directors pursuant to the provisions of ARTICLE VII herein, and the fees and expenses, if any, of the Trustee, if any; provided, however, that as long as the Declarant is engaged in the construction or erection of improvements on the Common Properties, it shall pay the portion of insurance premiums allocable to builder's risk insurance (including liability coverage for construction operations and completed operations).
- (c) Such amounts as the Board of Directors may deem proper for the improvement and operation of The Properties, including without limitation on amount for its working capital, a general operating reserve, a reserve fund for replacements, and sums necessary to make up any deficit in the Common Expenses for any prior year;
- (d) Any other expense in connection with the Common Properties or their improvements which the Board of Directors deems to be of mutual benefit to the Owners or Members.

**Section 2. Payment of Common Charges:** All Owners shall be obligated to pay the Common Charges assessed by the Board of Directors annually or at such other times as the Board of Directors shall determine. The Board may authorize Common Charges to be collected by a mortgagee of one or more Units or by the Manager.

**Section 3. No Waiver of Liability for Common Expense:** No Member may exempt himself from liability for his contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Properties or by abandonment of his Unit.

**Section 4. Non-Liability After Conveyance:** No Owner shall be liable for the payment of any part of the Common Charges assessed against his Unit subsequent to a sale, transfer or other conveyance made pursuant to the provisions of these By-Laws.

**Section 5. Successor's Liability for Common Charges:** A grantee who acquired a Unit shall not be, unless expressly assured, personally liable for any charge for unpaid assessment due prior to his purchase, however, the Unit conveyed shall be subject to a lien for any such unpaid assessment.

**Section 6. Default in Payment of Common Charges:** In the event of default by any Member in paying to the Association the

Common Charges as determined by the Board of Directors, such Members shall be obligated to pay interest at the annual rate of ten percent (10%) on such Common Charges from the due date thereof until collected together with all expenses, including attorneys' fees incurred by the Association in any proceeding brought to collect such unpaid charges. The Association shall attempt to recover such Common Charges together with interest thereon and the expenses of the proceeding including such attorneys fees, by an action to recover the same brought against such Member, or by foreclosure of the line on such Unit under powers granted by the Declaration.

**Section 7. Foreclosure of Liens for Unpaid Common Charges:**  
In any action brought by the Association to foreclose a lien on a Unit because of any unpaid Common Charges, the Owner shall be required to pay reasonable rental for the use of his Unit from the date of nonpayment of Common Charges and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. The Association acting on behalf of all Owners, shall have the power to purchase such Unit at the foreclosure sale and to acquire, hold, lease, mortgage, vote the votes appurtenant thereto (other than for the election of members of the Board of Directors), convey or otherwise deal with the same. A suit to recover a money judgment or unpaid Common Charges shall be maintainable without foreclosing or waiving the liens securing the same.

**Section 8. Maintenance, Repair and Replacement:**

- (a) Common Properties: The Association shall maintain, repair and replace all improvements (including landscaping) located on the Common Properties; and in the event that such maintenance, repair or replacement was caused by the negligence or misuse of an Owner, such expense shall be charged to such Owner.
- (b) Units: Each Owner shall maintain, repair and replace, at his own expense, all portions of his Unit, except any portions thereof to be maintained, repaired and replaced by the Association. Each Owner of a Unit shall be responsible for damages to any other Unit or to the Common Properties caused intentionally, negligently, or by his failure to properly maintain, repair, or make replacements to his Unit.

**Section 9. Alterations or Improvements by Board of Directors:** Whenever, in the judgment of the Board of Directors, the Common Properties shall require alterations or improvements costing more than Seven Thousand Five Hundred Dollars (\$7,500), which are not to be at the expense of an individual Owner for his own benefit, and the making of such alterations or improvements shall have been approved at an annual or special meeting of the Owners and by the holders of first mortgages encumbering fifty percent (50%) of the Units subject to mortgages, the Board of Directors shall proceed with such alterations or improvements and

shall assess all Owners for the cost thereof as a Common Charge. Any alterations or improvements costing Seven Thousand Five Hundred Dollars (\$7,500) or less may be made by the Board of Directors without further approval of the Owners of any mortgages of the Units, and the costs thereof will constitute part of the Common Expenses.

**Section 10. Alterations, or Improvements by Owner:** No Owner, other than Declarant, shall make any structural alteration or improvement in or to any Unit or Common properties, nor shall he paint or otherwise decorate or change the appearance of any portion of the exterior of any Unit, without prior written consent of the Board of Directors pursuant to the Declaration. The Board of Directors shall answer any written request for such approval within thirty (30) days after the receipt thereof, and failure to do so within such time shall constitute a consent by the Board of Directors to the proposed alterations or improvements. The provisions of this Section shall not apply to any Unit until such Unit has been conveyed by the Declarant, and until the initial certificate of occupancy has been issued.

**Section 11. Water and Sewer Charges:** Each Owner shall be required to pay any water, gas, and sewer charges pertaining to his Unit. Such charges may be separately metered or may be determined in accordance with an engineering determination by the Board of Directors and billed in accordance therewith. The water and sewer services supplied to the Common properties shall be billed separately and the Association shall pay such bills as a Common Expense.

**Section 12. Electricity:** Electricity shall be supplied by the public utility company servicing the area directly to each Unit, its exterior doors, and any Common Properties, the exclusive use of which is reserved to any such Unit, through a separate meter, and each Owner shall be required to pay the charges for such meter. The electricity servicing the remaining Common Properties shall be metered separately, and the Association shall pay all charges for such meters as a Common Expense.

#### ARTICLE X

##### Use of Properties

**Section 1. Restrictions on the Use of The Properties:** In order to provide for congenial occupancy of The Properties and for the protection of the values of the Units, the use of The Properties shall be restricted to, and shall be in accordance with the terms of the Declaration.

#### ARTICLE XI

##### Mortgages

**Section 1. Notice to Association:** An Owner who mortgages

or grants a deed of trust with respect to his Unit, or the mortgagee, shall notify the Association of the name and address of such mortgagee. The Association shall maintain such information in a book entitled "Mortgagees of Units".

**Section 2. Statement of Common Charges:** The Association, whenever so requested in writing by an Owner, a prospective Owner, a mortgagee, or by a prospective mortgagee a Unit, shall promptly report any then unpaid Common Charges due from, or any other default by, the Owner of the mortgaged Unit.

**Section 3. Notice of Default:** The Association, when giving notice to an Owner of a default in paying Common Charges or other default, shall send a copy of such notice to each holder of a mortgage covering such Unit, if the name and address of such mortgagee has previously been furnished to the Association.

**Section 4. Examination of Books:** Each Owner or mortgagee of a Unit shall be permitted to examine the books of account of the Association at a reasonable time on business days.

## ARTICLE XII

### Insurance

**Section 1. Coverage:** To the extent available, the Association may obtain and maintain insurance coverage as set forth in Sections 2, 3, and 4 hereof. All insurance affecting The Properties shall be governed by the provisions of this ARTICLE XII. Premiums of insurance obtained by the Association shall be a Common Expense.

**Section 2. Physical Damage:** All buildings and improvements (as defined in Subsection (d) hereof) and all of the personal property owned by the Association, shall be insured, for the benefit of the Association, the Owners and Mortgagees as their interests may appear, against risks of physical damage as follows:

- (a) **Amounts:** As to real property, for an amount equal to not less than One Hundred Percent (100%) of its replacement costs; as to personal property, for an amount equal to its actual cash value. Prior to obtaining any insurance on real property under this Section, and at least annually thereafter the Board of Directors shall obtain an estimate from an insurance agent, or otherwise qualified person, for the purpose of determining the replacement cost of such real property.
- (b) **Risks Insured Against:** The insurance shall afford protection against loss or damage by reason of:
  - (1) Fire and other perils normally covered by intended coverage;

- (2) Vandalism and malicious mischief;
  - (3) Such other risk of physical damage as from time to time may be customarily covered with respect to buildings and improvements similar in construction, location and use as those on the Common Properties or Limited Common Properties including without limitation builder's risk coverage for improvements under construction; and
  - (4) Such other risks of physical damage as the Board of Directors may from time to time deem appropriate.
- (c) Other Provisions: The insurance shall include, to the extent reasonably obtainable and without limitation, the following provisions:
- (1) Waivers by the insurer of rights of subrogation, other than those based on fraud or criminal acts, against the Association and the Owners;
  - (2) That the insurance shall not be affected or diminished by reason of any other insurance carrier by any Owner or Mortgagee;
  - (3) That the insurance shall not be affected or diminished by failure to comply is not within the control of this Association;
  - (4) Such deductible as to loss, but not co-insurance features, as the Board of Directors in its sole judgment deems prudent and economical;
  - (5) That the insurance may not be cancelled or substantially modified (except for the addition of property or increases in amount of coverage) without at least thirty (30) days prior written notice to the named insured;
  - (6) The standard mortgagee clause, except that any loss otherwise payable to named mortgagees shall be payable in the manner set forth in Subsection (7) hereof;
  - (7) Proceeds for losses shall be payable to the Association or any Trustee designated by the Board of Directors; and
  - (8) The named insured shall be the Association for the benefit of the Owners.
- (d) Definition: As used in this Section, the term "all buildings and improvements" shall include, without limitation, all Common Properties and personal property of the Association, and replacements thereof and may exclude build-

ing fixtures, alterations, installations or additions situated within a portion of The Properties used and owned exclusively by an individual Owner and made or acquired at the expense of an individual Owner of that portion of The Properties.

**Section 3. Liability Insurance:** The Board of Directors shall obtain and maintain public liability insurance for bodily injury and property damage in such limits as the Board of Directors may from time to time determine, insuring the Association, the Board of Directors and each Owner with respect to his liability arising from ownership, maintenance or repair of the Common Properties which is the responsibility of the Association including, without limitation, liability arising from construction operations. Such liability insurance shall also cover cross-liability claims among Owners and the Association. The Board of Directors shall review such limits at least annually. The insurance provided under this Section shall include without limitation the following provisions:

- (a) That the insurance shall not be affected or diminished by any act or neglect of any Owner or any occupants of any improvements when such act or neglect is not within the control of the Association;
- (b) That the insurance shall not be affected or diminished by failure of any Owner or any occupants of Owners of any improvements to comply with any warranty or condition when such failure to comply is not within the control of the Association; and
- (c) Waivers by the insurer of rights of subrogation, other than those based on fraud or criminal acts, against the Association and the Owners.

**Section 4. Workmen's Compensation Insurance:** The Board of Directors shall, to the extent necessary, obtain and maintain Workmen's Compensation Insurance to meet the requirements of the laws of the State of North Carolina.

**Section 5. Owners Hazard Insurance:** Noting herein contained shall require any Owner to pay to the Association any amount for hazard insurance on any property owner by the individual Owner. Each Owner shall be responsible for his own individual hazard insurance coverage on his Unit and all improvements and contents, except to the extent actually insured by any policies obtained by or through the Association for the benefit of individual Owners. However, each Owner shall be responsible for ascertaining whether or not the Association has obtained any such insurance for the benefit of individual Owners. The Association may require an Owner to exhibit his hazard insurance policy.

**Section 6. Other Insurance:** The Board of Directors is authorized to obtain and maintain such other insurance as it may, from time to time, deem appropriate.

ARTICLE XIII

Damage to or Destruction of Property

**Section 1. Duty to Repair or Restore:** Any portion of the Common Properties, damaged or destroyed, shall be repaired or restored promptly by the Association.

**Section 2. Estimate of Cost:** Promptly after damage to or destruction of the Common Properties, and thereafter as it deems advisable, the Board of Directors shall obtain reliable and detailed estimates of the cost of repair or restoration. If such cost in the opinion of the Board of Directors may exceed Five Thousand Dollars (\$5,000.00) and if required by any Unit Owner, the Board of Directors shall retain the services of an architect to assist in the determination of such estimates and in the supervision of repair and restoration.

**Section 3. Collection of Construction Funds:** Construction funds may consist of insurance proceeds, condemnation awards, proceeds of assessments against Owners and other funds received on account of or arising out of injury or damage to the Common Properties.

- (a) **Insurance Proceed:** The Board of Directors shall adjust losses under physical damage insurance policies of the Association. Such losses shall be payable in accordance with Section 2(c)(7) of ARTICLE XII herein.
- (b) **Condemnation Awards:** Any condemnation awards with respect to the Common Properties shall be payable to the Association.
- (c) **Assessments against Owners:** If the insurance proceeds and condemnation awards are insufficient to effect the necessary repair or restoration of the Common Properties, such deficiency shall be charged against all Owners as a Common Expense. The proceeds of assessments for such Common Expense shall be paid to the Association or any Trustee appointed by the Board of Directors.
- (d) **Payments by Others:** Any other funds received on account of or arising out of injury or damage to the Common Properties shall be paid to the Board of Directors or to any Trustee.

**Section 4. Plans and Specifications:** Any repair or restoration must be either substantially in accordance with the architectural and engineering plans and specifications for the original improvements or according to plans and specifications approved by the Board of Directors.

**Section 5. Units:** Repairs or restoration of damage or destruction to a Unit shall be at the Owners expense, but the

Association, to the extent it has actually obtained policies insuring the interest of an Owner with respect to his Unit or any related Limited Common Properties, shall make any insurance proceeds from any such policies obtained by the Association available to the Owner for repairs or restoration.

**Section 6. Disbursement of Construction Funds:** Any Trustee appointed by the Board of Directors shall deduct from the construction funds its actual costs, expenses and a reasonable fee for the performance of its duties, and such Trustee, or the Association if no Trustee is appointed, shall disburse the balance in the following manner:

- (a) **Payment of Repair or Restoration:** Any Trustee or the Association shall apply such balance to pay directly, and to reimburse the Association for the payment for, the costs of repair or restoration of the Common Properties including the cost of temporary repairs for the protection of the Common Properties pending the completion of permanent repairs and restoration.
- (b) **Surplus Funds:** If after payment of all repairs and restoration, there remains any surplus fund, such fund shall be paid to Owners in proportion to the contributions resulting from assessments levied against them pursuant to Section 3(c) of this ARTICLE; provided, however, that no Owner shall receive a sum greater than that actually contributed by him. Any surplus remaining after such payments shall be paid to the Association and shall be part of its general income.
- (c) **Determination Not to Repair or Restore:** If there is substantially total destruction, as determined by the Board of Directors, of all of the improvements on the Common Properties, and a Majority of Unit Owners vote not to proceed with repair or restoration, any balance of construction funds shall be paid to the Association and placed in a reserve for capital improvements on the Common Properties. In the event of dispute as to the fact of substantially total destruction, that issue shall be submitted to arbitration in accordance with the rules of the American Arbitration Association and in accordance with North Carolina law.

**Section 7. Trustee:** The Board of Directors may, but is not required to, enter into and keep in force a trust agreement with a bank in the State of North Carolina with trust powers to receive, administer, and disburse funds pursuant to ARTICLE XIII herein. Any such trust agreement shall incorporate the Declaration and By-Laws by reference and shall provide that upon termination thereof, all monies or funds held by the Trustee shall be turned over only to a successor trustee which shall also be a bank in the State of North Carolina with trust powers. No amendment of the Declaration or of these By-Laws affecting ARTICLE XII or this ARTICLE XIII shall be binding on the Trustee until the Trustee receives notice of such amendment.



## ARTICLE XIV

### Records

**Section 1. Records:** The Association shall keep detailed records of the actions of the Board of Directors, minutes of the meetings of the Board of Directors, minutes of the meetings of the Owners, names of the Owners and Mortgagees, and financial records and books of account for The Properties, including chronological listing of receipts and expenditures, as well as a separate account for each Unit, which, among other things, shall contain the amount of each assessment of Common Charges against such Unit, the date when due, the amount paid thereon, and the balance remaining unpaid. Unless the Owner notifies the Association of change in ownership, the Association may rely on the names of Owners appearing on the municipal tax assessor's list as of the last municipal assessment date.

**Section 2. Statement:** A written report and statement summarizing all receipts and expenditures of the Association shall be rendered by the Board of Directors to all Owners at least annually.

**Section 3. Examination of Records:** Each Owner and Mortgagee shall be permitted to examine the books of account of the Association at reasonable times on business days.

## ARTICLE XV

### Proxies

**Section 1.** At all corporate meetings of Members, each Member may vote in person or by proxy.

**Section 2.** All proxies shall be in writing and filed with the Secretary. No proxy shall extend beyond a period of eleven (11) months and every proxy shall automatically cease upon sale by a Member of his Unit in The Properties.

## ARTICLE XVI

### Miscellaneous

**Section 1. Notices:** All notices hereunder shall be sent by mail to the Association at its office in Winston-Salem, North Carolina to Owners to the address of the Unit, or to such other address as may have been designated by such Owner from time to time in writing to the Association; to Mortgagees at their addresses as designated by them from time to time in writing to the Association. All notices from or to the Association shall be deemed to have been given when mailed, except notice of changes of address which shall be deemed to have been given when received.

**Section 2. Captions:** The captions herein are inserted as a matter of convenience and for reference, and in no way define, limit or describe the scope of these By-Laws or the intent of any provisions thereof.

**Section 3. Gender:** The use of the masculine or neuter gender in these By-Laws shall be deemed to include the feminine gender, the use of singular shall be deemed to include the plural when the context so requires.

**Section 4. Tort Liability:** Each Owner shall be deemed to have released and exonerated each other Owner and the Association, and the Association shall be deemed to have released and exonerated each Owner from any tort liability other than that based on fraud or criminal acts to the extent which such liability is satisfied by the proceeds of liability insurance carried by an Owner or by the Association.

#### ARTICLE XVII

##### Invalidity, Conflict and Waiver

**Section 1. Invalidity:** The invalidity of any part of these By-Laws shall not impair or affect in any manner the validity, enforceability or effect of the balance of the By-Laws.

**Section 2. Conflict:** These By-Laws are set forth to comply with the requirements of the North Carolina Non-Profit Corporation Act and the Declaration. In the event of any conflict between these By-Laws and the provisions of such Act, or of the Declaration, the provisions of such Act, or of the Declaration, as the case may be, shall control.

**Section 3. Waiver:** No restriction, condition, or covenant contained in these By-Laws shall be deemed to have been a or waived by reason of failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

#### ARTICLE XVIII

##### Amendment to By-Laws

**Section 1. Method of Amendment:** These By-Laws may be altered amended or added to at any duly called meeting of the Owners provided:

- (a) The Board of Directors of the Association shall adopt a resolution setting forth the amendment proposed;
- (b) That the notice of the meeting shall contain a substantial statement of the proposed amendment;
- (c) That the amendment be approved in writing by the holders of

mortgages on not less than fifty-one percent (51%), in the aggregate, of the Units subject to mortgages;

(d) That the amendment be approved by the unanimous affirmative vote of all Unit Owners; and

(e) That said amendment shall be fully consistent in a duly recorded amendment to the Declaration executed by the President and Secretary of the Association; however, no amendment to the Declaration or the recordation thereof, shall be necessary unless such amendment to these By-Laws creates an inconsistency with the Declaration.

**Section 2. Effect of Amendments upon Encumbrances:** No amendment or modification of By-Laws will affect or impair the validity or priority of any mortgage encumbering any Unit, nor the validity or priority of any other proper lien.

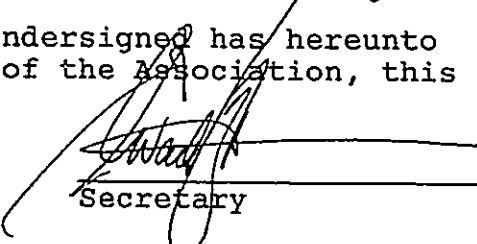
CERTIFICATION

I, the undersigned, does hereby certify:

THAT I am the duly elected and acting secretary of KEBCO OFFICE CONDOMINIUM ASSOCIATION, INC., a North Carolina corporation; and,

THAT the foregoing Bylaws constitute the original Bylaws of said Association as duly adopted at a meeting of the Board of Directors thereof, held on the 21st day of August, 1989.

IN WITNESS WHEREOF, the undersigned has hereunto subscribed his name and affixed the seal of the Association, this 21st day of August, 1989.

  
Secretary

(Corporate Seal)

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