

STATE OF NORTH CAROLINA

COUNTY OF CARTERET

DECLARATION OF UNIT OWNERSHIP AND
COVENANTS, CONDITIONS AND RESTRICTIONS
OF BOGUE SHORES CONDOMINIUM

THIS DECLARATION OF UNIT OWNERSHIP, made this the _____ day of _____, 1981, by DR. MORRIS L. CHERRY and wife, MARY LUCY CHERRY and CHARISMA, INC., a corporation organized and existing under the laws of the State of North Carolina, with its principal place of business in Wilmington, North Carolina, hereinafter called "Declarant";

W I T N E S S E T H:

THAT WHEREAS, DR. MORRIS L. CHERRY and wife, MARY LUCY CHERRY are the record owners of the hereinbelow described property; and

WHEREAS, the said DR. MORRIS L. CHERRY and wife, MARY LUCY CHERRY have entered into a contract to sell the hereinbelow described property to CHARISMA, INC., but said sale has not been consummated; and

WHEREAS, CHARISMA, INC. requested the said DR. MORRIS L. CHERRY and wife, MARY LUCY CHERRY to join in the execution of this Declaration for the purpose of assenting thereto and for the further purpose of allowing this Declaration to be recorded in the public records of Carteret County, North Carolina, prior to the consummation of said sale and the said DR. MORRIS L. CHERRY and wife, MARY LUCY CHERRY have agreed so to do; and

WHEREAS, the property which is the subject of this declaration is located in Carteret County, North Carolina, and more particularly described as follows:

IN MOREHEAD TOWNSHIP: BEGINNING at a right of way monument in the northern line of North Carolina Highway 58 (Salter Path Road), the same being in the eastern line of the Willis Smith Estate property, as shown on a map shown and designated as "Plot Plan for Landmark Motel, Property of Seashore Properties, Inc., Bogue Banks, Carteret County, North Carolina," which said map is recorded in Map Book 11 at Page 40 of the Carteret County Registry. Running thence from said right of way monument, with and along the northern line of North Carolina Highway 58 (Salter Path Road), North 86 degrees 01 minutes East 102.36 feet to a point; thence North 85 degrees 23 minutes East 379.96 feet to a point; thence leaving said highway, North 1 degree 55 minutes 18 seconds West 44.13 feet to a point; thence North 4 degrees 07 minutes 26 seconds West 357.23 feet to the high water mark of Hoop Hole Creek; thence with the high water mark of Hoop Hole Creek, North 75 degrees 24 minutes 16 seconds West 152.58 feet to a point; thence South 32 degrees 52 minutes 50 seconds West 96.79 feet to a point; thence South 74 degrees 04 minutes 32 seconds West 52.41 feet to a point; thence South 80 degrees 02 minutes 19 seconds West 83.99 feet to a point; thence

North 68 degrees 37 minutes 04 seconds West 92.87 feet to a point in the eastern line of the Willis Smith estate property; thence with said eastern line, South 4 degrees 50 minutes West 401.65 feet to the point of beginning, containing 4.10 acres.

WHEREAS, there is now located on the aforesaid property certain improvements, the same being more fully described hereinafter, and which real property and improvements thereon the Declarant desires to convert to Unit Ownership, to be named "Bogue Shores Condominium";

NOW, THEREFORE, Declarant declares its intention, by the filing of this Declaration, to submit, and does hereby submit, the above-described real property and improvements thereon to the provisions of the North Carolina Unit Ownership Act; being Chapter 47A of the North Carolina General Statutes, as a condominium project; and further desires to impose upon the said property a general plan of mutually beneficial covenants, conditions and restrictions for the benefit of all of the owners of condominium units therein;

NOW, THEREFORE, Declarant does further publish and declare that all of the property described herein is held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, and improved subject to the following covenants, conditions, restrictions, uses, limitations and obligations, all of which are declared and agreed to be in furtherance of a plan for the conversion of said property into condominiums, and shall be deemed to run with the land and shall be a burden and a benefit to Declarant, its successors and assigns and any person acquiring or owning an interest in the real property and improvements, their grantees, successors, heirs, executors, administrators, devisees and assigns.

1. Definitions. Certain terms in this Declaration and in the By-laws appended hereto shall be defined as follows, unless the context clearly indicates a different meaning therefor:

- a. "Declarant" shall mean Charisma, Inc.
- b. "Project" shall mean the total of the real property incorporated herein, together with all structures and other improvements thereon.

c. "Association" shall mean the Bogue Shores Homeowners' Association, Inc. as the same is created by this Declaration and the appended By-laws, being a non-profit corporation formed under the authority of Chapters 47A and 55A of the North Carolina General Statutes.

d. "Unit" shall mean that enclosed space within each dwelling entity or apartment as shown on the architect's drawings filed concurrently with this Declaration, and being further defined as lying between the following boundaries: the interior surfaces of its perimeter walls; its floor substrate under carpeting, vinyl covering, or other decorative floor covering; the interior surface of its ceiling; and its doors and door frames; but excluding therefrom all of those wires, ducts, pipes, and other utility installations which lie within the enclosed space defined herein but which are for the common use of one or more other units in the project, provided, however, that heating and air-conditioning equipment for each unit, window glass in exterior windows, and exterior doors are included within said unit.

e. "Act" shall mean The Unit Ownership Act as set forth in Chapter 47A, General Statutes of North Carolina.

2. Description of Buildings and Unit Designations. The building with its east and west wings, and a center section which constitutes Bogue Shores Condominium is of concrete block and brick construction with concrete foundation, floors and accessways. The building is two stories in height with 149 total units, 140 of which are now constructed, with 42 units in the East Wing, 51 units in the West Wing, and 56 units in the center section. Unit designations, as well as structural details and locations of units, are set out in those drawings of Samuel C. Hodges, Jr., A.I.A., Registered Architect, the same being recorded herewith in Condominium Plat Book _____, Pages _____ through _____, and which are also described in Exhibit "C" hereto attached and incorporated herein by reference.

Units of Bogue Shores Condominium are of two (2) sizes, the larger unit containing approximately 488 square feet of enclosed space and being designated herein as "Unit A", and the smaller units containing approximately 282 square feet of enclosed space and being designated herein as "B Units".

The designation and types of units contained in the building of The Bogue Shores Condominium are as follows:

a. East Wing

1st Floor Units 101* - 120

2nd Floor Units 201 - 220, 201A and 202A

b. Center Section

1st Floor Units 121 - 148

2nd Floor Units 221 - 248

c. West Wing

1st Floor Units 149 - 170, 153A, 169A and 170A

2nd Floor Units 249 - 270, 253A, 254A, 269A and 270A

* Unit 101 is an "A" Unit. All others are "B" units.

Units 153A, 169A, 170A, 201A, 202A, 253A, 254A, 269A and 270A have not yet been constructed. Nevertheless, the Declarant hereby reserves to itself the exclusive right and option, but not the obligation, to construct said units upon the following terms and conditions:

A. The construction of all or any of said units shall be at the sole discretion of the Declarant without consultation with or consent of any unit owner. Every unit owner in Bogue Shores Condominium, by accepting a deed for a unit therein, shall be deemed to have agreed for himself, his heirs, devisees, successors and assigns to such construction; and

B. The right and option as described hereinabove shall terminate on the 1st day of October, 1984; and

C. The Declarant covenants and agrees that any such construction shall be of similar construction and of similar composition as the existing structure so as to harmoniously blend in with the units as now constructed; and

D. It is understood and declared that the undivided fractional or percentage interest owned by each unit owner is as stated in Article 4. hereof. However, it is understood and further declared that in the event the Declarant, pursuant to B. of this Article, fails to construct all or any of the units proposed to be constructed pursuant hereto, within the option time stated herein, the fractional or percentage interest owned by each unit owner of units in Bogue Shores Condominium as presently constructed, in the common areas and facilities shall necessarily have to

change from that as established in Article 4. hereunder and shall be expanded. It is further understood that the Act provides that the fractional or percentage undivided interest of each unit owner in the common areas and facilities as expressed in any Declaration shall have a permanent character and shall not be altered except with the unanimous consent of all unit owners expressed in an amended Declaration duly recorded. Therefore, in the event the Declarant fails to construct all or any of the proposed units as described herein, then every unit owner of units in Bogue Shores Condominium as presently constructed, or any unit hereafter constructed therein, by acceptance of the deed to his unit shall be deemed to have specifically agreed for himself, his heirs, devisees, successors and/or assigns that the Declarant shall have the exclusive right and power as attorney-in-fact for every such unit owner, to establish the undivided fractional or percentage interest of each such unit owner in the common areas and facilities of Bogue Shores Condominium, and therefore, the right and power to establish (a) the liability of each unit owner for common expenses, not specifically assessed, (b) the interest of each unit owner in any common surplus, and (c) the voting rights in the Association of each such unit owner. It is hereby declared and agreed that the Declarant shall establish said undivided interests without prior consultation with or consent of any unit owner of any such unit in Bogue Shores Condominium as presently constructed or any unit hereafter constructed therein and that, the Declarant covenants and agrees to establish such undivided fractional or percentage interests for all units at such times as may be necessary pursuant to this Article in the proportions that the then fair market value of each unit, new and existing, as shall be determined solely by the Declarant, bears to the then aggregate fair market value of all such units.

E. Nothing herein shall be deemed to limit or alter the Declarant's right, hereby reserved, to vary the internal layout, size, and configurations of any units hereafter constructed so long as the Declarant substantially conforms with the provisions of this Article.

3. Description of Common Area.

a. The general common area of Bogue Shores Condominium shall consist of all land therein together with all improvements thereon or appurtenant thereto with the exception of that space and improvements

therein comprising each unit as defined in paragraph 1.d. above. Without limiting the generality thereof, the common area includes that building shown on the Architect's drawings as "Office and Manager's Apartment", as well as a swimming pool, pump and tank house, storage rooms, utilities areas, grassed areas, and paved parking areas. Bogue Shores Condominium contains no limited common areas. Bogue Shores Condominium may, acting through the Board of Directors of the Association, lease all or any portion of said office and manager's apartment to any person, firm, or corporation; but provided, however, that the said Board shall enter into such a lease only upon the affirmative vote of two-thirds of all of the units of Bogue Shores Condominium in accordance with the By-laws of the Association.

4. Percentage of Unit Ownership. The fractional interest in the common area of Bogue Shores Condominium which is attributable to each individual unit is based on the relative fair market value of the units as of the date hereof being as follows:

"A" Units = 1.16708% each

"B" Units = 0.66779% each

Paired units shall be treated as combinations of individual units for purposes of determining the combined common area interest of an owner of such combined units.

5. Use and Restrictions Thereon.

a. Each unit shall be used for single-family residential purposes only, with the exception that the Declarant or its agent shall have the right to maintain a sales office in one of the units of its choice for the sole purpose of selling the remaining units in the project, such right terminating upon the sale of the last unit by the Declarant.

b. No advertising signs, billboards, unsightly objects, or nuisances shall be erected, placed or permitted to remain on the property; but provided, however, this foregoing restriction shall not apply to the activities of the Declarant or its agents during the period of the initial sale of the units.

c. No business activities of any kind whatsoever shall be conducted in any building or on any portion of the property, with the exception of those activities as are described in 5.a. above, and with the further exception that the office and manager's apartment building or any portion thereof may be used by the Association for any lawful purpose which

benefits the members thereof, and may also be used for any such purpose by a lessee as provided in paragraph 3. above; provided, however that the south room of Unit 101 may be operated as a commercial snack bar but only with the prior written approval of the Board of Directors. In the event this is done it is understood that the snack bar operator has the non-exclusive use of the restroom and storage area to the rear of the snack bar.

d. The property shall not be used in any way or for any purpose which may endanger the health of or unreasonably disturb the owner of any unit or any resident thereof.

* { e. No animals, livestock or poultry of any kind shall be raised, bred or kept on any part of the property, except that dogs, cats or other usual household pets may be kept by the respective owners only, in their respective units, provided that they are not kept, bred or maintained for any commercial purpose and do not endanger the health of or, in the sole discretion of the Board of Directors of the Association unreasonably disturb the owner of any unit or any resident thereof, and provided, further, that such pets shall not be allowed in the general common areas of the condominium project unless on a leash or carried by the owner thereof.

* { f. The exterior of the units, including trim and hardware, door units, and related exterior features, shall not be altered or decorated by the individual unit owners in any manner without the prior written consent of the Board of Directors of the Association and no radio or television aerials or other projections may be installed or attached to the exterior of any unit without such prior written consent, but provided, however, that any owner of two adjoining units shall be permitted to make provision for a door interconnecting said units, subject to approval of said Board of Directors with respect to preserving the structural integrity of the building.

* { g. No garbage dispose-alls or any other equipment which processes kitchen waste products into the waste-water disposal system, nor automatic clothes washing machines, nor automatic dishwashers, may be installed or used in any unit of Bogue Shores Condominium.

* { h. No clotheslines or other exterior clothes drying facilities shall be permitted in the common area.

* { i. No trailer of any sort (excluding boat trailers), tent, tent camper, motor home, nor any other similar vehicle shall be kept, nor shall any temporary structures of any sort be placed, on the property at any time, either temporarily or permanently.

j. All garbage and refuse from the individual units shall be deposited with care in the receptacles provided for and intended for such purpose.

* { k. No noxious or offensive activities shall be carried on in or upon any unit, nor shall anything be done therein tending to cause embarrassment, discomfort, annoyance or nuisance to other unit owners.

l. No refuse, rubbish, trash or waste of any sort shall be thrown into the waters adjoining the condominium project, nor on any common area of the Condominium.

* { m. It shall be the responsibility of each unit owner, and the Board of Directors of the Association to prevent the development of any unclean, unsightly or unkempt conditions of the common area, including the tidal margin of the sound front.

n. Parking in the parking area of Bogue Shores Condominium shall be subject to such rules and regulations as the Board of Directors of the Association shall, from time to time, adopt.

* { All restrictions and affirmative obligations set forth in this Declaration shall run with the land and shall be binding on all members and persons claiming under them for a period of twenty (20) years from the date of recordation of this Declaration, after which time said restrictions and obligations will be automatically extended for a successive periods of ten (10) years, unless an instrument signed by a majority of the then owners of units affected by such restrictions and obligations has been recorded agreeing to change such restrictions and obligations in whole or in part.

* { In the event of a violation or breach of any of these restrictions, or of any other covenants of this Declaration, by any unit owner, or agent thereof, the owners of any other units or any of them, jointly or severally, shall have the right to proceed at law or in equity to compel compliance with the terms hereof or to prevent the violation or breach in any event. In addition to the foregoing, the Board of Directors of the Association shall have the right whenever there shall have been any

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violation of these restrictions, to enter upon the property where such violation exists and summarily abate or remove the same at the expense of the owner, if after fifteen (15) days written notice of such violation it shall not have been corrected or removed by the owner. Any such entry and abatement or removal shall not be deemed a trespass. The failure to enforce any right, reservation or condition contained in this Declaration, however long continued, shall not be deemed a waiver of the right to do so hereafter, as to the same breach or as to a breach occurring prior or subsequent thereto and shall not bar or affect its enforcement. The invalidation by any court of any restrictions or obligations contained in this Declaration shall in no way affect any of the other restrictions, which shall remain in full force and effect.

* *
All present and future owners, tenants and occupants of units in the project shall be subject to, and shall comply with the provisions of this Declaration, By-laws and such rules and regulations as may be adopted in accordance with the By-laws now in force or as may be amended from time to time. The acceptance of a deed of conveyance, or the entering into of a lease, or the entering into occupancy of any unit shall constitute an agreement that the provisions of this Declaration, By-laws and any rules and regulations which may be adopted are accepted and ratified by such owner, tenant or occupant and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such unit as though such provisions were made a part of each and every deed of conveyance or lease.

* *
6. Rules and Regulations. The Board of Directors of the Association shall have the authority to implement and interpret the foregoing restrictions and affirmative obligations by the enactment of reasonable rules and regulations which shall be published and made available to all unit owners and their tenants and guests, and the said Board of Directors shall have the authority to enforce such reasonable rules and regulations by denial of the use of the common area and its facilities to such violators until the same shall cease, and may further levy fines for infractions in an amount not to exceed Twenty Five and no/100 (\$25.00) Dollars per each offense; and provided further that any alleged violators shall have at least ten (10) days written notice and

shall be afforded an opportunity to be heard by the Board of Directors in the event that the alleged violator desires to contest the application of these sanctions.

7. Person to Receive Service of Process. Samuel A. McConkey, Jr. is hereby designated to receive Service of Process in any action which may be brought against, or in relation to, this condominium development, the address of his place of business being 1005 Shepard Street, Morehead City, North Carolina 28557.

8. Management. Management of the affairs of Boque Shores Condominium shall be the right and responsibility of the Association of unit owners known as "Boque Shores Homeowners' Association, Inc.", hereinafter referred to as the "Association"; and said management duties shall be carried out in accordance with the terms and conditions of this Declaration and the terms and conditions set forth in the By-laws of Boque Shores Homeowners' Association, Inc., a copy of which is attached hereto and made a part hereof; provided, however, that the Association shall not be organized to take over the management rights and responsibilities until such time as a total of 120 units have been sold by the developer and the deeds thereto delivered to the purchasers thereof. Until such time, the Declarant shall have the entire rights and responsibilities of managing the condominium project.

9. Assessment. Each owner of any unit, by acceptance of the deed thereto, whether or not it shall be so expressed in such deed, is deemed to, and does thereby, covenant and agree to pay assessments in a pro rata share equivalent to such unit's ownership interest in the common area (said ownership interest being defined in paragraph 4. above) for the common expenses of the upkeep, maintenance and improvement of the common area and for expressly designated services provided to all unit owners in the condominium project.

Until such time as the Association takes over the management of the condominium project, at the time above specified, the unit owners shall pay monthly assessments for the services described hereinabove to the Declarant, in amounts as follows: for Unit 101, \$150.00 per quarter and for all other units, \$75.00 each per quarter. Declarant shall use that sum for the upkeep and maintenance of the common area, for the provision of common services ordinarily to be provided by the Association as set forth

hereinafter in paragraph 11. and for the procurement of comprehensive hazard, flood and liability insurance covering the units and common area. During such interval, the Declarant shall supplement said assessment by such amount as may be required to meet such expenses and provide such services as are required under the provisions of this paragraph and paragraph 10 below, but shall not be further obligated to pay assessments for unsold units.

After the management rights and responsibilities have been turned over to the Association by the Declarant at the time specified, the Declarant shall surrender all remaining unexpended funds so collected by him to the Association and shall make a full accounting to the Association for all sums spent from the amounts collected by him and shall transfer to the ownership of the Association all insurance policies then in effect on the condominium units and common area. At this time, the Association shall establish an annual budget and shall, if necessary, adjust the quarterly assessments accordingly. The owner of each unit shall thereafter make all future payments directly to the Association for all common expenses in the proper pro rata percentage of the total common expenses as set forth hereinafter in keeping with the General Statutes of North Carolina relating to unit ownership. During the time interval after the Declarant has turned over the management of the Condominium to the Association but before the sale of the last unit by the Declarant, Declarant shall pay assessments to the Association as follows:

a. For each unsold and unoccupied unit, a quarterly amount equal to fifty (50%) percent of the then current regular quarterly assessment.

b. For each unsold but occupied unit, the then current regular quarterly assessment.

10. Purposes of Assessments. The assessments paid to the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of Boque Shores Condominium and, in particular, for the acquisition, improvement and maintenance of properties, services and facilities devoted to this purpose and relating to the exterior maintenance of the buildings and units, excluding exterior glass surfaces, and air conditioning units; and for the use and enjoyment of the common area and facilities, including, but not limited to, the cost of

water and sewer service; garbage collection; electricity for the common area; repairs, replacements and additions to the common area and facilities; the cost of labor, equipment and material expended on the common area and facilities; management and supervision; the payment of taxes assessed against the common area and facilities; the procurement and maintenance of liability and hazard insurance coverage on the common area; the employment of attorneys, accountants, and professional management personnel when deemed necessary or advisable by the Association; and such other needs as may arise.

11. Change in Assessments. At any time after the actual assumption of management duties by the Association and the establishment of the initial budget and assessment, it shall have the right, by a vote of its Board of Directors, to change the method of payment of any assessment and shall have the right to increase said assessments in any one year without the approval of the membership in an amount not to exceed fifteen ~~(15)~~ percent of the assessment of the previous year. The assessment may be increased without limit by a vote of "two-thirds" of the members of the Association voting in person or by proxy at a regular annual meeting or at a meeting duly called for this purpose.

12. Special Assessments for Capital Improvements. In addition to the assessments specified above, the Association may levy, in any calendar year, a special assessment for the purpose of defraying in whole or in part, the cost of any construction, reconstruction, repair or replacement of capital improvements upon the common area, including fixtures and personal property related thereto; provided that any such assessment shall have the assent therefor voted by "two-thirds" of the members of the Association who are voting in person or by proxy in a regular meeting or in person or by proxy in a regular annual meeting or in a meeting duly called for this purpose.

13. Date of Commencement of Association Assessments. Assessments levied by the Association on the owners of individual units shall commence as soon as practicable, but in any event within 90 days, after the formation of the Association and the taking over of the management of the condominium development from the Declarant and the preparation of the first annual projected budget.

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14. The Creation of Lien and Personal Obligation of Assessments.

The assessments called for hereinabove, together with interest and costs of collection, including court costs and reasonable attorneys fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve (12%) percent per annum. The Association may bring an action at law against the owner or owners personally obligated to pay the same or may foreclose the lien against the property, and the Association is hereby granted a power of sale to conduct said foreclosure; and interest, costs and reasonable attorneys fees of the action of foreclosure shall be added to the amount of such assessment. No unit owner or owners may waive or otherwise escape liability for the assessments provided for herein by non-use of the common area and facilities.

15. Subordination of the Lien to Mortgages. The liens provided

for herein shall be subordinate to the lien of any first mortgage, mortgages, deed of trust or deeds of trust given as security for a loan to pay any part of the purchase price of any unit. Sale or transfer of any unit shall not affect the assessment lien provided for in the preceding section. However, the sale or transfer of any unit which is subject to any mortgage or deed of trust, pursuant to a foreclosure shall extinguish the lien of such assessment as to the payment thereof which became due prior to such sale or transfer, but shall not extinguish the personal liability of the owner at the time the assessment fell due. No such sale or transfer shall relieve such unit from liability for any assessments thereafter becoming due or from the lien thereof, but the liens provided for shall continue to be subordinate to the lien of any mortgage, mortgages, deed of trust or deeds of trust given as security for a loan to pay any part of the purchase price of any unit.

* *
16. Exterior Maintenance. In addition to maintenance upon the common area and facilities, the Association shall provide exterior maintenance upon each unit which is subject to assessment hereunder as follows: paint, repair, replacement and care of roofs, downspouts, doors, exterior building surfaces, trees, shrubs, columns, railings, walks, and other exterior improvements. Such exterior maintenance of individual units shall not include glass surfaces, or air conditioning units. In order to enable the Association to accomplish the foregoing, there is hereby reserved to the Association, as well as the Declarant until such time as the Association takes over such duties and responsibilities, the right to unobstructed access over and upon each unit at all reasonable times to perform maintenance and repair as provided herein.

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In the event that the need for maintenance, repair or replacement is caused through the willful or negligent act of the owner or owners of a unit or units, or the family, guests or invitees thereof, or results from causes excluded from coverage in North Carolina Standard Fire and Extended Coverage insurance policies or other coverage which may be provided by the Association, the costs of such maintenance, replacement or repairs shall be added to and become a part of the assessment to which the unit or units of such owner or owners are subject.

17. Insurance. Insurance coverage on the property shall be governed by the following provisions:

a. Ownership of Policies. All insurance policies upon the condominium development shall be purchased by the Board of Directors of the Association for the benefit of the Association and the unit owners and their mortgagees as their interests may appear, and provisions shall be made for the issuance of certificates of mortgage endorsements to the mortgagees of unit owners. Unit owners may, at their option, obtain insurance coverage at their own expense upon their own personal property and for their personal liability and living expense and such other coverage as they may desire.

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b. Coverage. All buildings and improvements upon the land and all personal property included in the common area and facilities shall be insured in an amount equal to the maximum insurance replacement value as determined annually by the Board of Directors of the Association with the assistance of the insurance company or companies providing such coverage.

Such coverage shall provide protection against loss or damage by fire and other hazards covered by a standard extended coverage endorsement, and such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location and use as the buildings on the land. It is understood, however, that no coverage upon the contents of any individual unit will be provided by the Association. *

Public liability insurance shall be secured by the Board of Directors of the Association in such amount and with such coverage as shall be deemed necessary by the Board of Directors, including, but not limited to, an endorsement to cover liability of the unit owners as a group to a single unit owner or to third parties. There shall also be obtained such other insurance coverage as the Board of Directors shall determine from time to time to be desirable and necessary.

c. Premiums. Premiums upon insurance policies purchased by the Board of Directors shall be paid by the Board of Directors as a common expense.

d. Proceeds. All insurance policies purchased by the Board of Directors shall be for the benefit of the Board of Directors and the unit owners and their mortgagees as their interests may appear and shall provide that all proceeds thereof shall be payable to the Board of Directors as insurance trustee under this Declaration. The sole duty of the Board of Directors as insurance trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes elsewhere stated herein or stated in the By-laws and for the benefit of the unit owners and their mortgagees in the following shares:

1. For damage to common area and facilities, an undivided share shall be allocated for each unit owner, with such share being the same as each unit owner's undivided interest in the common area and facilities.

2. Proceeds on account of damage to units shall be held in the following undivided shares:

(a) When the building is to be restored, for the owners of damaged units in proportion to the cost of repairing the damage suffered by each unit owner, which cost shall be determined by the Board of Directors.

(b) When the building is not to be restored, an individual share for each unit owner based on the percentage of insurance premium paid by each unit owner.

(c) In the event a mortgagee endorsement has been issued as to a unit, the share of the unit owner shall be in trust for the mortgagee and the unit owner as their interests may appear.

18. Distribution of Insurance Proceeds. Proceeds of insurance policies received by the Board of Directors as insurance trustee shall be distributed to or for the benefit of the beneficial owners in the following manner:

a. Expense of the Trust. All expense of the insurance trustees shall be first paid or provision made therefor.

b. Reconstruction or Repair. If the damage for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost thereof as provided by paragraph 18 hereof. Any proceeds remaining after defraying such costs shall be distributed to beneficial owners, including lienholders of record.

c. Failure to Reconstruct or Repair. If it is determined, as provided in paragraph 18 hereof, that the damage for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the beneficial owners, including lienholders of record.

d. Damage and Destruction. Damage or destruction of the common areas or units shall be promptly repaired and restored by the Board using the proceeds of insurance for that purpose, and the unit owners shall be liable for assessment for any deficiency.

Any reconstruction or repair should be in accordance with the plans and specifications of the original building, unless otherwise agreed upon and approved by the Board of Directors and, for such time as it owns unsold units, the Declarant.

20. Party walls. Each wall which is built as a part of the original construction of the units and placed on the dividing line between the units shall constitute a party wall, and the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

21. Conveyance of Units. In the event that any person, firm or corporation who owns a unit shall desire to sell such unit, then the said unit which such owner shall desire to sell shall, if the Declarant owns one or more unsold units, first be offered for sale to the Declarant at the same price and on the same terms under which the highest bona fide offer has been made to the owner for the said unit. The owner desiring to sell such unit shall give the Declarant written notice by registered mail, return receipt requested, of the owner's desire to sell such unit and shall further advise the Declarant of the name and address of the person, firm or corporation making such highest bona fide offer as well as the amount and terms of said offer. A copy of such notice shall be sent simultaneously to the Board of Directors by registered mail, return receipt requested. The Declarant shall have a period of twenty (20) days after receipt of said written notice within which to exercise its option to purchase said unit at the same price and on the same terms as the highest bona fide offer and shall have an additional period of not less than twenty (20) days within which to close the said transaction. The foregoing repurchase option granted to the Declarant shall expire after the initial sale of the last unit owned by the Declarant or three years from the date of this Declaration, whichever shall occur first. In the event that no notice of intent to purchase is given to the Declarant, or if the Declarant's option to repurchase has expired, the unit owner desiring to sell such unit shall then offer the same for sale to the Board of Directors at the same price and on the same terms under which the highest bona fide offer has been made to the owner for said unit. The owner desiring to sell a unit shall convey his offer to the Board of Directors in writing by registered mail, return receipt requested, again advising the Board of Directors of the name and address of the person, firm or corporation making said highest bona fide offer as well as the amount and terms of said offer. The Board of Directors shall have a period of ten (10) days (20 days if the Declarant's repurchase option has expired) after receipt of said offer within which to signify its intent to purchase such unit at the same price and on the same terms as the highest bona fide offer and shall have an additional period of not less than twenty (20) days within which to close the said transaction. The Board of Directors may elect to purchase such unit on behalf of all of the remaining unit owners as a group; or, if the remaining unit owners as a

group do not wish to purchase such unit, then on behalf of any one or more individual unit owners. In the event the Board of Directors shall elect to purchase a unit offered for sale on behalf of the remaining unit owners as a group, the cost thereof shall be shared by the remaining unit owners in equal shares. Any profit or loss realized upon the sale of a unit so acquired by the Board of Directors shall likewise be shared equally by the remaining unit owners. In the event that the Board of Directors shall elect to purchase a unit offered for sale on behalf of any one or more individual unit owners, then the cost thereof shall be shared by such purchasing unit owners in such proportion as they shall agree upon.

The Declarant and/or the Board of Directors, as applicable, upon the request of a selling unit owner, shall execute in recordable form an instrument indicating compliance with the terms and conditions of this paragraph by the selling owner, or waiver of said terms and conditions by the Declarant and/or the Board of Directors, as applicable. Such an instrument, executed by the President or the Vice President and attested by the Secretary, shall, upon recording, be conclusive evidence of compliance or waiver of the provisions of this paragraph, as the case may be.

Any sale, transfer or conveyance which is not authorized by the terms of this Declaration or for which authorization has not been obtained pursuant to the terms hereof is voidable for a period of two calendar years from the recording of Seller's deed, and may be voided by certificates of the Board of Directors or Declarant, as applicable, duly recorded in the recording office where this Declaration is recorded.

22. Mortgage of Units. Any unit owner may give a deed of trust of mortgage on his unit without prior notice to or authorization by the Declarant or the Board of Directors of the Association; provided, however, that any unit owner giving a deed of trust or mortgage on his unit, shall simultaneously with the recording thereof, record a Request for Notice as provided by law, providing that a foreclosing mortgagee shall provide notice of the institution of foreclosure proceedings to the Board of Directors of the Association.

23. Partitioning. The common area and facilities shall not be divided nor shall any right to partition any part thereof exist. No unit owner may subdivide or convey any part of his unit; but provided, however,

that nothing herein contained shall be deemed to prevent ownership of a condominium unit by the entireties, jointly or in common, or in any other form by law permitted.

24. Rental of Units. Unit owners may lease their units, but provided, however, that any lessee shall be bound by the applicable restrictions contained in this Declaration, by rules and regulations enacted by the Board of Directors of the Association, and by such reasonable restrictions on such rentals as may be adopted by the said Board of Directors. Nothing contained herein shall be construed, nor shall the Board of Directors be empowered: to create a rental pool, to require the employment of an exclusive rental agent, to fix rental rates, or to require that units be made available for rent.

25. Amendment of Declaration. This Declaration may be amended by the Declarant at any time prior to the conveyance of 120 units, and thereafter by the vote of at least 66 2/3% in common interest of all unit owners, cast in person or by proxy, at a meeting duly held in accordance with the provisions of the By-laws. No such amendment shall be effective until duly and properly recorded in the Office of the Register of Deeds wherein this initial Declaration is recorded.

26. Law Controlling This Declaration and the By-laws attached hereto shall be construed in the light of and controlled by and under the laws of the State of North Carolina.

IN WITNESS WHEREOF, the Declarant hereinabove named, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

ATTEST:

CHARISMA, INC.

Secretary

By _____
President

DR. MORRIS L. CHERRY (SEAL)

MARY LUCY CHERRY (SEAL)

STATE OF NORTH CAROLINA

COUNTY OF _____

I, _____, a Notary Public of the aforesaid County and State, do hereby certify that personally appeared before me this day George Harriss, who being by me duly sworn, says that he is the President of CHARISMA, INC., and that he knows that _____ is the Secretary, and that he knows the common seal of the said corporation; that the corporation's name was subscribed to the within Declaration by him as President and was attested by its Secretary, with its corporate seal thereto affixed and that all was done by order of its Board of Directors duly given, and that the said instrument is the act and deed of said corporation.

WITNESS my hand and notarial seal, this the ____ day of _____, 1981.

Notary Public

My Commission Expires:

STATE OF NORTH CAROLINA

COUNTY OF _____

I, _____, a Notary Public of the aforesaid County and State, do hereby certify that DR. MORRIS L. CHERRY and wife, MARY LUCY CHERRY, personally appeared before me this day and acknowledged the execution of the foregoing instrument.

WITNESS my hand and notarial seal, this the ____ day of _____, 1981.

Notary Public

My Commission Expires:
