

Declaration of Condominium
Under the Provisions of Chapter 47C of the General Statutes
of the State of North Carolina, and
Covenants, Conditions and Restrictions
of
Willoughby Park, a Condominium

HONORABLE BROWNING, SAMS & POOLE • ATTORNEYS AT LAW • P. O. BOX 859 • GREENVILLE, N. C. 27834 • (919) 758-1403

This Declaration, made this 11th day of March, 1987, by HILL CLARK CONSTRUCTION CO., INC., a North Carolina corporation ("Developer"), pursuant to the North Carolina Condominium Act;

W I T N E S S E T H:

WHEREAS, Developer is the owner in fee simple of certain real estate situated in or near the City of Greenville, County of Pitt and State of North Carolina, legally described on Exhibit "A", together with all buildings and improvements now or hereafter constructed or located thereon, and all rights, privileges, easements and appurtenances belonging to or in any way pertaining to said real estate; and

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

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

ARTICLE I

Definitions

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

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

1.2. Additional Real Estate. The real estate described in Exhibit A-1, together with all buildings and improvements now or hereafter constructed or located thereon, and all rights, privileges, easements and appurtenances belonging to or in any way pertaining to said real estate.

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in Book _____ Page _____

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1.3. Association. Willoughby Park Condominium Association of Greenville, Inc., a nonprofit corporation organized under the laws of the State of North Carolina.

1.4. Board. The Board of Directors of the Association.

1.5. Bylaws. The Bylaws of the association, which are hereby incorporated herein and made a part hereof by this reference.

1.6. Common Elements. All portions of the condominium except the units. Limited common elements are common elements.

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

1.8. Condominium. The condominium created by this Declaration.

1.9. Declarant. Developer and (i) any other person who has executed this Declaration or who hereafter executes an amendment to this Declaration to add additional real estate, except security holders and except persons whose interests in the property will no be conveyed to unit owners; and (ii) any person who succeeds to any special declarant rights pursuant to Section 3-104 of the Act.

1.10. Declarant Control Period. The period commencing on the date hereof and continuing until the earlier of (i) the date ten (10) years after the date of the first conveyance of a unit to a unit owner other than a declarant; or (ii) the date upon which declarant surrenders control of the condominium; or (iii) one hundred twenty (120) days after conveyance of seventy-five (75%) percent of the units (including units which may be created pursuant to special declarant rights) to unit owners other than a declarant; or (iv) two (2) years after the declarant has ceased to offer units for sale in the ordinary course of business; or (v) two (2) years after any development right to add new units was last exercised.

1.11. First Mortgage and First Mortgagee. A first mortgage is a mortgage or deed of trust which has been recorded so as to give constructive notice thereof and which is a first lien on the units described therein. A first mortgagee is the holder,

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from time to time, of a first mortgage as shown by the records of the office in which the first mortgage is recorded, including a purchaser at foreclosure sale upon foreclosure of a first mortgage until expiration of the mortgagor's period of redemption. If there be more than one holder of a first mortgage, they shall be considered as, and act as, one first mortgagee for all purposes under this Declaration and the Bylaws.

1.12. Floor Plans. The floor plans of the condominium recorded with, and by the act made a part of, this Declaration, as the same may hereafter be amended.

1.13. Limited Common Elements. Those portions of the common elements allocated by operation of Section 2-102(2) or (4) of the Act for the exclusive use of one, but fewer than all, of the units and also any limited common elements specifically allocated to units on Exhibit "B".

1.14. Occupant. Any person or persons in possession of a unit, including unit owners, the family members, lessees, guests and invitees of such person or persons, and family members, guests and invitees of such lessees.

1.15. Person. A natural person, corporation, partnership, trust or other entity, or any combination thereof.

1.16. Property. The real estate described on Exhibit "A" and the real estate described on Exhibit "A-1", if added by declarant pursuant hereto, together with all buildings and improvements now or hereafter constructed or located thereon, and all rights, privileges, easements and appurtenances belonging to or in any way pertaining to said real estate.

1.17. Security for an Obligation. The vendor's interest in a contract for deed, mortgagee's interest in a mortgage, trustee's interest in a deed of trust, purchaser's interest under a sheriff's sale during the period of redemption, or the holder's interest in a lien.

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1.18. Security Holder. Any person owning a security for an obligation in a unit.

1.19. Special Declarant Rights. The rights reserved herein and in the Bylaws for the benefit of a declarant, including all rights stated in Section 1-103(23) of the Act including, not by way of limitation, the following: to complete the improvements indicated on the floor plans; to maintain sales offices, management offices, models and signs advertising the condominium; to use easements through the common elements; to elect, appoint or remove members of the Board during the declarant control period; to use recreational facilities for the benefit of owners, lessees or invitees of any person residing in the area described on Exhibit "A-1" or any prospective purchaser of a unit lying within the areas described on Exhibit "A" or Exhibit "A-1" (subject to reasonable use fees to be set by the Board); and to add additional real estate. Declarant shall have no right to subdivide or convert units owned by declarant.

1.20. Unit. A portion of the condominium, whether or not contained solely or partially within a building, together with its percentage of undivided interest in the common elements as set forth on Exhibit "C". Each unit is designated and delineated on the floor plans.

1.21. Unit Boundaries. The boundaries of each unit, both as to vertical and horizontal planes, as shown on the floor plans, are the undecorated surfaces of the perimeter walls, exterior doors and exterior windows facing the interior of the unit, and the topmost surfaces of the subflooring, and include the decoration on all such interior and topmost surfaces, including, without limitation, all panelling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the decorated surfaces thereof, and also includes all spaces, interior partitions and other fixtures and improvements within such boundaries.

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1.22. Unit Owner. The person or persons, including the declarant, owning a unit in fee simple.

1.23. Other Definitions. The definitions as contained in the Act, including Section 1-103, which are not in conflict with the foregoing definitions have the meanings as stated in the Act.

ARTICLE II

Submission of Property to the Act

2.1. Submission. Developer hereby submits the property to the Act.

2.2. Name. The property shall hereafter be known as the Willoughby Park, a Condominium.

2.3. Division of Property into Separately Owned Units. Developer, pursuant to the Act, and to establish a plan of condominium ownership for the condominium, does hereby divide the property into twenty-four (24) units and does hereby designate all such units for separate ownership, subject, however, to the provisions of Section 2.4 hereof.

2.4. Alterations of Units. Subject to the provisions of the Bylaws, a unit may be altered pursuant to the provisions of Section 2-111 of the Act.

2.5. Limited Common Elements. The limited common elements serving or designated to serve each unit are hereby allocated solely and exclusively to each such unit. In addition to those defined in Section 1.13, limited common elements include those set forth on Exhibit "B" and are hereby allocated to units as shown on Exhibit "B".

2.6. Unit Allocations. The allocations to each unit of a percentage of undivided interest in the common elements, of votes in the association, and of a percentage of the common expenses, are as stated on Exhibit "C". The votes in the association are allocated to all units as stated on Exhibit "C".

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2.7. Encumbrances. The liens, defects and encumbrances on the property to which the rights of unit owners and occupants are hereby made subject are set out on Exhibit "D".

2.8. Reservation of Special Declarant Rights. Declarant hereby reserves all special declarant rights as herein stated and as further defined by the Act and specifically stated in Section 1-103(23) of the Act.

ARTICLE III

Additional Real Estate

3.1. Declarant's Right to Add Additional Real Estate. Declarant expressly reserves the right to add the additional real estate to the condominium. All or part of the additional real estate identified and described on Exhibit "A-1" may be added to the condominium at different times, but no assurances are made in regard to the order in which such portions may be added. Declarant shall have no duty or obligation of any kind to add any or all of the additional real estate. The method of adding the additional real estate to the condominium shall be pursuant to Section 2-110 of the Act.

3.2. Maximum Number of Additional Units; Units Restricted to Residential Use. The maximum number of additional units that may be created within the additional real estate is subject to Special Use Permit EOA 86-15 of the City of Greenville Land Use Intensity System which permits a total of 290,727 square feet of floor space in the condominium and additional real estate. All of such units will be restricted to multi-family use pursuant to said Permit or any amendments, changes, or additions to said Permit made by the City of Greenville. Declarant also reserves the right to add a swimming pool and tennis court in the additional real estate.

3.3. Compatibility of Style, Etc. Any buildings and units that may be erected upon the additional real estate or a portion thereof will be compatible with

the other buildings and units in the condominium in terms of architectural style, quality of construction, principal materials employed in construction, and size.

3.4. Applicability of Restrictions, Etc. All restrictions in this Declaration and the Bylaws affecting use, occupancy and alienation of units will apply to any and all additional units that may be created within the additional real estate.

3.5. Other Improvements and Common Elements. In addition to the buildings and units that may be erected upon the additional real estate or a portion thereof, the other improvements and common elements that may be made or created upon or within the additional real estate, or each portion thereof which may be added to the condominium, will be generally similar in quality and quantity to the improvements and common elements located in the condominium.

3.6. Applicability of Assurances if Additional Real Estate Not Added. The assurances made in this Article III will not apply with respect to any additional real estate that is not added to the condominium.

ARTICLE IV

Easements

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

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

4.3. Easements to Repair, Maintain, Restore and Reconstruct. Wherever in, and whenever by, this Declaration, the Bylaws or the Act, a unit owner, the association, the Board, or any other person, is authorized to enter upon a unit or the common elements to repair, maintain, restore or reconstruct all or any part of a unit or the common elements, such easements as are necessary for such entry and such repair, maintenance, restoration or reconstruction are hereby declared and granted.

4.4. Declarant's Easement. Declarant hereby reserves such easements through the common elements as may be reasonably necessary for the purposes of discharging its obligations, exercising special declarant rights, and completing the development and construction of the condominium, which easements shall exist as long as reasonably necessary for such purposes.

4.5. Easements to Run with Land. All easements and rights described in this Article IV are appurtenant easements running with the land and, except as otherwise expressly provided in this Article IV, shall be perpetually in full force and effect and shall inure to the benefit of and be binding upon declarant, the association, unit owners, occupants, security holders and any other person having any interest in the condominium or any part of any thereof. The condominium and every part thereof shall be conveyed and encumbered subject to and together with all easements and rights described in this Article IV, whether or not specifically mentioned in any such conveyance or encumbrance.

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4.6. Cable Television Easement. Declarant is presently negotiating a cable television wiring agreement with Greenville Cable TV which would provide cable TV to the units with an easement for installing and maintaining a line connecting the cable television wires located in the building to Willoughby Park's system. Any such agreement would be entered into by Declarant and/or the association.

ARTICLE V

Restrictions, Conditions and Covenants

5.1. Compliance with Declaration, Bylaws and Rules and Regulations. Each unit owner and occupant shall comply with all applicable provisions of the Act, this Declaration, the Bylaws, the Articles of Incorporation of the association, and rules and regulations promulgated by the Board or the association, as amended. Failure to comply shall be grounds for an action by the association, an aggrieved unit owner, or any person adversely affected, for recovery of damages, injunction or other relief.

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

5.3. Use Restricted; Use by Declarant.

(a) The units shall be occupied and used by unit owners and occupants for residential purposes only.

(b) No "For Sale" or "For Rent" signs or other window displays or advertising shall be maintained or permitted by any unit owner or occupant on any part of the condominium without the prior written consent of the Board or as provided for by the rules and regulations promulgated from time to time by the Board or the association or in the Bylaws.

(c) The foregoing provisions of this Section or any other provision of this Declaration or the Bylaws notwithstanding, declarant may maintain sales offices

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for sales of units in the condominium and models for the purpose of demonstrating units to be sold. Declarant shall have the right to relocate, from time to time, and to discontinue and reestablish, from time to time, within the condominium, until all of the units have been conveyed to a unit owner other than a declarant, any one or more of such offices or models. Declarant also shall have the right to change the use or combination of uses of such offices or models, provided that such offices or models shall be used only for sales offices or models. The total number of such offices or models maintained at any time by a declarant shall not exceed two (2) sales offices and four (4) models, and the size of any such originally established or relocated or re-established office or model shall not exceed the size of the largest unit in the condominium.

(d) Declarant also may maintain signs on the common elements advertising the condominium until all of the units have been conveyed to unit owners other than a declarant. Declarant shall remove all such signs not later than thirty (30) days after all of the units have been conveyed to unit owners other than declarant and shall repair or pay for the repair of all damage done by removal of such signs.

(e) The foregoing provisions of this Section or any other provision of this Declaration or the Bylaws notwithstanding, the association may maintain an office in the condominium for management of the condominium.

5.4. Hazardous Use and Waste. Nothing shall be done to or kept in any unit or the common elements that will increase any rate of insurance maintained with respect to the condominium without the prior written consent of the Board. No unit owner or occupant shall permit anything to be done to or kept in his unit or the common elements that will result in the cancellation of insurance maintained with respect to the condominium, or that would be in violation of any law, or that will result in the commitment of waste (damage, abuse or destruction) to or in his unit or the common elements.

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5.5. Alterations of Common Elements. No unit owner or occupant, except declarant during the declarant control period, shall alter, construct anything upon, or remove anything from, the common elements, or paint, decorate, landscape or adorn any portion of the common elements, without the prior written consent of the Board.

5.6. Nuisance. No noxious or offensive activity shall be conducted upon any unit or in the common elements nor shall anything be done thereon which may or may become an annoyance or nuisance to the unit owners.

5.7. Outside Antennas. Outside radio or television antennas or other similar reception devices (including satellite discs) may be permitted at the sole discretion of the Board and subject to the rules and regulations adopted by the Board.

5.8. Prohibition of Renting for Transient or Hotel Purposes; Leases. No unit owner shall rent his unit for transient or hotel purposes which, for purposes of this Declaration, shall be defined as either a rental for any period less than thirty (30) days or any rental if the lessee of the unit is provided customary hotel services. Each permitted lease shall lease an entire unit, shall be in writing, and shall be subject to this Declaration and the Bylaws, and any failure of the lessee to comply with the terms of such documents shall be a default under the lease. Any unit owner who enters into a lease of his unit shall promptly notify the association of the name and address of each lessee, the unit rented, and the term of the lease. Other than the foregoing restrictions, each unit owner shall have the full right to lease his unit. No lease, however, shall relieve owner from any liabilities or duties herein nor shall any owners privileges in any way be changed because of said lease. No sublease may be entered into without the written consent of the Board.

5.9. Pets. No pet shall be allowed in the condominium except as may be provided by the rules and regulations promulgated from time to time by the Board or the association or in the Bylaws. Notwithstanding the foregoing, no animals, livestock, or

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poultry of any kind shall be kept or maintained in any condominium or in the common elements except dogs, cats, or other household pets; provided that such pets are not maintained or kept for commercial purposes; and provided further that, notwithstanding the foregoing, the Board may exclude any pet permitted by this paragraph which it, in its sole discretion, deems to be a nuisance to other unit owners or the association as owner of the common elements.

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

5.11. Use of Limited Common Elements. Limited common elements assigned to the exclusive use of one or more units shall be kept in a clean and orderly manner. The Board may act as it deems necessary as to the limited common elements in the same manner as it would protect the common elements.

5.12. Restrictions, Conditions and Covenants to Run with Land. Each unit owner and property, and shall inure to the benefit of every unit owner. Declaration; and all such restrictions, conditions and covenants shall be deemed to be covenants running with the land, and shall bind every person having any interest in the property, and shall inure to the benefit of every unit owner.

ARTICLE VI

Assessments

6.1. Assessment Liens. The Board has the power to levy assessments against the units for common expenses. Such assessments shall be a lien on the units against which they are assessed at the time of assessment; and if any payment thereof becomes

delinquent, the lien may be foreclosed and the unit sold, or a money judgment obtained against the persons liable therefor, all as set forth in the Bylaws. Notwithstanding the provision of 6.2, such lien is not released by the sale or transfer of such unit.

6.2. Maximum Annual Basic Assessment. Until January 1 of the year immediately following the conveyance of the first unit to an owner, the maximum annual basic assessment shall be Forty (\$40.00) Dollars per unit, not including insurance. The cost of insurance will be added to the maximum annual basic assessment and will vary with the size of the unit.

(a) From and after January 1 of the year immediately following the conveyance of the first unit to an owner, the maximum annual basic assessment may be increased each year not more than five (5%) percent above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first unit to an owner, the maximum annual basic assessment may be increased above five (5%) percent by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

6.3. Personal Liability of Transferees; Statement; Liability of First Mortgagee.

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

(b) Any transferee referred to in (a) above shall be entitled to a statement from the Board, pursuant to Section 8.11 of the Bylaws, and such transferee's unit shall not be subject to a lien for any unpaid assessments against such unit in excess of the amount therein set forth.

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

(d) Without releasing the transferor from any liability therefor, any unpaid portion of assessments which is not a lien under (b) above or resulting, as provided in (c) above, from the exercise of remedies in a mortgage or deed of trust or by foreclosure thereof or by deed or assignment, in lieu of such foreclosure, shall be a common expense collectible from all unit owners, including the transferee under (b) above and the first mortgagee or such other person under (c) above who acquires ownership by foreclosure or by deed, or assignment, in lieu of foreclosure.

6.4. Prohibition of Exemption from Liability for Contribution Toward Common Expenses. No unit owner may exempt himself from liability for his share of the common expenses assessed by the association by waiver of the use or enjoyment of any of the common elements or by abandonment of his unit or otherwise.

ARTICLE VII

Management, Maintenance, Repairs, Replacements, Alterations and Improvements

7.1. Common Elements.

(a) By the Association. The management, replacement, maintenance, repair, alteration and improvement of the common elements shall be the responsibility of the association, and, subject to the provisions of Section 7.2 hereof, the cost thereof shall be a common expense to the extent not paid by unit owners pursuant to

Section 7.1(b) hereof. All damage caused to a unit by any work on or to the common elements done by or for the association shall be repaired by the association, and the cost thereof shall be a common expense.

(b) By Unit Owners. Each unit owner shall pay all costs to repair and replace all portions of the common elements that may become damaged or destroyed by reason of his intentional acts or the intentional acts of any occupant of his unit. Such payment shall be made upon demand made by the association.

7.2. Common Expenses Associated with Limited Common Elements or Benefitting Less than all Units.

(a) Any common expense associated with the maintenance, repair, or replacement of a limited common element shall be assessed against the unit, or in equal shares to the units, to which such limited common element was allocated at the time the expense was incurred, provided, however, that routine maintenance and repair to exterior surfaces located within limited common areas done in conjunction with routine maintenance and repair to the building as a whole, such as painting of the entire structure, may be born as a common expense without such allocation, at the discretion of the Board.

(b) In addition, the association may assess any common expense benefiting less than all of the units against the units benefitted in proportion to their common expense liability.

7.3. Units. Each unit owner shall maintain his unit at all times in a good and clean condition, and repair and replace, at his expense, all portions of his unit; shall perform his responsibilities in such manner as not to unreasonably disturb other occupants; shall promptly report to the Board, or its agent, any defect or need for repairs the responsibility for which is that of the association; and, to the extent

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that such expense is not covered by the proceeds of insurance carried by the association, shall pay all costs to repair and replace any portion of another unit that has become damaged or destroyed by reason of his own acts or omissions, or the acts or omissions of any occupant of his unit. Such payment shall be made upon demand by the unit owners of such other unit. Nothing herein contained shall modify any waiver by insurance companies of rights of subrogation.

7.4. Waiver of Claims. Except only as provided in Section 7.5(a) and (b), the association agrees that it shall make no claim against a unit owner or occupant, and each unit owner and occupant agrees that he shall make no claim against the association, the members of the Board, officers of the association, or employees or agents of any thereof, or against any manager retained by the Board, or his or its officers, directors, employees or agents, or other unit owners or occupants, for any loss or damage to any of the property, or to a unit or personal property therein, even if caused by the omission or neglect of any one or more of such persons; and all such claims are hereby waived and released; provided, that this waiver shall not apply to any such loss or damage due to intentional acts.

7.5. Right of Entry.

(a) By the Association. The association, and any person authorized by the association, may enter any unit or any of the limited common elements in case of any emergency or dangerous condition or situation originating in or threatening that unit or any of the limited common elements. The association, and any person authorized by the association, after reasonable notice to a unit owner or occupant, may enter that unit or any of the limited common elements for the purposes of performing any of the association's duties or obligations or exercising any of the association's powers under the Act, this Declaration or the Bylaws with respect to that or any other unit, any limited common elements, or the common elements. Notwithstanding Section 7.4, the

association shall be responsible for the repair of any damage caused by the association or its authorized person to the entered unit, and the cost thereof shall be a common expense. All such entries shall be made and done so as to cause as little inconvenience as possible to the unit owner and occupant of the entered unit or any portion of the limited common elements allocated to the unit owner.

ARTICLE VIII

Insurance

8.1. Casualty Insurance. The association shall maintain casualty insurance upon the property in the name of, and the proceeds thereof shall be payable to, the association, as trustee for all unit owners and security holders as their interests may appear, and be disbursed pursuant to the Act. Such insurance shall be in an amount equal to not less than the full insurable value of the property on a replacement cost basis and shall insure against such risks and contain such provisions as the Board, from time to time, shall determine, but at a minimum shall conform in all respects to the requirements of the Act, and shall provide that, notwithstanding any provision thereof that gives the insurer an election to restore damage in lieu of making a cash settlement, such option shall not be exercisable if such restoration is prohibited pursuant to Section 3-112(h) of the Act.

8.2. Public Liability Insurance. The association shall maintain public liability insurance for the benefit of the unit owners, occupants and holders of a vendor's interest in a contract for deed on a unit, the association, the Board, the manager, if any, the declarant, and their respective officers, directors, agents and employees, in such amounts and with such coverage as shall be determined by the Board; provided that the public liability insurance shall be for at least One Million (\$1,000,000.00) Dollars per occurrence for death, bodily injury and property damage.

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Said insurance shall contain a severability-of-interest endorsement precluding the insurer from denying liability because of negligent acts of any insured; insure all of such benefitted parties against such liability arising out of or in connection with the use, ownership or maintenance of the common elements, and the streets, sidewalks and public spaces adjoining the condominium; and insure the association, the Board, the manager, if any, and their respective officers, directors, agents and employees against such liability arising out of or in connection with the use or maintenance of the units.

8.3. Fidelity Coverage. Fidelity coverage shall be maintained by the association in commercial blanket form covering each director and officer of the association, any employee or agent of the association and any other person handling or responsible for handling funds of the association in the face amount of at least the greater of (1) one and one-half (1-1/2) times the estimated annual operating expenses and reserves of the association, or (ii) the sum of three (3) months' aggregate assessments on all units plus the association's reserve funds. Such bonds shall contain an appropriate endorsement to cover persons who serve without compensation. The premiums on such bonds shall be a common expense.

8.4. Other Insurance. The association may procure such other insurance, including worker's compensation insurance, as it may, from time to time, deem appropriate to protect the association or the unit owners.

8.5. Insurance Trustee. The Board may engage, and pay as a common expense, any appropriate person to act as an insurance trustee to receive and disburse insurance proceeds upon such terms as the Board shall determine, consistent with the provisions of the Act and this Declaration.

8.6. Individual Policy for Unit Owners. Each unit owner may obtain insurance, at his own expense, affording personal property, additional living expense,

condominium assessment, personal liability, and any other coverage obtainable, to the extent and in the amounts such unit owner deems necessary to protect his own interests; provided that any such insurance shall contain waivers pursuant to Section 7.3 and shall provide that it is without contribution as against the insurance purchased by the association. If a casualty loss is sustained and there is a reduction in the amount of the proceeds that would otherwise be payable on the insurance purchased by the association due to the proration of insurance purchased by a unit owner under this Section, such unit owner shall be liable to the association to the extent of such reduction and shall pay the amount of such reduction to the association upon demand, and assigns the proceeds of his insurance, to the extent of such reduction, to the association.

ARTICLE IX

Casualty Damage

If all or any part of the property shall be damaged or destroyed, the same shall be repaired or replaced, and proceeds of insurance shall be used and applied in accordance with the provisions of Section 3-113 of the Act.

ARTICLE X

Condemnation

In the event of a taking by eminent domain, or by a conveyance in lieu thereof, of all or any part of the property, the same shall be repaired or restored, and the awards paid on account thereof shall be used and applied in accordance with Section 1-107 of the Act.

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ARTICLE XI

Termination

The condominium may be terminated only in strict compliance with Section 2-118 of the Act.

ARTICLE XII

Amendment

This Declaration may be amended only in strict compliance with the Act including, without limitation, Sections 2-108 and 2-117 of the Act, except that no amendment altering or impairing special declarant rights may be made without the written consent of declarant.

ARTICLE XIII

Rights of First Mortgagees; VA, FNMA and FHLMC Provisions

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

13.1. Amendments during Declarant Control Period. Any amendments to this Declaration (including annexation of additional properties or dedication of common elements) or amendments to the Bylaws during the declarant control period shall be subject to the prior approval of the Federal Housing Administration or the Veterans Administration provided, however, that if said administrator fails to respond to a written request for approval within thirty (30) days of said request, approval shall be deemed to have been given.

13.2. Availability of Condominium Documents, Books, Records and Financial Statements. The association shall, upon request and during normal business hours, make available for inspection by unit owners and the first mortgagees and the insurers and

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guarantors of a first mortgage on any unit, current copies of the Declaration, the Bylaws, other rules and regulations governing the condominium and the books, records and financial statements of the association. The association shall provide an audited financial statement for the preceding fiscal year if requested in writing by a first mortgagee or insurer or guarantor of a first mortgage. The association shall, upon request and during normal business hours, make available for inspection by prospective purchasers of units, current copies of the Declaration, Bylaws, other rules and regulations governing the condominium, and the most recent annual audited financial statement (if one is prepared).

13.3. Successors' Personal Obligation for Delinquent Assessments. The personal obligation for assessments which are delinquent at the time of transfer of a unit shall not pass to the successors in title or interest to said unit unless said delinquent assessments are expressly assumed by them.

13.4. Rights of Action. The association and any aggrieved unit owner shall have a right of action against unit owners, and any aggrieved unit owner shall have a right of action against the association for failure to comply with the provisions of this Declaration, the Bylaws and the rules, regulations, and decisions of the association made pursuant to authority granted to the association in this Declaration and the Bylaws.

13.5. Management and Other Agreements. Any management agreement between the declarant or the association and a professional manager or any other agreement providing for services of the developer, sponsor, builder or declarant shall be terminable by either party thereto without cause and without payment of a termination fee upon not more than thirty (30) days' prior written notice and shall not exceed a term of three (3) years, subject to renewal by the consent of both parties.

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13.6. Right of First Refusal. The right of a unit owner to sell, transfer, mortgage or otherwise convey his interest in his unit shall not be subject to any right of first refusal.

13.7. Consent of First Mortgagees. This Section 13.7 shall be effective only if, at the time this Section would apply, at least one unit is subject to financing. Any decision to terminate the condominium for reasons other than substantial destruction or condemnation of the property shall require the prior written consent of eligible mortgage holders, as defined in Section 13.9 hereof, representing at least sixty-seven (67%) percent of the votes allocated to units subject to first mortgages held by eligible mortgage holders, or such greater requirements specified by the Act. Except for any amendment to the Declaration made for the purpose of adding any of the additional real estate to the condominium in accordance with the provisions hereof (and including the reallocation of the ownership interest in the common elements and liability for common expenses and the reallocation of voting rights in the association pursuant to Paragraph 13.12 hereunder), any amendment to the Declaration or Bylaws which changes any of the following shall require the prior written consent of unit owners holding at least sixty-seven (67%) percent of the total votes in the association and of eligible mortgage holders representing at least fifty-one (51%) percent of the votes allocated to units subject to first mortgages held by eligible mortgage holders, or such greater requirements specified by the Act or hereunder:

- (a) voting rights;
- (b) assessments, assessment liens or subordination of such liens;
- (c) reserves for maintenance, repair and replacement of common elements;
- (d) responsibility for maintenance and repairs;
- (e) reallocation of interests in the common elements or limited common elements or rights to their use;

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- (f) boundaries of any unit;
- (g) convertibility of units into common elements or common elements into units;
- (h) expansion or contraction of the condominium or the addition, annexation or withdrawal of property to or from the condominium;
- (i) insurance or fidelity bonds;
- (j) leasing of units;
- (k) imposition of any restrictions on a unit owner's right to sell, transfer or otherwise convey his unit;
- (l) a decision by the association to establish self-management when professional management had been required previously by any eligible mortgage holder;
- (m) restoration or repair of the condominium (after damage or destruction or partial condemnation) in a manner other than that specified in this Declaration or the Bylaws;
- (n) any action to terminate the legal status of the condominium after substantial damage or destruction or condemnation; or
- (o) any provisions that expressly benefit first mortgagees or insurers or guarantor of first mortgages.

13.8. Consent of First Mortgagees or Unit Owners. This Section 13.8 shall be effective only if, at the time this Section would apply, at least one unit is subject to commercial financing. Unless first mortgagees holding at least 66-2/3% of the votes allocated to first mortgagees (except first mortgagees having one vote per unit financed), or such higher percentage as is required by law, of the first mortgagees (based upon one vote for each first mortgage owned) and unit owners (other than a declarant) holding at least 66-2/3% of the total votes in the association have given their prior written approval, or such greater requirements specified in the Act or hereunder have been satisfied, the association shall not be entitled to:

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(a) by act or omission, seek to abandon or terminate the condominium;

(b) except in the case of any addition of the additional real estate pursuant to the provisions hereof, change the pro rata interest or obligations of any unit for the purpose of:

(1) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or

(ii) determining the pro rata share of ownership of each unit in the common elements;

(c) partition or subdivide any unit;

(d) except in the case of any addition of the additional real estate pursuant to the provisions hereof, by act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the common elements. (The granting of easements for public utilities or for other public purposes consistent with the intended use of the common elements shall not be deemed a transfer within the meaning of this clause);

(e) use hazard insurance proceeds for losses to any part of the condominium (whether to units or to common elements) for other than repair, replacement or reconstruction thereof.

13.9. Notice. Each first mortgagee and each insurer or guarantor of a first mortgage, upon written request stating its name and address and describing the unit encumbered by the first mortgage held, insured or guaranteed, shall be entitled to timely written notification by the association of (i) any proposed action which requires consent of a specified percentage of first mortgagees; (ii) any condemnation or casualty loss that affects either a material portion of the condominium or the unit securing its first mortgage; (iii) any 60-day delinquency in the payment of assessments or charges owed by the unit owner of the unit on which the first mortgagee held its first mortgage or in the performance of any obligation under this Declaration or

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the Bylaws by said unit owner; or (iv) any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the association. Each first mortgagee who has requested the association to notify it of any proposed action that requires the consent of a specified percentage of eligible mortgage holders shall be considered an "eligible mortgage holder". With respect only to non-material amendments (which excludes items (a) to (o) of Section 13.7), such as for the correction of technical errors or for clarification, any first mortgagee who receives a written request by the association, or any unit owner, to approve an addition or amendment to the Declaration or Bylaws who does not deliver or post to the requesting party a negative response within thirty (30) days shall be deemed to have approved such request.

13.10. Assessments. Assessments shall be due and payable in monthly installments. As provided in Article VIII of the Bylaws and as legally required by Section 3-115 of the Act, declarant shall pay all accrued expenses of the condominium until assessments are levied against the units. Assessments shall commence for all units in each phase of the condominium on the first day of the month following the conveyance of the first unit from that phase of the condominium to a purchaser and shall be deemed levied against all units at that time.

13.11. Rights of First Mortgagee; Insurance Proceeds or Condemnation Awards. No provision of this Declaration or the Bylaws shall be deemed to give a unit owner, or any other party, priority over any rights of a first mortgagee pursuant to its first mortgage on said unit owner's unit, in the case of a distribution to said unit owner of insurance proceeds or condemnation awards for losses to or a taking of units and/or common elements.

13.12. Additional Real Estate; Consent of Administrator; Common Element Interests; Reallocation. In the event any first mortgages are guaranteed by the VA, FNMA, or FHLMC, the additional real estate may not be added to the condominium without

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the prior written consent of the administrator of the Federal Housing Administration or the Veterans Administration. If the additional real estate is added, the ownership interest in the common elements and the liability for common expenses for each unit shall be reallocated in proportion to the area of each unit to the area of all units and the voting rights in the association shall be reallocated on the basis of equality. The effective date for said reallocation shall be the date of recordation of the amendment to this Declaration, which document shall comply with the provisions of the Act. The effective date for the assignment of assessments to the units added to the condominium shall be the date the Board levies an assessment against said units. All improvements intended to be located within any portion of the additional real estate added to the condominium shall be substantially completed prior to the addition of said portion of the additional real estate.

ARTICLE XIV

General Provisions

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

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

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

14.4. Exhibits. Exhibits "A", "A-1", "B", "C" and "D" attached hereto are hereby made a part hereof.

IN WITNESS WHEREOF, BILL CLARK CONSTRUCTION CO., INC. has caused this instrument to be signed in its name by its President and attested by its Secretary, all as of the day and year first above written.

BILL CLARK CONSTRUCTION CO., INC.

BY: *Bill Clark*
President

ATTEST:



Judy M. Brown
Secretary

NORTH CAROLINA
PITT COUNTY

I, *Luelle Bassill (Blasie)*, a Notary Public, do hereby certify that *Judy M. Brown* personally came before me this

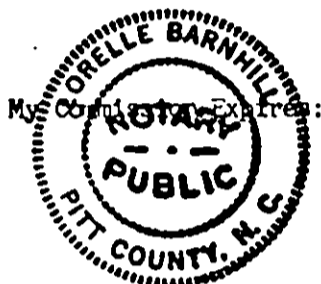
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day and acknowledged that she is Secretary of BILL CLARK CONSTRUCTION CO., INC. and that, by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal, and attested by herself as its Secretary.

WITNESS my hand and Notarial Seal, this the 11th day of March, 1987.

Louella Barnhill (Johanson)
Notary Public



My Commission Expires: 2-16-88

NORTH CAROLINA: Pitt County
The foregoing certificate of Louella Barnhill N. P. of Pitt Co, NC
is certified to be correct. Filed for registration at 3:22 o'clock P on this 24 day of March, 1987

ELVIRA T. ALLRED, Register of Deeds

By Elvira J. Allred

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EXHIBIT "A"

LEGAL DESCRIPTION

Beginning at an iron pipe located at the southwest intersection of rights-of-way of Evans Street Extension and Victoria Court (formerly Wilmetka Avenue) as recorded in Map Book 33, Page 173 of the Pitt County Registry; thence with the southern right-of-way of Victoria Court North 63-30-26 West 455.50 feet to an iron pipe located at the point of curvature of the right-of-way of Victoria Court; thence leaving the right-of-way of Victoria Court North 63-30-26 West 171.50 feet to a point; thence South 26-29-34 West 233.00 feet to a point; thence South 63-30-26 East 88.00 feet to a point; thence South 26-29-34 West 234.00 feet to a point located in the northern property line of Judson Blount; thence with the Blount line North 63-30-26 West 264.95 feet to a concrete monument located in the eastern right-of-way of the Seaboard Coastline Railroad; thence with the eastern right-of-way of said railroad North 21-44-58 East 240.81 feet to an iron pipe; thence leaving said railroad right-of-way South 63-30-26 East 138.86 feet to a point; thence North 26-29-34 East 297.01 feet to a point; thence South 63-30-26 East 183.67 feet to a point located in the curved right-of-way in the cul-de-sac at the end of Victoria Court; thence with the curved right-of-way of Victoria Court along said cul-de-sac, an arc distance of 136.50 feet, said arc veering to the South, having a radius of 50.00 feet, a central angle of 156-25-19 and a chord bearing South 51-43-05 East 97.89 feet; thence with the northern right-of-way of Victoria Court South 63-30-26 East 405.50 feet to an iron pipe located at the northwest intersection of right-of-way of Victoria Court and Evans Street; thence with the western right-of-way of Evans Street and crossing Victoria Court South 26-29-34 West 50.00 feet to the point of beginning containing 2.6973 acres and being a portion of the property deeded to William H. Clark and wife, Gloria E. Clark, by a deed recorded in Deed Book P-54, Page 800, also being an identical portion of the property recorded as Willoughby Park Condominiums in Map Book 33, Page 173 of the Pitt County Registry.

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EXHIBIT "A-1"

ADDITIONAL REAL ESTATE

BEGINNING at a point in the western right-of-way line of Evans Street Extended, which point is located as measured along the western right-of-way of Evans Street Extended 140.10 feet southwardly from the intersection of the western right-of-way line of Evans Street Extended with the southern right-of-way line of Sara Lane and running thence from said beginning point with the western right-of-way line of Evans Street Extended the following courses and distances, to-wit: South 10-31-11 West 93.28 feet; South 14-15-31 West 96.57 feet; South 21-31-09 West 89.69 feet; South 26-04-58 West 91.41 feet; and South 26-29-34 West 771.44 feet to a point in the western right-of-way line of Evans Street Extended a common corner with Judson Blount; running thence with the common dividing line of the lands herein described and the Judson Blount property North 63-30-26 West 803.95 feet to a point in the eastern right-of-way line of the Seaboard Coastline Railroad; running thence with the eastern right-of-way line of the Seaboard Coastline Railroad the following courses and distances, to-wit: North 21-44-58 East 240.81 feet; North 21-28-39 East 101.24 feet; North 20-59-23 East 104.41 feet; North 18-58-16 East 111.48 feet; North 16-55-24 East 97.61 feet; North 14-38-09 East 104.49 feet; and North 12-32-37 East 105.54 feet to a point marking the southwest corner of Tipton Builders, Inc. as shown on map hereinafter referenced; running thence with the common dividing lines of the lands herein described and the Tipton Builders, Inc. property as shown on map hereinafter referenced South 81-32-36 East 429.96 feet to a point marking the southeast corner of the Tipton Builders, Inc. property and the southwest corner of Elizabeth Heights as shown on map hereinafter referenced; continuing thence with the common dividing line of the lands herein described and Elizabeth Heights South 81-19-30 East 480.08 feet to the POINT OF BEGINNING and containing 19.689 acres as shown on map entitled: "Survey For Judson Blount Portion of Tract 2 Division Willoughby Farm" dated June 24, 1985 by Rivers & Associates, Registered Surveyors, reference to which is hereby directed for a more accurate description of the premises herein described.

THERE IS EXCEPTED FROM THE FOREGOING:

Beginning at an iron pipe located at the southwest intersection of rights-of-way of Evans Street Extension and Victoria Court (formerly Winnetka Avenue) as recorded in Map Book 33, Page 173 of the Pitt County Registry; thence with the southern right-of-way of Victoria Court North 63-30-26 West 455.50 feet to an iron pipe located at the point of curvature of the right-of-way of Victoria Court; thence leaving the right-of-way of Victoria Court North 63-30-26 West 171.50 feet to a point; thence South 26-29-34 West 233.00 feet to a point; thence South 63-30-26 East 88.00 feet to a point; thence South 26-29-34 West 234.00 feet to a point located in the northern property line of Judson Blount; thence with the Blount line North 63-30-26 West 264.95 feet to a concrete monument located in the eastern right-of-way of the Seaboard Coastline Railroad; thence with the eastern right-of-way of said railroad North 21-44-58 East 240.81 feet to an iron pipe; thence leaving said railroad right-of-way South 63-30-26 East 138.86 feet to a point; thence North 26-29-34 East 297.01 feet to a point; thence South 63-30-26 East 183.67 feet to a point located in the curved right-of-way in the cul-de-sac at the end of Victoria Court; thence with the curved right-of-way of Victoria Court along said cul-de-sac, an arc distance of 136.50 feet, said arc veering to the South,

having a radius of 50.00 feet, a central angle of 156-25-19 and a chord bearing South 51-43-05 East 97.89 feet; thence with the northern right-of-way of Victoria Court South 63-30-26 East 405.50 feet to an iron pipe located at the northwest intersection of right-of-way of Victoria Court and Evans Street; thence with the western right-of-way of Evans Street and crossing Victoria Court South 26-29-34 West 50.00 feet to the point of beginning containing 2.6973 acres and being a portion of the property deeded to William H. Clark and wife, Gloria E. Clark, by a deed recorded in Deed Book P-54, Page 800, also being an identical portion of the property recorded as Willoughby Park Condominiums in Map Book 33, Page 173 of the Pitt County Registry.

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EXHIBIT "B"

LIMITED COMMON ELEMENTS

Each unit shall have those limited common elements as shown on the floor plans and as set forth below:

1. Balconies and patios. The balconies attached to the second floor units and the patios attached to the first floor units shall be limited common elements for the exclusive use of the unit to which they are attached.
2. Entrance walks and stairs. The entrance walks and stairs attached to each building shall be limited common elements for the joint use of all of the units located in the building.
3. Entrance doors and outside windows (glass). The entrance doors and windows, including glass facing the exterior of the units, are limited common elements for the exclusive use of the unit to which they are attached.

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EXHIBIT "C"

<u>Building No.</u>	<u>Unit No. and Type</u>	<u>Percentage of Undivided Interest in Common Elements</u>	<u>Percentage of Common Expenses*2</u>	<u>Votes in Association</u>
135 Victoria Court	A 3 BRL-1	.0277	.0277	1
135 Victoria Court	B 2 BRL-3	.0277	.0277	1
135 Victoria Court	C 3 BRL-1	.0277	.0277	1
135 Victoria Court	D 3 BRU-1	.0277	.0277	1
135 Victoria Court	E 2 BRU-3	.0277	.0277	1
135 Victoria Court	F 3 BRU-1	.0277	.0277	1
133 Victoria Court	A 3 BRL-1	.0277	.0277	1
133 Victoria Court	B 1 BRL-2	.0277	.0277	1
133 Victoria Court	C 3 BRL-1	.0277	.0277	1
133 Victoria Court	D 3 BRU-1	.0277	.0277	1
133 Victoria Court	E 1 BRU-2	.0277	.0277	1
133 Victoria Court	F 3 BRU-1	.0277	.0277	1
141 Victoria Court	A 3 BRL-1	.0277	.0277	1
141 Victoria Court	B 1 BRL-2	.0277	.0277	1
141 Victoria Court	C 3 BRL-1	.0277	.0277	1
141 Victoria Court	D 3 BRU-1	.0277	.0277	1
141 Victoria Court	E 1 BRU-2	.0277	.0277	1
141 Victoria Court	F 3 BRU-1	.0277	.0277	1
143 Victoria Court	A 3 BRL-1	.0277	.0277	1
143 Victoria Court	B 1 BRL-2	.0277	.0277	1
143 Victoria Court	C 3 BRL-1	.0277	.0277	1
143 Victoria Court	D 3 BRU-1	.0277	.0277	1
143 Victoria Court	E 1 BRL-2	.0277	.0277	1
143 Victoria Court	F 3 BRU-1	.0277	.0277	1

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1. Percentage of Undivided Interest in Common Elements, Liability for Common Expenses (Not including Insurance), and Votes in Association. Percentage of undivided interest in common elements and liability for common expenses (except insurance as contained in Paragraph "2." below) shall be allocated equally to all units and shall be calculated by dividing the number of total units in the total condominium project by one. In the event additional real estate is added pursuant to this Declaration, the percentages as established herein shall be recalculated pursuant to this formula and included within any recorded amendment to this Declaration. Each unit shall be allocated one (1) vote in the Association.

- *2. Insurance Premiums Common Expense. Insurance premiums are a common expense to be set by the master policy and will vary according to the size of the unit (ie. whether a one bedroom, two bedroom, or three bedroom unit).

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EXHIBIT "D"

LIENS, DEFECTS AND ENCUMBRANCES

1. There is an outstanding deed of trust in favor of NCNB National Bank of North Carolina recorded in Book P-54, Page 802, Pitt County Registry. This will not encumber the common elements of the condominium. Each unit will be released from this deed of trust at closing.

2. Building and zoning laws and ordinances of the City of Greenville and state and federal regulations.

3. The provisions of Articles of Incorporation, Declaration and Bylaws of Willoughby Park, A Condominium.

4. The Condominium plans.

5. Existing streets, alleys, utility easements and other easements of record, if any; restrictions of record, if any.

6. The provisions of North Carolina General Statutes, Chapter 47C.

7. Current ad valorem taxes of the City of Greenville and Pitt County.

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