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Declaration of Condominium  
The Grove at Appeldoorn Condominium  
**Type of Document**

C&R Project Development, LLC  
**Declarant**

Steven I. Goldstein  
**Prepared by**

Patla Straus - #35  
**Return to Box to**

The Grove at Appeldoorn Condominium  
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This Declaration of Condominium is made as of this 9 day of November, 2005, by C&R Project Development, LLC, all pursuant to and under the North Carolina Condominium Act, Chapter 47C of the North Carolina General Statutes. Wachovia Bank, National Association (the "Bank"), as the lender with a lien on the Parcel, as defined below, has joined herein for the limited purpose set forth in the Confirmation and Acknowledgement contained below.

## 1. CREATION

1.1. Declarant, as the owner of the Parcel, all of which is located in Buncombe County, North Carolina, hereby creates, in accordance herewith, a condominium comprised of the Property. The name of the condominium is "The Grove at Appeldoorn Condominium" (the "Condominium"). The Property is shown on the Plat and the Plans. The Plans are attached hereto as Exhibit B and will be severed herefrom upon recording in order to place them in the Register of Deeds Plan File. While the Plans may, in error, have spelled "Appeldoorn" as "Appledoorn", the same is an error, is intended to be without negative force, and any references to "Appledoorn" shall be deemed to mean "Appeldoorn".

## 2. DEFINITIONS

2.1. Defined Terms. Except as otherwise defined herein or in the Bylaws of the Association, all terms used in any of the Condominium documents shall have the meaning specified in Section 1-103 of the Act. All Exhibits referred to in any Condominium instruments are a part of this Declaration and all Exhibits are incorporated herein by reference as if set out in full herein. The following definitions are provided for ease in understanding the Declaration:

(a) "Act" is the North Carolina Condominium Act, Chapter 47C, North Carolina General Statutes.

(b) "Additional Real Estate" is that 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.

(c) "Assessments" means those amounts levied against Owners, howsoever the same be denominated, from time to time, by the Association to pay the Common expenses, in accord herewith.

(d) "Association" means The Grove at Appeldoorn Association, Inc., a North Carolina non-profit corporation which is to manage and control the Condominium.

(e) "Base Charge" means the Common expenses, less the Water Charge.

(f) "Board" means the Board of Directors of the Association, so appointed or elected, from time to time, in accord herewith.

(g) "Building" means the Condominium buildings known as Building 1 and/or 100 and/or Gingko, 2 and/or 200 and/or Poplar, 3 and/or 300 and/or Cherry, 4 and/or 400 and/or Birch, 5 and/or 500 and/or White Oak, 6 and/or 600 and/or Pine and 7 and/or 700 and/or Maple. The Declaration, Plans and Plat may use such numbers and names interchangeably, the first Building is sometimes called Building 1, other times Building 100, and other times Gingko Building, but each reference is to the same, identical

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Building. The remaining six (6) Buildings likewise have the same multiple references to a single Building.

(h) "Bylaws" means the Association's Bylaws, so entitled, and attached hereto.

(i) "Common elements" means all of the Property except the Units, subject to the Declarant's absolute right to construct the Second Stage Buildings therein and, by such construction and the filing of an amendment hereto to fully describe the Second Stage Buildings, to withdraw from the Common elements, all portions of the Common elements where the Second Stage Buildings are ultimately, in fact, located.

(j) "Common expenses" means expenditures made by or financial liabilities of the Association (including those incurred as a result of an Owner's failure to comply herewith which such Owner is obligated to repay), including the Base Charge (inclusive of reserves) and the Water Charge.

(k) "Common expense liability" means the liability for common expenses allocated to each Unit pursuant to Section 2-107 of the Act or hereby.

(l) "Control Period" means the maximum period of Declarant control permitted by the Act.

(m) "Declarant" means C&R Project Development, LLC, its successors and assigns and those acting for it in concert who (i) as part of a common promotional plan offers to dispose of his or its interest in a Unit not previously disposed of, or (ii) reserves or succeeds to any Special Declarant Right of the Declarant, as set forth in the Act or herein.

(n) "Declaration" means this document as the same may be amended hereafter.

(o) "Development Rights" means the rights of the Declarant to construct additional buildings on the Parcel and to exercise all rights and benefits appurtenant thereto, per the Act and this document.

(p) "First Mortgage" means a valid first lien deed of trust on a Unit.

(q) "First Mortgagee" means any holder, insurer or guarantor of a First Mortgage who has given written notice of the First Mortgage to the Association.

(r) "First Plat" means that plat recorded in Buncombe County Plat Book 100 at page 102.

(s) "First Sale" means the first sale of a Unit by Declarant once Declarant has given notice to the Association that Assessments against all Units shall be levied upon such Unit's sale.

(t) "First Stage Buildings" means those buildings designated on the Initial Plat as Building 1 and/or 100 and/or Gingko, Building 2 and/or 200 and/or Poplar, Building 3 and/or 300 and/or Cherry.

(u) "Limited common element" means a portion of the Common elements allocated by the Declaration or by operation of Section 2-102(2) or (4) of the Act for the exclusive use of one or more, but fewer than all, of the Units. No reference to Common elements is intended to exclude the Limited Common elements therefrom.

(v) "Parcel" means the tract described on the attached Exhibit A.

(w) "Person" means a natural person, corporation, limited liability company, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or other legal or commercial entity.

(x) "Plans" means those plans of Marc W. Mills, signed and sealed by Marc W. Mills, dated October 26, 2005 (Building 1) and October 28, 2005 (Buildings 2 and 3) and filed in Buncombe County Plan File 505 & 516, as well as any plans filed hereafter showing any improvements located on the Parcel and referred to in any amendment hereto.

(y) "Plats" means the First Plat, the Second Plat and any other plats filed hereafter showing the Parcel or any part thereof and referred to in any amendment hereto.

(z) "Rules and Regulations" means those provisions set forth on the document attached hereto entitled Rules and Regulations of The Grove at Appeldoorn Condominiums, as may be amended from time to time.

(aa) "Second Plat" means a Plat (or Plats) to be filed hereafter by Declarant locating the Second Stage Buildings with the Second Stage Plat to be referred to in an amendment to this Declaration.

(bb) "Second Stage Buildings" means those buildings designated on the Second Plat (and/or future Plats or Plans) as Building 4 and/or 400 and/or Birch, Building 5 and/or 500 and/or White Oak, Building 6 and/or 600 and/or Pine and Building 7 and/or 700 and/or Maple. The approximate location of the Second Stage Buildings are shown on the First Plat and the Plans.

(cc) "Unit Owner" or "Owner" means the Declarant or other person who owns a Unit, but does not include a person having an interest in a Unit solely as security for any obligation.

(dd) "Water Charge" means that portion of the Common expenses which the Association deems attributable to the water/sewer charges, with a one bedroom Unit's monthly Water Charge being one half of that of a two bedroom Unit and one third of that of a three bedroom Unit.

(ee) "Water Charge Category" means whether a Unit is a one bedroom Unit, a two bedroom Unit or a three bedroom Unit.

### **3. IMPROVEMENTS AND UNITS**

3.1. There is constructed on the Parcel those improvements shown on the Plans. The maximum total number of Units which may be constructed on the Parcel is one hundred sixty eight (168) Units. The number of Units shown on the Plans as constructed is seventy two (72). While it is anticipated that all the Second Stage Buildings will be constructed and dedicated to the Condominium at the same time, they may be dedicated at different times.

3.2. The location of Units within the building, their numbers and their dimensions are shown on the Plans. Each Unit includes as an appurtenance thereto the undivided allocated interest in the Common elements set out as Percentage of Undivided Interest in Common elements on Exhibit C (First Stage) and on Exhibit C-1 (Second Stage) attached hereto. In addition, Exhibits C (First Stage) and C-1

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(Second Stage) set forth the Percentage of Base Charge allocable to each Unit, each Unit's Water Charge Category, and the Vote in the Association which the ownership of each Unit carries with it. The foregoing Interests, Expenses and Votes are subject to diminution by Declarant's filing of a revised Exhibit C (which may or may not be the Second Stage) as an attachment to an amendment hereto upon the completion of additional Units. [Note - The Exhibit C (First Stage) is being filed herewith in connection with all Buildings shown on the Plan attached as Exhibit B. The Exhibit C-1 (Second Stage) is anticipated to be filed with the amendment hereto which dedicates the Second Stage Buildings. Declarant may build and dedicate the Second Stage Buildings at such times as it elects; and, thus, amended Exhibit C's may be filed from time to time to reflect the same.] Until a Building is dedicated hereto, no Interests, Expenses or Votes are attributable to such (undedicated) Building. A Unit Owner shall have no vote upon a matter affecting a Limited common element, unless it is appurtenant to such Owner's Unit. The undivided allocated interest in the Common elements that is appurtenant to each Unit, as shown on Exhibit C, has been determined by the ratio that the approximate fair market value of each Unit at the date of the Declaration, as determined by Declarant, bears to the then aggregate fair market value (considering other relevant factors) of all Units having an interest in the Common elements. The approximate fair market value of each Unit, the aggregate fair market value of all the Units and the other relevant factors have been and will be reasonably determined by the Declarant, and this determination shall be binding upon all Unit Owners. The said Percentage of Undivided Interests in the Common elements assigned to each Condominium Unit shall not be severed from the Unit or changed, except as provided herein, or except with the unanimous consent of all Unit Owners and the First Mortgagees (as defined below).

3.3. Since there is no Additional Real Estate, there are no subsequent phases of development, but the Second Stage Buildings will be built hereafter.

3.4. The boundaries of each Unit both as to vertical and horizontal planes, as shown on the Plans, are the undecorated interior surfaces of the perimeter walls, exterior surfaces of exterior doors and exterior surfaces of windows (i.e. all glass is part of the Unit), the undecorated exterior surfaces of the ceiling and the portion of the floor to the interior of the topmost surfaces of the subflooring. While Declarant is not conveying any Units with screened in or enclosed porches, any Units which are subsequently permitted to screen in or encloses porches shall include the screening (or enclosing) material, and the exterior surface thereof shall be the Unit boundary. If a Unit Owner wishes to change a screened in porch to an enclosed one, it may only be done in a manner approved by the Association. All decoration and finishing on all interior surfaces, including without limitation all paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the decorated surfaces thereof, and all interior partitions, and other fixtures and improvements within such boundaries are a part of the Unit. Notwithstanding the foregoing, the Unit shall not include any security system wiring or the spaces and/or improvements lying (i) beneath the subflooring of any floor; (ii) beneath the interior surfacing material of any perimeter wall, interior load bearing walls and/or load bearing partitions; (iii) above the exterior of the surfacing material of the ceiling; and (iv) any pipe, duct, conduit and other facilities for the furnishing of utilities and other services to the Units, Limited common elements and/or Common elements up to and including the point of entry of such pipes, ducts, wire, and conduits through the interior surfacing material for walls and ceilings and subflooring materials for floors. All pipes, ducts, wires, conduits and other such facilities, which serve only the Unit entered thereby, shall become a part of the respective Units at such points of entry. All pipes, ducts, wire, and conduits through the interior surfacing material for walls and ceilings which furnish utility service or security system service beyond an entered Unit shall, notwithstanding anything to the contrary herein, remain Common elements. All exterior doors, windowpanes, and screens shall be part of the respective Condominium Unit; provided, however, that the

exterior decoration and painting (finishing) of the exterior surface of such doors and window frames shall be controlled by, and be the sole responsibility of the Association, as hereinafter defined. Any portion of a utility system or other apparatus servicing one or more (but less than all) Units which is located outside the Unit is a Limited Common element appurtenant to that Unit or Units. Any Units shown on the Plans as adjacent to a balcony area, then such balcony area is Limited common element to such Units. Deck finishing material may be located on the structural supporting members of the balconies. Any non-structural finishing material is part of the respective Unit and must be maintained by such Unit's Owner, subject at all times, however, to Section 6 hereof.

3.5. Except for Declarant, which may subdivide any Unit as a developmental right, a Unit may not be subdivided, except upon an application to the Association and approval by it. All requirements of Sections 2-112 and 2-113 of the Act must be met. Upon the Owners' request, so long as the requirements of the Act are met, and the Association consents thereto, the boundaries of Units may be relocated.

#### **4. COMMON ELEMENTS**

4.1. Subject to Declarant's absolute and controlling right to withdraw the same from common ownership, as set forth herein, all portions of the Property which are not Units are Common elements. Notwithstanding anything to the contrary elsewhere herein, Declarant has the absolute and controlling right to construct any and all of the Second Stage Buildings, and any related facilities (including but not limited to sewer easements and conveyance of sewer facilities), in the approximate locations shown on the Plat and the Plans, or otherwise. **To the extent that any portion of the Parcel is shown as Common element, it is subject to being withdrawn therefrom upon Declarant's construction of any Second Stage Building and any related facilities thereon; and the subjecting of such Building or Buildings (and any related facilities) hereto.**

4.2. Certain portions of the Common elements may be reserved for the use or benefit of a particular Unit or Units to the exclusion of other Units and are designated as "Limited common elements". Limited common elements and the Condominium Units to which they are reserved are depicted on the Plat and/or the Plans.

4.3. To the extent permitted by law, the Declarant reserves the right to modify, alter, remove and improve defective, obsolete, or non-functional portions of the Common elements, including without limitation any equipment or fixture when, in the Declarant's judgment, it is necessary or desirable to do so. Declarant may, by express grant, designate its successor to its rights hereunder.

4.4. All utility meters which measure a utility serving more than one Unit and all related equipment is a Common element. Utility charges through such meters shall, except for the Water Charge, be allocated equally among the Units receiving such utility, unless the Association should determine that one or more of the Units is being used in a manner which results in such Unit consuming a disproportionately larger amount of utility service. In such event, the Association may assess, and such Unit Owner shall pay as an additional Assessment, a utility surcharge against the Owner of the Unit consuming the excess amount. Owners understand that the monthly Assessment includes the Water Charge therein, and the amounts charged for different Units shall be different to the extent of the Unit's Water Charge Category, as that shall determine the amount of that part of the Assessment. A Unit's monthly Assessment shall be the sum of the Unit's Water Charge plus the amount determined by multiplying the total of the monthly Base Charge for the Condominium by the Unit's percentage of Base

Charge.

## **5. EASEMENTS AND ENCROACHMENTS**

5.1. In addition to the easements created by the Act, the easements set forth hereafter are established by this Declaration.

5.2. If by reason of destruction, reconstruction, rehabilitation, alteration, settling or improvement of any building or improvement comprising a part of the Condominium, any part of the Common elements now or hereafter encroaches upon any part of any Unit and/or Limited common element, or any part of any Unit and/or Limited common element 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 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 interferes with the reasonable use and enjoyment of the Common element, Limited common element or Unit so encroached upon.

5.3. 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 such walls lie in whole or in part within the boundaries of any Unit.

5.4. An easement to enter, repair, maintain, restore and reconstruct a Unit and/or the Limited common elements and/or the Common elements necessary to repair, maintain, restore or reconstruct all or any part of the Unit or the Limited common elements or the Common elements is hereby declared and granted to the Association. In case of emergency, the Association shall have the right of immediate entry to a Unit, the Limited Common elements and the Common elements whether or not the Unit owner is present at the time.

5.5. The Declarant reserves all Special Declarant Rights as set forth in the Act unto Declarant including, but not limited to, the right to use any Unit owned or leased by the Declarant as a model, management office, sales office, and/or customer service office. The Declarant reserves the right to relocate the same from time to time within the Property. The Declarant further reserves the right to maintain on the Property such advertising signs as comply with applicable governmental regulations, which signs may be placed in any location on the Property and may be relocated or removed, all at the sole discretion of the Declarant. This Easement shall continue until the Declarant has conveyed all Units on the Parcel to Unit Owners other than the Declarant.

5.6. The Declarant shall have the right, prior to termination of the period of Declarant control of the Property, to grant and reserve easements and rights of way through, under, over, and across the Property for the installation, maintenance and inspection of the lines and appurtenances for public or private water, sewer, drainage, gas, electricity, telephone and television reception and other utilities.

5.7. The Declarant, pursuant to the Act, reserves such easements through the Common elements and Limited common elements as may be reasonably necessary for the purpose of discharging its obligations, exercising Declarant rights and completing the development of the Property, which easements shall exist as long as reasonably necessary for such purpose.



5.8 There is established hereby, for the benefit of the Faith Tabernacle Christian Center, Inc. (the "Church"), a license to permit its members, guests and employees to utilize, on a non-exclusive basis, the parking areas established, from time to time, within the Parcel, in the event that overflow parking is needed by the Church. The parking by Church members, guests and employees is intended to be of a temporary nature and only at such times as the regular Church parking areas are filled. Declarant and the Association shall have the right, at all times, to establish reasonable rules and regulations with respect to Church parking. The rights of the Church are a license and not an easement, but consideration has been given the Church and the license shall not be terminated without the consent of the Church, absent a violation of the foregoing by the Church.

5.9. All easements and rights described in this Article V are appurtenant easements running with the land and, except as otherwise expressly provided in this Article V, shall be perpetually in full force and effect and shall inure to the benefit of and be binding upon Declarant, the Association, the Unit Owners, occupants, security holders and any other person having an interest in the Condominium or any part thereof. The Condominium and every part thereof shall, whenever conveyed, be conveyed encumbered *subject to and together with all easements and rights described in this Article V, whether or not specifically mentioned in any such conveyance or encumbrance.*

## **6. RESTRICTIONS**

6.1. Every Unit Owner and occupant of a Unit shall comply with all applicable provisions of the Act, this Declaration, the Bylaws, the charter (or other enabling document) of the Association, and Rules and Regulations promulgated by the Association, as the same may be amended from time to time. 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, injunctive relief and/or other relief and/or a combination thereof. Without limiting the rights of the Association to enforce this Declaration, it may assess and collect all fines, penalties and amounts permitted to be charged to a Unit Owner acting in violation hereof by the Act. Further notwithstanding anything else herein, other than claims against the Association, no Owner shall commence an action hereunder until the Association shall have had sixty (60) days from notice thereof to proceed to enforce the provisions hereof.

6.2. The Condominium shall be administered in accordance with the provisions of the Act, this Declaration and the Bylaws. The Association shall have all powers available to it, under the Act, to enforce the provisions hereof.

6.3. (a) The Units shall only be occupied as permitted hereby, and only used for residential purposes. (b) Except for Declarant's special rights, 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 Property without the prior written consent of the Association. (c) Notwithstanding any other provision of this Declaration or the Bylaws to the contrary, Declarant may at all times, from time to time, maintain sales offices and management offices anyplace on the Condominium and may maintain a model Unit or Units, together with display signs, window display signs or other advertising materials therein, thereon and on the Common elements for the purposes of promoting the Condominium. Any Unit or Units owned or leased by Declarant may serve as a model Unit and/or the management office of Declarant. Declarant may locate and relocate the foregoing as often as Declarant deems advisable. Declarant shall remove its signs not later than five days after all of the Units have been conveyed to Unit owners other than Declarant.

6.4. Nothing shall be done to or kept in any Unit, Limited common element or the Common elements that will increase any rate of insurance maintained with respect to the Condominium without the prior written consent of the Association. No Unit Owner or occupant shall permit anything to be done to or kept in any 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, or destruction) to or in such Owner's Unit, the Limited common elements or the Common elements.

6.5. No Unit Owner and no other person or occupant shall alter or cause any construction to the Owner's Unit, nor shall any Owner 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 Association. Other than by Declarant, no walls of Units may be removed or altered without the Association's consent. No alteration of any part of a Unit shall be done which is visible from its exterior without the Association's prior consent nor shall anything inside the Unit be allowed to be visible from the outside, unless permitted by the Declaration, or otherwise permitted by the Association.

6.6. Except as otherwise provided herein, Units are intended to be owner occupied ones; thus Units are only to be occupied by the Unit Owner and the Owner's spouse or partner and immediate family, or the beneficiaries or principals of any entity holding title. If a Unit is owned by a trust or other non-human entity, then it is intended that the Unit be occupied by the beneficiary of the trust or a principal of the other non-human owner. Other than to accommodate transitory situations (a set of circumstances or conditions that are anticipated to be temporary in duration and customarily for eighteen (18) months or less), no Unit shall be leased, rented or otherwise occupied under a lease, occupancy or other rental agreement. By way of illustration and not limitation, transitory situations may include those times when the Unit Owner has a temporary work assignment outside of the area, is away from the Unit on extended travel, is in the military, is suffering from a sickness requiring residency at a medical or quasi-medical facility or as a result of a domestic matter. If a Unit is acquired as a result of sale under power of sale, foreclosure or other involuntary or distress-induced conveyance, the period of occupancy by a non-Unit Owner (a tenant of a foreclosure sale purchaser) may not exceed eighteen (18) months. Notwithstanding the foregoing, Declarant may lease Units to prospective purchasers who will occupy the Unit as a tenant in accord with the material provisions of that Lease, which is so entitled and attached hereto. All blanks contained in the Lease shall be filled in prior to the execution thereof. In the event of any breach of this subsection, the Association and all parties entitled to enforce the Declaration may commence an action to enforce the same and injunctive relief shall be appropriate.

6.7. In addition to all the foregoing, reasonable Rules and Regulations not materially in conflict therewith or with any law and supplementary thereto may be promulgated and amended from time to time by the Association and the same shall be considered as a part of the Declaration. If any utilities are to be furnished to the Condominium through a single meter, all Owners shall take reasonable steps to minimize usage of these items. The Rules and Regulations may address means of reducing usage and penalties which may be levied against Owners violating those policies.

6.8. Unit ownership is subject to the provisions of this Declaration, all of which 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.

## 7. ADMINISTRATION

7.1. The Association has been organized. The Association, through its Board, shall administer the operation and management of the Condominium and shall undertake and perform all acts and duties incident thereto in accordance with the terms of the Bylaws, including but not limited to the right and duty to levy the Assessments which all Owner's must pay in accord herewith. A true copy of the Bylaws was attached to each copy hereof provided to a Unit Owner, herewith and the terms thereof are incorporated herein by reference. The Owner of each Unit is automatically a member of the Association upon acquisition of the ownership interest in the Unit. Membership of such Owner shall terminate automatically upon such Owner no longer owning a Unit. No Person holding any lien, mortgage or other encumbrance upon any Unit shall be entitled, by virtue of such lien, mortgage or other encumbrance, to membership in said Association or to any of the rights and privileges of such membership. In the administration of the operation and management of the Condominium, the Association shall have and is hereby granted the authority and power to enforce the provisions of this Declaration, to levy and to collect assessments in the manner hereinafter provided, and to adopt, promulgate and enforce the Rules and Regulations governing the use of the Units, Common elements and Limited Common elements, as the Board deems to be in the best interests of the Association.

7.2. Upon the First Sale, the Association shall assume responsibility for the maintenance, repair and replacement of the Common elements and may levy Assessments therefor. Upon the acquisition of any Unit from Declarant and thereafter Assessments shall be due from those (purchasing) Owners and their heirs, successors and assigns. Once Declarant has conveyed a Unit and Assessments have been levied, the Owners thereof, at all times thereafter, are liable for the Common expenses and Assessments arising as of that date and as assessed by the Association at all times thereafter. In addition, upon the conveyance of a Unit from Declarant, the receiving Owner shall pay an amount, equal to two (2) month's Assessment for that Unit to the Association. Until the First Sale, Declarant shall pay all Common expenses then due. Assessments shall be allocated to and among the individual Units in accordance with the Percentage of Base Charge plus Water Charge shown on Exhibit C and/or C-1, subject to diminution as set forth elsewhere herein.

## 8. MANAGEMENT

8.1. The management, replacement, maintenance, repair, alteration and improvement of the *Common elements shall be the sole responsibility of the Association, and, except as otherwise provided herein, the cost thereof shall be a Common expense.* All damage to a Unit resulting from any work done by or for the Association shall be repaired by the Association, and the cost thereof shall be a Common expense.

8.2. A Unit Owner shall reimburse the Association for all costs to repair and/or replace any portions of the Common elements which are damaged or destroyed by the intentional or negligent acts of any Unit Owner, anyone acting by or for such Unit's Owner or any occupant of the Unit Owner's Unit. Such reimbursement shall be a part of the Assessment due from that Owner, and shall be paid upon demand made by the Association.

8.3. Any Common expense associated with the maintenance, repair, or replacement of a Limited common element shall be solely assessed against the Unit(s) to which such Limited common element was allocated at the time the expense was incurred.

8.4. The Owner of each Unit shall maintain, repair and replace the Unit at all times in a good and clean condition at such Owner's expense. Each Owner shall promptly report to the Association any repairs required to be done by the Association pursuant hereto. To the extent that such expense is not covered by the proceeds of insurance carried by the Association, the Unit Owner shall pay all costs to repair and/or replace any Unit or portion thereof that has become damaged or destroyed by reason of the acts or omissions of the Owner, or any other occupant of the Unit. All payments due from an Owner shall be made upon demand. Nothing herein contained shall provide any insurance company with rights of subrogation greater than those existing in its policy or policies.

8.5. Except as otherwise provided herein, no claim shall be made, and the same is waived, against Unit Owners, the members of the Board, officers of the Association, or employees or agents of any thereof, or against any manager retained by the Board, 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, to the extent the same are compensated by insurance. This waiver does not apply to any such loss or damage due to intentional acts.

8.6. The Association, and those authorized by it, may enter any Unit, the Common elements and all the Limited common elements in case of any emergency or dangerous condition or situation originating in or threatening that Unit, the Limited common elements or the Common elements. The Association, and those authorized by it, after reasonable notice to a Unit Owner or occupant, may enter a Unit and its Limited common elements for the purposes of performing any of the Association's duties or obligations and/or exercising its powers under the Act and/or this Declaration with respect to that or any other Unit, any Limited common elements, or the Common elements. Notwithstanding Section 8.5, the Association shall, to the extent not covered by the Unit Owner's insurance, be responsible for the repair of any damage caused by the Association and those authorized by it 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 occupant.

8.7. Each Unit Owner may, directly or by representative, enter other Units and Limited common elements, but only when reasonably necessary for the purpose of altering, maintaining, repairing or replacing the entering Unit owner's Unit and/or performing the duties and obligations under the Act and/or this Declaration. Notwithstanding the foregoing, in the absence of emergency no Unit shall be entered by another Unit's owner, unless a request for entry is made in advance and such entry is at a time convenient to the Unit occupant of the Unit to be entered. In case of an emergency or dangerous condition, such right of entry shall be immediate. Notwithstanding anything to the contrary in Section 8.5, the owner of the Unit causing entry to be made to another's Unit, shall be responsible for repair of any damage caused by such entry.

## 9. INSURANCE

9.1. The Association shall maintain casualty insurance (fire and extended coverage) upon the Units, Common elements and Limited common elements (and other insurable parts of the Property), other than the items inside the Units (improvements and betterments by a Unit Owner, other than Declarant, not being insured by the Association's policy) in the name of, and payable to, the Association, as trustee for all Unit owners and security holders, as their interests may appear, to be disbursed pursuant to the Act. It is anticipated that the insurance shall be in an amount equal to one hundred percent (100%) of replacement cost, but in all events such insurance shall be in an amount not less than that required by the Act and shall

insure against such risks and contain such provisions as required by the Act.

9.2. The Association shall maintain public liability insurance covering occurrences commonly insured against thereby, arising out of or in connection with the use, ownership or maintenance of the Common elements, for the benefit of, and naming as insureds, the Unit Owners and occupants, the Association, the Board, the manager of the Condominium, 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 Dollars (\$1,000,000.00) per occurrence, for death, bodily injury and property damage. Said insurance shall contain a severability-of-interest endorsement precluding the insurer from denying liability because of negligent acts of any insured. All insureds shall be insured against liability arising out of or in connection with the use, ownership or maintenance of the Common elements.

9.3. Fidelity coverage may 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. Any fidelity coverage shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression and shall contain an appropriate endorsement to cover persons who serve without compensation. The premiums on said policy shall be a Common expense.

9.4. The Association may procure such other insurance as is permitted by the Act and the premiums therefor shall be Common expense.

9.5. The Board may engage an insurance trustee, and pay any cost thereof as a Common expense. The duty of the insurance trustee shall be to receive such proceeds as are paid to it and to hold the same in trust and disburse the same for the purposes elsewhere stated in the Declaration, Bylaws or Act, for the benefit of the insured(s).

9.6. Except as otherwise provided herein, any Unit Owner may obtain insurance of any kind or nature, at the Owner's expense, to the extent and in the amounts such Unit Owner deems necessary. No such insurance shall be in conflict herewith, nor shall it provide that contribution, as against the insurance purchased by the Association, is available. If a casualty loss is sustained and a reduction in the amount of the Association's proceeds occurs due to the insurance purchased by a Unit Owner under this Section, such Unit Owner must reimburse the Association to the extent of such reduction upon demand; and, by acceptance of the deed to a Unit, assigns the proceeds of his insurance, to the extent of such reduction, to the Association.

#### **10. RESERVATION OF DECLARANT CONTROL**

10.1. Declarant hereby reserves unto Declarant, and it is hereby provided to Declarant, during the Control Period, the right to control the Association pursuant to the provisions of Section 3-103 of the Act. Said period shall be the period of Declarant control as otherwise referred to herein. Notwithstanding the foregoing, at all times subsequent to the First Sale, Unit Owners other than Declarant shall have the right to elect thirty-three percent (33%) of the members of the Board.

10.2. During the Declarant control period no amendment hereto or to the Bylaws shall occur without approval of Declarant.

10.3. Declarant may, at any time hereafter, by written notice to the Association, terminate the period of Declarant control. Thereafter, Declarant shall have the same rights and votes as arising by virtue of the number of Units then owned by Declarant.

**11. CASUALTY DAMAGE**

11.1. 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 Sections 3-113 and 2-118 of the Act.

**12. CONDEMNATION**

12.1. 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 remainder of 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.

**13. TERMINATION**

13.1. The Condominium may be terminated only in compliance with Section 2-118 of the Act. That Section, inter alia, permits termination only if affirmatively voted upon by at least eighty percent (80%) of the votes in the Association.

**14. AMENDMENT**

14.1. This Declaration may be amended only in compliance with the Act. No amendment altering or impairing special Declarant rights shall be effective without the written consent of Declarant, however. No modification of the form or substance of Section 6.6 shall occur without the consent of the City of Asheville. Any amendment by the Association need only be signed by the President or any Vice President thereof, but written evidence must be maintained by it that *sufficient Owners voted therefor*.

**15. RIGHTS OF FIRST MORTGAGEES**

15.1. The First Mortgagees shall have the rights set forth hereafter. Any First Mortgagee who has given written notice of the First Mortgage to the Association shall have the rights set forth hereafter. First Mortgagees may inspect, at the Association office, upon prior request and during normal business hours, copies of the Declaration governing the Condominium and the books, records and financial statements of the Association. The Association shall provide the financial statement for the preceding fiscal year, if available and if requested in writing by a First Mortgagee. The Association may require anyone requesting copies of any documents to pay a reasonable charge for the reproduction cost.

15.2. Unless a greater percentage is set forth herein (in which case the greater shall control), then unless First Mortgagees holding at least 80% of the votes allocated to First Mortgagees (one vote per Unit financed) and Unit Owners holding at least 80% of the total votes in the Association have given their prior written approval, the Association shall not be entitled to:

- (a) by act or omission, seek to abandon or terminate the Condominium (including Units

and/or Common elements);

(b) change the percentage interest or obligations of any Unit for the purpose of:

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

(ii) determining the percentage share of ownership of each Unit in the Common elements;

(c) use hazard insurance proceeds from losses to any part of the Condominium (whether to Units, Common elements or Limited common elements), other than to repair, replace or reconstruct thereof.

15.3. Each First Mortgagee, upon written request to the Association stating its name and address and describing the Unit encumbered by the First Mortgage, shall be entitled to timely written notification by the Association of (i) any proposed action requiring consent 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 performance of any obligation under this Declaration by said Unit Owner; or (iv) any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

15.4. Assessments shall be due and payable in monthly installments, in advance, as provided in the Bylaws and as required by Section 3-107 of the Act.

15.6. Matters affecting Limited common elements shall be considered only by those Mortgagees whose debtors are authorized to vote thereon.

## **16. GENERAL PROVISIONS**

16.1. Should any provision or portion of this Declaration conflict with any provision 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 provision, or of any part of the same, shall not affect in any manner the validity, enforceability or effect of the rest of this Declaration.

16.2. 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.

16.3. 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.

16.4. The Association and any aggrieved Unit Owner has a right of action against any party violating this Declaration, the Bylaws and/or the Rules and Regulations lawfully adopted by the Association.

16.5. Any management agreement, entered into prior to termination of a period of Declarant control, between the Declarant or the Association and a professional manager or between the Association

and Declarant shall be terminable by either party thereto without cause and without payment of a termination fee upon no more than ninety (90) days' prior written notice.

16.6. If any part hereof is not enforceable or is in violation of any applicable law, such provision is severable and the balance hereof shall remain in full effect.

**17. UNSOLD UNITS**

17.1. Declarant shall own in fee simple each Condominium Unit to which legal title is not conveyed or otherwise transferred to another person.

**18. SPECIAL DECLARANT RIGHTS**

18.1. Special Declarant rights are reserved to the full extent permitted by the Act for the benefit of the Declarant, and include, without limitation, the following rights: (a) to complete improvements indicated on the Plats and Plans; (b) to maintain sales offices, model units, management's offices and signs advertising the Condominium; (c) to use easements through the Common elements for the purpose of making improvements to any part of the Property; and (d) to appoint or remove any officer or director of the Association during the period of Declarant control.

18.2. To the full extent permitted by Section 3-104 of the Act, the Declarant may transfer Special Declarant's rights.

**19. CONTROLLING LAWS**

19.1. All provisions of the Act referred to herein, directly or indirectly, are hereby incorporated by reference as if set out in full.

**20. EXHIBITS**

20.1. *The following exhibits are attached hereto and made a part of this Declaration:*

Exhibit A - A valid legal description of the Parcel.

Exhibit A-1 - A valid legal description of the Additional Real Estate, if any.

Exhibit B - The Plans, as prepared by Marc W. Mills, entitled "As Built Plans of Building 1 "Gingko" The Grove at Appledoorn (sic.) Condominium" and "As Built Plans of Buildings 2 "Poplar" and 3 "Cherry" The Grove at Appledoorn (sic.) Condominium" and certified to contain all those matters required thereon by Section 2-109 of the Act.

Exhibit C (First Stage) - A schedule of undivided Common interest allocation and related matters.

Exhibit C-1 (Second Stage) - A schedule of undivided common interest allocation and related matters, as anticipated upon the completion of all Condominium Buildings.

Bylaws - The Association Bylaws.



Bylaws - The Association Bylaws.

Lease - The form of Lease to be used by Declarant.

Rules and Regulations of The Grove at Appeldoorn Condominiums - The initial Rules and Regulations.

IN WITNESS WHEREOF, the Declarant has caused due execution of this instrument this the day and year first above written.

C&R Project Development, LLC

By: [Signature]  
Managing Member

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### CONFIRMATION AND ACKNOWLEDGEMENT

Wachovia Bank, N.A. confirms that it consents to the recording of this Declaration, that it acknowledges the Condominium regime created hereby shall not be disturbed by any foreclosure or sale under power of sale pursuant to its deed of trust recorded in Buncombe County Book 3960 at page 374, as the same may be amended, that the sewer easement to the Metropolitan Sewerage District of Buncombe County, North Carolina shown on the plat recorded in Buncombe County Book 100 at page 92 is consented to, and that the rights of the purchaser or purchasers at any sale of a Unit shall be subject to this Condominium regime.

Wachovia Bank, N.A.

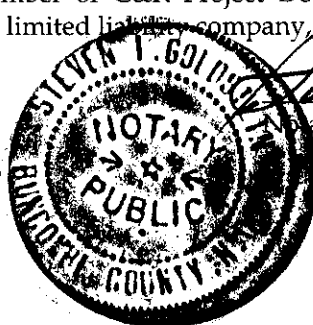
By: [Signature]  
Vice President

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State of North Carolina - County of Buncombe

I a Notary Public of said County and State, certify that Roderick J. Hubbard personally appeared before me on this 9 day of November, 2005, and personally acknowledged his due execution of the foregoing instrument as a Managing Member of C&R Project Development, LLC, a North Carolina limited liability company, on behalf of said limited liability company, by authority duly vested.

My Commission Expires: 9-15-2008



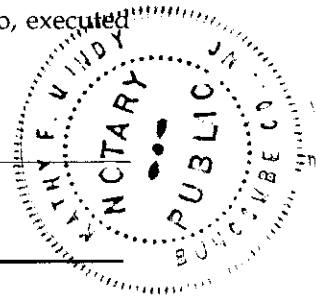
[Signature]  
Notary Public

State of North Carolina - County of Buncombe

I, a Notary Public of said County and State certify that Kenneth J Etterman personally came before me this 10<sup>th</sup> day of November, 2005, and acknowledged that ~~he~~/she is the Vice President of Wachovia Bank, N.A., a banking association, and being duly authorized to do so, executed the foregoing on behalf of the corporation as its act and deed.

My Commission Expires: 5-16-09

Kathy E. Mundy  
Notary Public



**EXHIBIT A**

Lying in City of Asheville, Buncombe County, North Carolina, being a tract of 11.161 acres, more or less, shown on a plat (the "Plat") entitled "Building and Parking Asbuilt for The Grove at Appeldoorn", dated October 26, 2005, prepared by Eric S. McAbee, and recorded in Buncombe County Plat Book 100 at page 102. The foregoing tract is conveyed together with any and all right, title and interest of the Grantor in and to any property lying within the Gap Area shown on the Plat. The foregoing property is subject to the matters shown on the Plat, and the non-exclusive rights of the owner of the Faith Tabernacle Christian Center, Inc. tract to utilize the 30' R/W on the Plat and the plat recorded in Buncombe County Plat Book 100 at page 103. There is further excepted and reserved from the foregoing, all easements and rights of way shown on the Plat, and the right of Declarant to establish sewer easements in favor of Metropolitan Sewerage District of Buncombe County, North Carolina and to convey the sewer system within the above tract to it, whether as shown on the plat recorded in Buncombe County Book 100 at page 92 or otherwise. [Continued on the attached page 16A]

**EXHIBIT A-1**

There is no Additional Real Estate.

**EXHIBIT B**

See attached.

**EXHIBIT A - Continued**

Also included herein is the non-exclusive right to use the New 30' R/W shown on the Plat. The Conveyance of the said sewer system is recorded in Buncombe County Book 4134 at page 1930.

EXHIBIT C  
(First Stage)

<u>Unit and Bldg.</u>	<u>Percentage of Undivided Interest In Common Elements*</u>	<u>Percentage of Base Charge*</u>	<u>Water Charge Category</u>	<u>Votes**</u>
<b>1, 100 or Gingko</b>				
111	1.388	1.389	2	1
112	1.388	1.389	2	1
113	1.388	1.389	2	1
114	1.388	1.389	2	1
115	1.388	1.389	2	1
116	1.388	1.389	2	1
117	1.388	1.389	2	1
118	1.388	1.389	2	1
121	1.388	1.389	2	1
122	1.388	1.389	2	1
123	1.388	1.389	2	1
124	1.388	1.389	2	1
125	1.388	1.389	2	1
126	1.388	1.389	2	1
127	1.388	1.389	2	1
128	1.388	1.389	2	1
131	1.388	1.389	2	1
132	1.388	1.389	2	1
133	1.388	1.389	2	1
134	1.388	1.389	2	1
135	1.388	1.389	2	1
136	1.388	1.389	2	1
137	1.388	1.389	2	1
138	1.388	1.389	2	1
<b>2, 200 or Poplar</b>				
211	1.212	1.389	1	1
212	1.569	1.389	3	1
213	1.388	1.389	2	1
214	1.388	1.389	2	1
215	1.388	1.389	2	1
216	1.388	1.389	2	1
217	1.569	1.389	3	1
218	1.212	1.389	1	1
221	1.212	1.389	1	1
222	1.569	1.389	3	1
223	1.388	1.389	2	1
224	1.388	1.389	2	1
225	1.388	1.389	2	1
226	1.388	1.389	2	1
227	1.569	1.389	3	1

228	1.212	1.388***	1	1
231	1.212	1.388***	1	1
232	1.569	1.389	3	1
233	1.388	1.389	2	1
234	1.388	1.389	2	1
235	1.388	1.389	2	1
236	1.388	1.389	2	1
237	1.569	1.389	3	1
238	1.212	1.388***	1	1
<b>3, 300 or</b>				
<b><u>Cherry</u></b>				
311	1.212	1.388***	1	1
312	1.569	1.389	3	1
313	1.388	1.389	2	1
314	1.388	1.389	2	1
315	1.388	1.389	2	1
316	1.388	1.389	2	1
317	1.569	1.389	3	1
318	1.212	1.388***	1	1
321	1.212	1.388***	1	1
322	1.569	1.389	3	1
323	1.388	1.389	2	1
324	1.388	1.389	2	1
325	1.388	1.389	2	1
326	1.388	1.389	2	1
327	1.569	1.389	3	1
328	1.212	1.388***	1	1
331	1.212	1.388***	1	1
332	1.569	1.389	3	1
333	1.388	1.389	2	1
334	1.388	1.389	2	1
335	1.389****	1.389	2	1
336	1.389****	1.389	2	1
337	1.570****	1.389	3	1
338	<u>1.213****</u>	<u>1.389</u>	<u>1</u>	<u>1</u>
TOTAL		100.00	144	72

\* Subject to diminution upon completion and dedication of any Second Stage Buildings.  
\*\*Exclusive of Declarant's additional eighty five (85) votes.  
\*\*\*Reduced 0.001 for rounding purposes.  
\*\*\*\*Increased 0.001 for rounding purposes

EXHIBIT C-1  
(Second Stage)

<u>Unit and Bldg.</u>	<u>Percentage of Undivided Interest In Common Elements*</u>	<u>Percentage of Base Charge*</u>	<u>Water Charge Category*</u>	<u>Votes**</u>
<b>1, 100 or Gingko</b>				
111	0.60	0.595	2	1
112	0.60	0.595	2	1
113	0.60	0.595	2	1
114	0.60	0.595	2	1
115	0.60	0.595	2	1
116	0.60	0.595	2	1
117	0.60	0.595	2	1
118	0.60	0.595	2	1
121	0.60	0.595	2	1
122	0.60	0.595	2	1
123	0.60	0.595	2	1
124	0.60	0.595	2	1
125	0.60	0.595	2	1
126	0.60	0.595	2	1
127	0.60	0.595	2	1
128	0.60	0.595	2	1
131	0.60	0.595	2	1
132	0.60	0.595	2	1
133	0.60	0.595	2	1
134	0.60	0.595	2	1
135	0.60	0.595	2	1
136	0.60	0.595	2	1
137	0.60	0.595	2	1
138	0.60	0.595	2	1
<b>2, 200 or Poplar</b>				
211	0.49	0.595	1	1
212	0.69	0.595	3	1
213	0.60	0.595	2	1
214	0.60	0.595	2	1
215	0.60	0.595	2	1
216	0.60	0.595	2	1
217	0.69	0.595	3	1
218	0.49	0.595	1	1
221	0.49	0.595	1	1
222	0.69	0.595	3	1
223	0.60	0.595	2	1
224	0.60	0.595	2	1
225	0.60	0.595	2	1
226	0.60	0.595	2	1
227	0.69	0.595	3	1
228	0.49	0.595	1	1
231	0.49	0.595	1	1
232	0.69	0.595	3	1

233	0.60	0.595	2	1
234	0.60	0.595	2	1
235	0.60	0.595	2	1
236	0.60	0.595	2	1
237	0.69	0.595	3	1
238	0.49	0.595	1	1

**3, 300 or  
Cherry**

311	0.49	0.595	1	1
312	0.69	0.595	3	1
313	0.60	0.595	2	1
314	0.60	0.595	2	1
315	0.60	0.595	2	1
316	0.60	0.595	2	1
317	0.69	0.595	3	1
318	0.49	0.595	1	1
321	0.49	0.595	1	1
322	0.69	0.595	3	1
323	0.60	0.595	2	1
324	0.60	0.595	2	1
325	0.60	0.595	2	1
326	0.60	0.595	2	1
327	0.69	0.595	3	1
328	0.49	0.595	1	1
331	0.49	0.595	1	1
332	0.69	0.595	3	1
333	0.60	0.595	2	1
334	0.60	0.595	2	1
335	0.60	0.595	2	1
336	0.60	0.595	2	1
337	0.69	0.595	3	1
338	0.49	0.595	1	1

**4, 400 or  
Birch**

411	0.49	0.595	1	1
412	0.69	0.595	3	1
413	0.60	0.595	2	1
414	0.60	0.595	2	1
415	0.60	0.595	2	1
416	0.60	0.595	2	1
417	0.69	0.595	3	1
418	0.49	0.595	1	1
421	0.49	0.595	1	1
422	0.69	0.595	3	1
423	0.60	0.595	2	1
424	0.60	0.595	2	1
425	0.60	0.595	2	1
426	0.60	0.595	2	1
427	0.69	0.595	3	1
428	0.49	0.595	1	1
431	0.49	0.595	1	1
432	0.69	0.595	3	1
433	0.60	0.595	2	1
434	0.60	0.595	2	1

435	0.60	0.595	2	1
436	0.60	0.595	2	1
437	0.69	0.595	3	1
438	0.49	0.595	1	1

5, 500 or  
White Oak

511	0.49	0.595	1	1
512	0.69	0.595	3	1
513	0.60	0.595	2	1
514	0.60	0.595	2	1
515	0.60	0.595	2	1
516	0.60	0.595	2	1
517	0.69	0.595	3	1
518	0.49	0.595	1	1
521	0.49	0.595	1	1
522	0.69	0.60****	3	1
523	0.60	0.595	2	1
524	0.60	0.595	2	1
525	0.60	0.595	2	1
526	0.60	0.595	2	1
527	0.69	0.60****	3	1
528	0.49	0.595	1	1
531	0.49	0.595	1	1
532	0.69	0.60****	3	1
533	0.60	0.595	2	1
534	0.60	0.595	2	1
535	0.60	0.595	2	1
536	0.60	0.595	2	1
537	0.69	0.60****	3	1
538	0.49	0.595	1	1

6, 600 or  
Pine

611	0.49	0.595	1	1
612	0.69	0.60****	3	1
613	0.60	0.595	2	1
614	0.60	0.595	2	1
615	0.60	0.595	2	1
616	0.60	0.595	2	1
617	0.69	0.60****	3	1
618	0.49	0.595	1	1
621	0.49	0.595	1	1
622	0.69	0.60****	3	1
623	0.60	0.595	2	1
624	0.60	0.595	2	1
625	0.60	0.595	2	1
626	0.60	0.595	2	1
627	0.69	0.60****	3	1
628	0.49	0.595	1	1
631	0.49	0.595	1	1
632	0.68***	0.595	3	1
633	0.60	0.595	2	1
634	0.60	0.595	2	1
635	0.60	0.595	2	1
636	0.60	0.595	2	1



637	0.68***	0.595	3	1
638	0.49	0.595	1	1
7, 700 or Maple				
711	0.49	0.595	1	1
712	0.68***	0.595	3	1
713	0.60	0.595	2	1
714	0.60	0.595	2	1
715	0.60	0.595	2	1
716	0.60	0.595	2	1
717	0.68***	0.595	3	1
718	0.49	0.595	1	1
721	0.49	0.595	1	1
722	0.68***	0.595	3	1
723	0.60	0.595	2	1
724	0.60	0.595	2	1
725	0.60	0.595	2	1
726	0.60	0.595	2	1
727	0.68***	0.595	3	1
728	0.49	0.595	1	1
731	0.49	0.595	1	1
732	0.68***	0.595	3	1
733	0.60	0.595	2	1
734	0.60	0.595	2	1
735	0.60	0.595	2	1
736	0.60	0.595	2	1
737	0.68***	0.595	3	1
738	0.49	0.595	1	1
TOTAL	100.00	100.00	336	168

\*Subject to modification upon completion and dedication of any Second Stage Buildings  
\*\*Exclusive of Declarant's additional eighty five (85) votes during the Control Period.  
\*\*\*Reduced 0.01 for rounding purposes.  
\*\*\*\*Increased 0.005 for rounding purposes.

## (ATTACHMENT)

BYLAWS  
OF  
THE GROVE AT APPELDOORN ASSOCIATION, INC.

ARTICLE I  
Plan of Unit Ownership

Section 1: All terms defined in the Declaration of The Grove at Appeldoorn Condominiums to which these Bylaws are attached shall be deemed defined herein and shall be used without further definition. The Association is incorporated.

Section 2: The Condominium is more particularly described in the Declaration and is located in Buncombe County, North Carolina.

Section 3: The provisions of these Bylaws are applicable to the Units and the occupancy and use thereof.

Section 4: All Owners, tenants, future tenants, their employees or agents and any other person that might occupy and use the Condominium in any manner, are subject to the provisions of these Bylaws and to Rules and Regulations adopted, from time to time, pursuant hereto.

Section 5: The acquisition of or rental or occupancy of any Unit shall constitute acceptance of these Bylaws, the Declaration, the Rules and Regulations and amendments thereto and an agreement to comply therewith.

ARTICLE II  
Voting, Majority of Owners, Quorum, Proxies

Section 1: Voting shall be based on Unit ownership as provided in the Declaration. Where a Unit is owned by more than one person or entity, such Owners shall designate, by agreement in writing filed with the Board of the Association, the person entitled to cast the vote for the Unit.

Section 2: As used in these Bylaws, the term "Majority of Owners" shall mean a number of votes equal to one more than one half of the number of the dedicated Units; thus Owners having the right to cast eighty five (85) votes once all one hundred sixty eight (168) Units are dedicated, or at least a majority of the number of Units actually dedicated (e.g. thirty seven (37) votes when seventy two (72) Units dedicated). Notwithstanding the foregoing, during the Control Period, Declarant shall have no less than eighty five (85) votes regardless of the number of Units actually dedicated. Thus, the number of votes shall, during such Period, never be less than the sum of eighty five (85) plus the number of dedicated Units (e.g. if seventy two (72) Units are dedicated and Declarant owned five (5) of them, it would have ninety (90) votes and the other Owners would have sixty seven (67) votes).

Section 3: Except as otherwise provided in these Bylaws, the presence in person or by proxy of a Majority of Owners at any meeting shall constitute a quorum.

Section 4: Votes may be cast in person or by proxy. Proxies must be in writing and filed with the Secretary before the appointed time of any meeting.

Section 5: In the event of deadlock between conflicting interests, the same shall be resolved by mediation. If no formal mediation procedure exists, each interest shall appoint a mediator,

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each of whom shall join to agree upon a third mediator and the majority decision of the three mediators shall be binding. If the interests cannot agree on the mediators, the Declarant, or its expressly designated successor for such purpose, shall select a mediator from mediators in the Asheville area all who are N.C. certified or authorized by the N.C. court system to serve as litigation mediators.

**ARTICLE III**  
**Administration**

**Section 1:** The Association will have the responsibility of administering the Condominium, approving the annual budget, establishing and collecting Assessments, and arranging for the management of the Condominium, which may be pursuant to an agreement containing provisions relating to the duties, obligations, removal and compensation of a management agent. Except as otherwise provided, decisions and resolutions of the Association shall require approval by a Majority of Owners. The Association shall have all powers provided for a non-profit corporation pursuant to the Act.

**Section 2:** Meetings of the Association shall be held at the principal office of the Condominium or such other suitable place convenient to the Owners as may be designated by the Board.

**Section 3:** Prior to the first annual meeting of the Association, the Declarant shall control and make all Association decisions. The first annual meeting of the Association shall be held on the December 5, 2005. Thereafter, the annual meetings of the Association shall be held on the first Monday in December of each succeeding year, unless this shall be a legal holiday, in which case the meeting shall be held on the next business day. At such meetings, the Board shall be elected by ballot of the Owners in accordance with the requirements of these Bylaws. The Owners may also transact such other business of the Association as may properly come before them.

**Section 4:** The President shall call a special meeting of the Owners if so directed by a resolution of the Board or by a petition signed by a not less than one-third of the Owners and presented to the Secretary. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice thereof unless by consent of Owners having the right to cast a majority of the votes.

**Section 5:** The Secretary shall deliver to each Unit and/or shall mail a notice of each annual or special meeting stating the purpose thereof as well as the time and place where it is to be held to each Owner at least ten (10) but not more than sixty (60) days prior to such meeting. Notice shall be personally delivered or mailed, postage prepaid, to the Owner's address within the Condominium or at such other address as an Owner shall have specified to the Association in writing. A notice mailed shall be deemed delivered the third day following mailing.

**Section 6:** If any meeting of Owners does not have a quorum present, the Owners who are present, either in person or by proxy, may adjourn the meeting to a time not less than forty-eight hours from the time the original meeting was called, notice of which shall be provided to all Owners not then present.

**Section 7:** **The order of business at all meetings of the Owners shall be as follows, unless otherwise agreed:**

- a. Roll Call
- b. Proof of Notice of Meeting or Waiver of Notice
- c. Reading of minutes of preceding meeting
- d. Reports of Officers
- e. Reports of Committees

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- f. Election of Directors (when so required)
- g. Unfinished business
- h. New business.

**Section 8: The Association shall make available, within a reasonable time, upon reasonable request therefor, copies of the Declaration, these Bylaws, the Rules and Regulations and the books, records and financial statements thereof to Unit Owners and First Mortgagees. The Association may charge a reasonable amount to compensate it for the copying costs.**

**Section 9:** The Association shall represent the Unit Owners in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of the Common elements, or part thereof and each Owner appoints the Association as attorney-in-fact for such purposes. In the event of a taking or acquisition of part of all the Common elements by a condemning authority, the award or proceeds of settlement shall be payable to the Association, for the use and benefit of the Owners, as required by the Declaration.

### **ARTICLE IV** **Board of Directors**

**Section 1:** The affairs of the Association shall be governed by the Board composed of seven (7) persons, but if the Buildings actually dedicated to the Condominium are fewer than seven (7), the Owners may, without the need of amendment hereto, vote by a Majority of Owners to reduce (temporarily) the number of directors to equal the number of Buildings. Declarant may, during the Control Period appoint the number of directors it is entitled to in accord herewith, or may appoint a lesser number of directors, but with such lesser number to have the same number of votes as equals the number of directors Declarant was entitled to appoint or elect (i.e. one director could have up to seven (7) votes). Other than during the Control Period when Declarant may appoint all directors other than those required to be elected by other Owners by the Act, members of the Board shall be selected by the majority vote of the Owners from a Building and shall be either the owner of a Unit, have an interest therein, or be proposed by one of the foregoing. Other than the Declarant's special rights, the Owners of each Building shall be entitled to vote upon and elect one (1) director. To the extent reasonably possible, the Board should be comprised of Directors who own at least one (1) of each type of Unit (one bedroom, two bedroom or three bedroom). In the event no Owner from a Building is willing to serve as a director, then the Owners of Units in that Building may elect a director owning a Unit in another Building. If the Owners other than Declarant are required by the Act to be permitted to elect a director or directors, then, regardless of Buildings occupied or the vote thereof, the candidate(s) receiving the largest number of non-Declarant Owner votes shall be elected.

**Section 2:** The Board shall have the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not by law prohibited or by these Bylaws directed to be done by the Owners.

**Section 3:** **In addition to the duties elsewhere imposed by these Bylaws or by resolutions of the Association, the Board shall have the power to and shall be responsible to oversee the following:**

(a) Care, upkeep and protection of the Condominium, including but not limited to the servicing, maintenance, repair and replacement of all Common elements. It is the intention of Declarant and all Owners that the obligations of Owners to pay all sums billed by the Association should never fail for lack of a standard to measure or for a lack of clarity as to what is to be maintained. By acceptance hereof and of a deed to a Unit, all Owners waive any and all right to claim the non-enforceability of Assessments for lack of a standard or clarity. Owners shall have the right to receive information as to such matters, but

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not to claim any lack of enforceability;

(b) Hiring and firing of personnel for the maintenance and operation of the Condominium and the Common elements;

(c) Fiscal management of the Association, including but not limited to the determination of and collection of all Assessments in accordance with the Declaration and these Bylaws.

**Section 4:** The Board may contract with or employ any person, firm or corporation, including the Declarant or an affiliate of the Declarant, to serve as management agent for the Condominium and the Association, at a compensation established by the Board. Prior to the first annual meeting, no management contract shall be entered into by or for the Association, unless the same is terminable by the Association with no more than ninety (90) days notice.

**Section 5:** The Declarant shall have the right to designate members of the Board in accordance with provisions of the Act. Upon Declarant no longer designating such members, Declarant shall notify the Owners of all Units of a special meeting of the Association for the purpose of electing directors of the Association and such other matters as may be specified in said notice. Said notice shall give at least ten (10) days notice of said meeting. At said meeting, the term of office of at least one director shall be fixed to expire upon the date of the second annual meeting of the Association thereafter and the term of at least one director shall be fixed to expire upon the date of the third annual meeting of the Association thereafter. No director shall be elected for longer term than three years. At the expiration of the initial term of office of each respective director, his successor shall be elected to serve a term of three years. The directors shall hold office until their successors have been elected and hold their first meeting.

**Section 6: Vacancies on the Board caused by any reason other than the removal of a director by a vote of the association shall be filled by vote of the majority of the then remaining directors even though they may constitute less than a quorum; and each person so elected shall be director until a successor is elected at the next annual meeting of the Association. All vacancies shall be filled by the election of an Owner from the same Building as the former director whose vacancy is being filled, unless no one from that Building is willing to serve, in which event the replacement may be from any Building.**

**Section 7:** So long as the intent to do so is contained in the notice of the meeting, at any regular or special meeting of the Association duly called, any one or more of the directors previously elected by the Owners may be removed, with or without cause, by a Majority of the Owners; and their successors may then and there be elected by a Majority of the Owners to fill the vacancy thus created. Any director whose removal has been proposed shall be given an opportunity to be heard at the meeting.

**Section 8:** The first meeting of a newly elected Board shall be held within five (5) days of election at such place as shall be fixed by the directors at the meeting at which such directors were elected, and no notice shall be necessary to the newly elected directors in order to legally constitute such meeting, providing a majority of the Board shall be present.

**Section 9:** Regular meetings of the Board may be held at such time and place as shall be determined, from time to time, by a majority of directors. Notice of regular meetings of the Board shall be given to each director, personally or by mail, telephone or telegraph, at least ten (10) days prior to the date named for such meeting.

**Section 10:** Special meetings of the Board may be called by the President on three (3) days' notice to each director given personally or by mail, telephone or telegraph, which notice shall state the time, place (as hereinabove provided) and purpose of meeting. Special meetings of the Board shall be called by

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the President or Secretary in like manner and on like notice on the written request of a majority of the directors.

Section 11: Before or at any meeting of the Board, any director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Board shall be a waiver of notice by him of the time and place thereof. If all the directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 12: At all meetings of the Board, a majority of votes allocated to the directors then in office shall constitute a quorum for the transaction of business and acts of the majority of the directors present at a meeting at which a quorum is present shall be acts of the Board. If at any meeting of the Board there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, and business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section 13: The Board shall require that all officers and employees of the Association handling or responsible for Association funds shall furnish adequate fidelity bonds; provided, however, that this provision shall not require that the Treasurer be bonded if, under the terms of any management agreement in effect from time to time, the person, firm or corporation serving as management agent is responsible for collecting and disbursing Assessment funds and is required to account to the Association for said funds at least annually. The premiums on necessary fidelity bonds shall be paid by the Association.

Section 14: No member of the Board shall receive any compensation for serving in said capacity, nor shall the expenses of meeting be borne by the Association.

ARTICLE V  
Officers

Section 1: The principal officers of the Association shall be a President, a Vice President, a Secretary and Treasurer, all of whom shall be elected by the Board. The directors may appoint an Assistant Treasurer and an Assistant Secretary and such other officers as in their judgment may be necessary.

Section 2: The officers of the Association shall be elected annually by the Board at the organization meeting of each new board, and they shall hold office at the pleasure of the Board.

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

Section 4: The President shall be the Chief Executive Officer of the Association. The President shall preside at all meetings of the Association and of the Board and shall have all of the general powers and duties which are usually vested in the office of President of an association, including but not limited to the powers to appoint committees from among the Unit Owners from time to time.

Section 5: The Vice President shall take the place of the President and perform such duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board shall appoint some other members of the Board to do so on an interim basis. The Vice President shall also perform such other duties as shall from time to time be delegated by the Board.

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**Section 6:** The Secretary shall keep the minutes of all meetings of the Board and the minutes of all meetings of the Association; shall have charge of such books and papers as the Board may direct; and shall, in general, perform all the duties incident to the Office of Secretary.

**Section 7:** The Treasurer shall have responsibility for Association funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association, and shall be responsible for the deposit of all monies and other valuable effects in the name, and to the credit of the Association, in such depositories as may from time to time be designated by the Board; provided, however, that the Treasurer shall not be responsible for such of the foregoing matters as have been delegated to the management agent pursuant to the provisions of Article IV, Section 4 of these Bylaws.

**Section 8:** All agreements, contracts, deeds, leases, checks, notices and other instruments to be executed on behalf of the of the Association shall be executed by any two officers of the Association or by such other person(s), firm(s) or corporation(s), including the management agent, as may be designated by the Board. In no event shall any such document only be signed by one signatory.

**Section 9:** No officer shall receive any compensation for serving in said capacity, nor shall the expenses of meeting be borne by the Association.

**ARTICLE VI****Fiscal Management of the Association**

**Section 1:** The Board shall use the following guidelines in the fiscal management of the Association:

**(a) Receipts and disbursements of the Association shall be credited and charged to accounts under the following classifications as shall be appropriate:**

(1) Current routine maintenance and administrative expenses, including a reasonable allowance for current contingencies and working funds other than expenditures chargeable to reserves, and amounts necessary to make up any deficiencies in common expenses for any prior year. Any balance in this fund at the end of each year shall be applied to reduce the assessments for current expenses for the succeeding year or shall be transferred to the reserve fund or general operating reserve hereinafter provide for, as determined by the Board.

(2) A reserve fund for the purpose of performing periodic, but non-routine maintenance, replacement and repair of to the Common elements and for such other purposes as may from time to time appear to be necessary or appropriate. Expenditures for preserving the sound condition of the Sewer Line shall receive the highest lawful priority.

(3) A general operating reserve for the purpose of providing a measure of financial stability during periods of special stress, which may be used to meet deficiencies from time to time as a result of delinquent payment of assessments by Owners of Units in the Condominium and other contingencies, may be established, from time to time, if so desired by the Board.

(4) Insurance policies obtained and maintained pursuant to Section 7 of this Article VI.

**(b)** The Board shall adopt a budget for each calendar year that shall include the estimated funds required to provide and maintain funds for the foregoing accounts. Said budget shall be based upon the costs set forth in any management agreement in effect pursuant to the provisions of Article IV, Section 4,

to the extent that said agreement is applicable to the accounts established in Section 1(a) of this Article VI. If no such agreement is in effect, the budget shall be determined by the Board, except that the amount for any budgeted item may not be increased by more than fifteen percent (15%) over the preceding year's amount unless approved by a Majority of Owners, or such larger amount if required to preserve the safety of the Condominium.

Section 2: Copies of the proposed budget and proposed assessments shall be transmitted to each Owner on or before the November 1, preceding the calendar year for which the budget is made. If the budget is amended subsequently, a copy of the amended budget shall be furnished to each member.

Section 3: The Assessment against the Unit Owners for their share of the items of the budget shall be made for the calendar year annually, in advance, no later than the annual meeting preceding the year for which the Assessment is made. The Assessment shall be due in twelve (12) equal installments payable monthly on the first day of each calendar month during said year. In the event the annual Assessment proves to be insufficient, the budget and the amount of the Assessment may be amended at any time during the year by the Board; subject, however, to the limitations imposed by the foregoing Section 1(b) of this Article VI. The unpaid Assessment, as amended, for the remaining portion of the calendar year shall be divided by the number of full months remaining in the year and such increased amount shall be payable monthly for the balance of the installments for the budgeted year.

Section 4: If a Unit Owner shall be in default in the payment of an installment of an Assessment, the Association may accelerate the remaining installments of the current year's Assessments upon notice to such Owner, and then the unpaid balance of the current year's Assessment shall come due upon the date stated in the notice, but not less than ten (10) days after the forwarding of the notice to the Owner.

Section 5: Assessments for expenses that are not included in the budget, such as for capital expenditures to preserve the sewer line, etc. shall be made only after notice of the need for such is given to the Owners. After such notice, and upon approval by the Board, the Assessment shall become effective, and it shall be due after thirty (30) days' notice, in such manner as the Board may require in the notice of Assessment.

Section 6: All unpaid Assessments shall bear a late charge computed at a rate of eighteen percent (18%) per annum after thirty (30) days from the time the same are due. In addition, delinquent Unit Owners shall be liable for fines and other charges lawfully levied by the Association, and all costs to the Association, including reasonable attorneys' fees, for collection of such unpaid Assessments. Unpaid Assessments may be collected by the Association pursuant to the provisions of the Act and during the pendency of an action brought to foreclose a lien for an unpaid Assessment on a Unit, the Unit Owner shall be required to pay reasonable rental to the Association and the Association may obtain the appointment of a receiver to collect the same.

Section 7: The Board shall be required to obtain and maintain, to the extent obtainable, any insurance required by the Declaration, fire and extended coverage on all insurable structures in the Condominium, adequate liability insurance, or insurance otherwise selected by the Board in furtherance hereof. All such policies shall provide that adjustment of loss shall be made with the Board or its designated representatives. All policies of physical damage insurance shall contain waivers of subrogation and waivers of any defense based on co-insurance or of invalidity arising from any acts of the insured, and shall provide that such policies may not be canceled or substantially modified without at least ten (10) day's prior written notice to all of the insured, including all First Mortgagees of Units.

Section 8: Owners are not prohibited from carrying other insurance for their own benefit



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provided that the liability of the carriers which issue the insurance obtained by the Board shall not be affected or diminished by reason of any such additional insurance carried by the Owner. Any insurance on Unit contents desired by an Owner shall be carried by the Owner at Owner's expense.

Section 9: In the event proceeds are received by the Association as a result of an insured casualty, it shall receive and disburse the same as a trustee for the benefit of the affected Owners. The Association shall be responsible to replace the damaged or destroyed structures using the insurance proceeds received by it. Insurance proceeds shall be received and disbursed in substantially the same manner as set forth in the Act. If the insurance proceeds are insufficient to replace a Unit, the excess shall be promptly provided by the Owner of such Unit.

### ARTICLE VII

#### Liability of Officer and Directors of the Association

Section 1: The officers of the Association and members of the Board designated or elected as provided in these Bylaws, shall not be liable to Owners for any mistake of judgment, negligence, or otherwise, except for their own individual willful misconduct or bad faith. The Owners shall indemnify and hold harmless each of the officers and members of the Board against all contractual liability to others arising out of contracts made by the officer and/or Board on behalf of the Association unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or of these Bylaws. It is intended that the officers and members of the Board shall have no personal liability with respect to any contract made by them on behalf of the Condominium. It is also intended that the liability of any Owner arising out of any contract made by the officers and/or Board or out of the aforesaid indemnity in favor of the officers and/or members of the Board shall be limited to such proportion of the total liability thereunder as such Owner's interest in the Common elements. Every agreement made by the officers or members of the Board or the management agent or by the manager on behalf of the Condominium shall provide that the officers, members of the Board, management agent or manager, as the case may be, are acting only as agents for the Owners and shall have no personal liability thereunder (except as Owners), and that such Owner's liability thereunder is limited as his interest in the Common elements bears to the interest of all Owners in the Common elements.

### ARTICLE VIII

#### Amendment

Section 1: These Bylaws may be amended by the affirmative vote of at least sixty seven percent (67%) of the then existing Unit Owner's votes, but during the Control Period upon completion of the First Stage Buildings, one hundred six (106) votes are needed; and during the Control Period upon completion of the Second Stage Buildings, one hundred seventy (170) votes are needed. A like percentage of First Mortgagee votes are required. Once the Control Period is over, the amendment hereof requires the affirmative vote of at least sixty seven percent (67%) of the then existing Unit Owner's votes, and a like percentage of First Mortgagees' votes. No amendment hereof shall occur during the Control Period without the assent of Declarant. No amendment hereof shall occur without notice of the proposed amendment being provided in the notice of the meeting at which such amendment is to be considered.

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LEASE

This Lease is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the "Date"), by and between C&R Project Development, LLC ("Landlord"), and \_\_\_\_\_ ("Tenant").

Subject to the terms and conditions herein contained, the Landlord (such term including Landlord's agents, designees and employees) hereby leases to the Tenant and Tenant takes from Landlord that certain property known as Unit \_\_\_\_ of Floor \_\_\_\_ of Building \_\_\_\_ of The Grove at Appeldoorn Condominium (the "Condo"), Asheville, North Carolina, hereinafter called "Premises".

1. TERM: The term of this Lease shall commence on the Date and shall, except as may be otherwise provided herein, terminate at the end of the day which is eighteen (18) months from the Date. If Tenant provides the Exercise (as defined in Section 18 below) prior to the first anniversary of the Date, as provided in Section 18 below, then the term of this Lease shall terminate on the day which is two (2) years from the Date. Wherever the word "Term" appears below it shall include the entire period of the Tenant's lawful occupancy. The end of the Term, however occurring as provided herein, is the "Termination Date".

2. RENT: Tenant shall pay the Landlord, in advance, on the Date and on the same day of each succeeding month during the Term (or on the last day of the month if the Date is the 29<sup>th</sup>, 30<sup>th</sup> or 31<sup>st</sup> of a month and no such day occurs in a subsequent month), without demand therefor or offset therefrom, rent in the amount of \$\_\_\_\_\_ per month. The first month's rent is payable on the Landlord's execution hereof. Rent shall be delivered to the Landlord in the manner Landlord directs. Further, Landlord may charge Tenant, and Tenant shall pay Landlord, a late charge of \$\_\_\_\_\_ per day for each day after the third day following rent due date of the month, until the rent is received by Landlord.

3. SECURITY DEPOSIT: Landlord acknowledges receipt of \$\_\_\_\_\_ paid by the Tenant as a security deposit (the "Deposit") to be held by the Landlord in order to secure Tenant's full compliance herewith, in compliance with the applicable North Carolina laws. Any interest earned on the Deposit is Landlord's property. In no event shall the Deposit ever be less than the stated amount. If Landlord uses all or part of this Deposit, Tenant shall replace the amount used no later than five (5) days from being invoiced therefor. If the rent increases hereafter by agreement of the parties, then Landlord may require an increase in the Deposit, and Tenant shall pay the same within five days of being invoiced.

4. SERVICES AND EQUIPMENT: To the extent not limited by causes beyond its control, the Landlord shall furnish water to the Premises. The Tenant shall seek to minimize water usage and shall pay for all other utilities available to the Premises. Unless Landlord fails to pay the bill therefor, it shall not be liable for any suspension of or interruption in any of said utilities and there shall be no abatement of rent resulting therefrom. The Landlord furnishes such kitchen appliances and equipment as are presently located in the Premises, and shall keep them in working order, so long as Tenant has not caused any damage thereto, in which event Tenant shall be liable for the cost thereof. Tenant shall return all such equipment to Landlord in the same order so received, less ordinary wear and tear.

5. USE AND OCCUPANCY: The Premises shall be occupied only by the Tenant, Tenant's spouse, and members of Tenant's (or Tenant's spouse) immediate blood or legally adopted family; shall in no event be occupied by more than \_\_\_\_\_ people. The Premises shall only be used as permitted by the Condo Declaration and other Condo documents as a private dwelling and for no other purpose. No business, sales or commercial use may be made of the Premises in violation of the Condo docs. The Tenant may not assign this Lease or sublet the whole or any part of the Premises. Tenant and all Premises occupants must comply with the all Condo documents at all times hereafter.

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6. POSSESSION: The Landlord shall not be subject to any liability for failure to give possession. If Landlord is unable to give possession within fifteen days after the Date, the Deposit and any rental payments by then made by Tenant shall be refunded to the Tenant as Tenant's sole remedy and Landlord may terminate this Lease.

7. ALTERATIONS: The Tenant shall make no changes of any kind to the Premises without the prior written consent of the Landlord. Should Landlord approve changes, all changes shall be done at the expense of the Tenant but shall be the property of the Landlord and shall not be removed from the Premises at any time.

8. RIGHT OF ENTRY: The Landlord may retain a passkey to the Premises and may enter the Premises at any time in case of emergency; and, in all other cases, during reasonable hours to examine and inspect the same, to show the Premises to prospective tenants or purchasers, and to do such work as the Landlord deems necessary or desirable. Said entry shall not be an eviction, in whole or in part, and the rent required hereby shall not abate at all. The Landlord shall not be liable to Tenant or anyone else for any damage to property as a result of any such work, unless the damage is directly caused by the willful act or the gross, active negligence of Landlord. Tenant shall not change the Premises locks and shall return all keys to Landlord at the end of the Term.

9. MAINTENANCE: Except as to those items required by law for Landlord to keep in good order, which Landlord shall do, the Tenant shall keep the Premises in good order, maintenance and repair and shall surrender the same at the end of the Term in as good condition as when received, normal wear and tear excepted.

10. ACCEPTANCE OF PREMISES; RELEASE FROM CLAIMS: The Premises have been fully examined by Tenant. To the extent permitted by law, the Tenant releases Landlord from and against liability for any injury or damage to the person or property of Tenant, or anyone else within the Premises, resulting from any cause whatsoever, including without limitation, negligent acts of any person, burst or leaking water lines, falling plaster, the escape of steam, gas, electricity or water, storm, snow, ice, rain, hail, or other acts of God or for any act of any other person or any violation or breach by another tenant of the rules and regulations set forth in Paragraph 16 or of any other provision of such other tenant's lease agreement. Neither Tenant nor anyone claiming through Tenant shall have any rights of subrogation against Landlord. The Landlord, having made no charge therefor, is not liable for any damage to property of Tenant entrusted to the Landlord, nor for loss of, or damage to, any of Tenant's property by theft or otherwise. The Tenant acknowledges that no representations have been made by Landlord or anyone on its behalf concerning anything other than what is contained in this Lease.

11. FIRE OR CONDEMNATION: In the event the Premises shall be damaged or destroyed by fire or other casualty, wholly or in part, or shall be taken by eminent domain, wholly or in part, Landlord may cancel this Lease, effective as of such damage, within thirty (30) days thereafter. Tenant shall have no rights in any award or payment made as a result of any of the foregoing. Notwithstanding the foregoing, upon any casualty or eminent domain taking, Tenant may provide the Exercise, as defined below, in the Option to Purchase, pursuant to Section 18 below. In such event, the Exercise shall be deemed to have occurred immediately prior to such casualty or taking and the Closing, as defined below, shall occur within thirty (30) days of Exercise.

12. DEFAULT: If the Tenant fails to pay the rent within three days after the same becomes due, or if Tenant violates any of the other provisions contained herein and fails to cure such other provision violation within ten (10) days of the giving of notice thereof to Tenant, or if the Landlord at any time shall reasonably deem any occupant (whether Tenant, a resident of the Premises or a guest of a resident) of the Premises, objectionable or such person's actions improper, and Tenant fails to cure such situation within ten (10) days of notice thereof to Tenant, Landlord may terminate this Lease by notice thereof to Tenant and this

## (ATTACHMENT)

Lease shall then terminate ten (10) days thereafter. The Landlord shall be entitled to regain and retake possession of the Premises, with or without order of court, effective as of Lease termination, and may remove Tenant's person and/or property therefrom. Tenant shall depart from the Premises and shall remove all of Tenant's property from the Premises effective as of the date of termination. In addition to the right to terminate, Landlord may accelerate the rentals and shall have all rights to damages resulting from Tenant's breach. In the event Landlord employs an attorney to enforce any of Landlord's rights hereunder, Tenant shall pay reasonable attorney's fees incurred by Landlord.

13. HOLDING OVER: If Tenant remains in possession of the Premises after the Termination Date without a revised rent being agreed upon by Landlord and Tenant in writing, Tenant shall be a tenant at sufferance at a rental equal to one hundred fifty percent (150%) of the immediately preceding rent, until Landlord elects to treat Tenant's occupancy as unlawful at which time Tenant shall immediately vacate the Premises. Tenant shall occupy the Premises in compliance with all provisions hereof at all times. Tenant's rights hereunder are subordinate to all deeds of trust whether now or hereafter encumbering the Premises.

14. WAIVER: No failure of Landlord to prosecute any breach hereof shall be regarded as a waiver of Landlord's rights, as Landlord shall have the right, at all times, to strict compliance herewith by the Tenant.

15. NOTICE: All notices must be in writing. Notice given the Tenant personally or affixed to or placed under the door of the Premises, or left in the Tenant's mailbox, or mailed to the Premises shall be conclusively deemed received by the Tenant when delivered, affixed, placed or left (whichever is earliest) and sufficient notice hereunder.

16. RULES AND REGULATIONS: The Landlord may establish and modify rules and regulations from time to time. The Tenant and Tenant's family, employees, agents, visitors, guests and licensees shall comply at all times with such rules and regulations.

17. SIGNS: Landlord may post such signs as Landlord wishes on and about the exterior of the Premises. Tenant shall post no signs or shall anything of a written or graphic nature to be visible from the exterior of the Premises.

18. OPTION TO PURCHASE: Landlord hereby grants to Tenant the option to purchase the Premises on the following terms and conditions: The option to purchase shall extend for the period (the "Option Period") from the Date through the Termination Date. If Tenant wishes to exercise the option to purchase, Tenant must provide Landlord a written notice of exercise of the same, which notice must include the Tenant's requested date of closing of the sale (the "Closing"). The said written notice of exercise constitutes the "Exercise". The Exercise must be provided to the Landlord no later than the first anniversary of the Date and the Closing shall occur on the date selected for the same by the Tenant, but subject to the following: Unless otherwise agreed by Landlord, the Closing shall not occur after the second anniversary of the Date, nor shall the Closing occur prior to the day following the first anniversary of the Date, nor shall the Closing occur any sooner than thirty (30) days following Exercise. Landlord shall provide Tenant with a notice of the actual date of Closing no later than the thirtieth day preceding the date of Closing. The purchase price (the "Option Price") of the Premises shall be \_\_\_\_\_ Dollars (\$) which shall be payable by the payment herewith to Landlord (the "Option Fee") of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), and with the balance of the Option Price to be due in cash in full at Closing. Of the rents paid during the first eighteen months of the Term, \_\_\_\_\_ percent ( \_\_\_\_\_ %) thereof shall serve as a credit on the Option Price at Closing. Rents paid after the eighteenth month of the Term shall not have any portion thereof credited on the Option Price, unless Tenant (a) has timely provided the Exercise, (b) has selected a Closing date prior to the end of the eighteenth month of the Term, and (c) was then prepared to close and Landlord failed or refused to Close prior to the end of said eighteenth month.

(ATTACHMENT)

At Closing, Landlord shall deliver a special warranty deed conveying marketable fee simple title to the Premises to Tenant, subject only to taxes for the year of Closing, which shall be prorated as of Closing, the Condo Declaration, all highway and utility easements and rights of way of record or in place, all other easements and rights of way of record and the use provisions of any governmental ordinance affecting the Premises. In addition to Landlord providing the deed at Closing, Landlord shall also provide a lien affidavit, in a form sufficient for Tenant to be able to obtain a title insurance policy without exception for unfiled laborers and materialmen's liens, and such other documents as are customarily provided by the seller in the Asheville, North Carolina area in a transaction of this type.

So long as Tenant permits Landlord's attorney, Patla, Straus, Robinson & Moore, P.A. (the "Law Firm"), to conduct the Closing, the Landlord shall provide at Closing a title insurance commitment to insure Tenant's ownership interest in the Premises, and shall pay the costs of the legal services (including the preparation of loan documents) provided by the Law Firm in connection with the Closing. While the Law Firm solely represents Landlord, and would represent Landlord against Tenant in the event of any dispute between such parties, unless and until the same occur, Law Firm is not in a conflict situation, must act in an equitable manner and must perform all its work with due care. All loan fees, title insurance premiums and recording costs are the sole obligations of the Tenant.

Notwithstanding the foregoing, in the event of damage to the Premises by fire or other casualty, or the taking of the Premises by eminent domain, then the Option Period shall expire on the thirtieth day following such fire or other casualty or condemnation and Tenant must, in order to preserve Tenant's rights to acquire the Premises, provide the Exercise within such period. Should Tenant fail to provide the Exercise by said thirtieth day, then the Option to Purchase shall have, by then, expired. Upon the termination of this Lease, however occurring, Tenant's option to purchase the Premises shall also terminate.

19. BINDING EFFECT: The provisions hereof are binding upon and shall inure to the benefit of the parties and their successors in interest. This document and any rules and regulations promulgated by Landlord represents the entire agreement of the parties. No oral modifications hereof are binding. All gender references shall be deemed correct and the use of the singular is deemed to be plural if there is more than one Tenant. This Lease shall be deemed equally prepared by Landlord and Tenant.

LANDLORD

TENANT

C&R Project Development, LLC

By: \_\_\_\_\_  
Authorized agent

\_\_\_\_\_  
\_\_\_\_\_

ATTACHMENT

RULES AND REGULATIONS OF  
THE GROVE AT APPELDOORN CONDOMINIUMS

1. All capitalized terms herein shall have the same meaning as in the Declaration of and/or the Bylaws of the Association. The provisions hereof may be modified at any time and from time to time by the Board, and such changes shall, to the extent permitted by the Act, be effective without the need to record the same in the Buncombe County Registry.

2. No pet or other animal, fish, bird, reptile or other wildlife of any kind or nature shall be kept, stored or otherwise be allowed to occupy any part of the Development except as follows:

(a) Tropical fish, goldfish, parakeets, canaries, hamsters and other like pets universally considered domestic pets that remain at all times inside the Unit and make relatively little noise may be kept, so long as the same do not constitute a nuisance.

(b) Cats and/or dogs, no more than three in total, so long as the dog(s) are not allowed off a leash outside of the Unit.

All animal solid waste must be immediately removed by the Owner using a shovel, scoop or the like and must be sanitarly disposed of. No pet of any kind may be kept if the same is deemed a nuisance by the Board. No animal shall be allowed to roam or be off of a leash outside the Unit, except in an enclosure therefor which is approved by the Association.

3. No garbage, trash or refuse of any kind or nature shall be stored, kept, deposited or allowed to remain outside the Unit by any Owner or Unit occupant, other than the placement of garbage in the containers designated therefor by the Board. All garbage must be placed in plastic bags that are securely closed prior to placement in the garbage containers or at other collection points designated by the Association. All recyclable materials shall be properly separated and placed in the designated (by Association) areas therefor.

4. Each Unit may, upon payment of all fees therefor, connect to the Condominium's cable or satellite service, but no individual (or other) satellite dishes are permitted within the Parcel, unless approved by the Association.

5. No loud noises, offensive odors or other nuisance shall exist on, about or be permitted to emanate from any Unit.

6. All materials in a Unit which are visible from the exterior of a Unit's window, such as the 2" faux wood blinds furnished by Declarant, other blinds and any other window treatments, must be approved by the Association. All materials visible from outside of a Unit must be of a neutral color.. Any such visible material placed in, on or about a Unit without the Association's consent must be immediately removed upon Association's demand.

## (ATTACHMENT)

7. All vehicle parking is subject to the regulation and control of the Association. No RV's, campers, boats or boat trailers are permitted. No car washing or any vehicle maintenance or repair work is permitted. All vehicles parked or otherwise kept within the Parcel's bounds by, for or through the occupants of a Unit must be reasonably maintained, in working condition, and with a current inspection sticker and license tag. All said vehicles are subject to being towed by the Association if in violation of any of the foregoing and not corrected within ten (10) days of written notice. No parking space shall be marked as reserved in any way, other than those designated for handicap use.
8. At such time as any Common elements are placed into use, the Association may, from time to time, establish additional rules and regulations governing the use thereof.
9. The provisions hereof are enforceable, within the sole discretion of the Association, by actions at law and/or at equity commenced by the Association and are not enforceable by individual owners.
10. Prior to any Unit having a hardwood floor installed in it, it must first have installed an Association approved "floating floor" in the area to have the hardwood floor. Hardwood floors are limited to hallways, living rooms and dining rooms. No other areas may have hardwood floors. All areas with hardwood floors must have sixty percent (60%) of the floor area of such floors covered with rugs or carpets. Prior to any Unit having ceramic tile installed anywhere within it, it must first have installed a Shaw Silent Steps sound-deadening system, or such other system as the Association approves in writing in advance of installation. Any Unit's Owner acting contrary hereto may be required by the Association to remove a non-approved floor and/or non-approved ceramic tile, or the Association may remove the same at the Owner's expense as part of such Owner's Assessment.
11. Occupants of the Condominium have no right to park in any parking lots which may be adjacent to the Condominium, such as the parking lot of the Faith Tabernacle Christian Center, Inc.
12. It is anticipated that the Association may establish Rules and Regulations in the use of the Common elements. Without limiting what the Rules and Regulations may address, the Association may, from time to time, establish time periods during which portions of the Common elements may be used.
13. No person within the Parcel shall commit any act which constitutes a nuisance. Without limiting the prohibited acts, no loud noises shall be permitted to emanate from any Unit or elsewhere within the Parcel, nor shall any noxious fumes or smells be permitted to emanate within the Parcel. The Association may, from time to time, establish time limitations during which radios, televisions and other sound producing systems may be operated in a manner whereby the sound generated is audible from outside of the Unit. While it is anticipated that radios, televisions and other sound generating systems may be operated at all times, the permitted volume may be different during different periods and days.

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Recorded: 02/21/2014 at 01:56:46 PM  
Fee Amt: \$26.00 Page 1 of 3  
Workflow# 0000207380-0001  
Buncombe County, NC  
Drew Reisinger Register of Deeds  
BK **5187** PG **364-366**

✓ Please return to Erin F. Dunnuck, Esq., Dunnuck Law Firm, P.L.L.C., PO Box 2156, Third Floor, Asheville, North Carolina 28802; Box 64

References: Book 4135, Page 1035  
Book 4300, Page 1785  
Book 4406, Page 598  
Book 4406, Page 602  
Book 4604, Page 345  
Book 4825, Page 1172

**STATE OF NORTH CAROLINA  
COUNTY OF BUNCOMBE**

**AMENDMENT TO DECLARATION OF  
CONDOMINIUM THE GROVE AT APPELDOORN**

THIS AMENDMENT made this 1<sup>st</sup> day of JANUARY, 2014, by The Grove at Appeldoorn Association, Inc., a North Carolina non-profit corporation;

WHEREAS, The Grove at Appeldoorn Association, Inc., ("Association") is the association of unit owners at The Grove at Appeldoorn, a condominium located in Buncombe County, North Carolina; and

WHEREAS, the Association is subject to the Declaration of Condominium The Grove at Appeldoorn ("Declaration of Condominium" or "Declaration") and Bylaws, as amended, recorded in the Buncombe County Registry of Deeds in Deed Book 4135 at Page 1053; and

WHEREAS, in accordance with the provisions of Section 14 of the Declaration of Condominium, unit owners of units to which at least sixty-seven percent (67%) of the votes are allocated voted in favor of the adoption of this amendment;



NOW THEREFORE, the Declaration of Condominium The Grove at Appeldoorn is hereby amended as follows:

Section 9, subsection 9.6 is hereby deleted and replaced with the following Section 9, subsection 9.6.

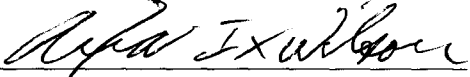
**9. INSURANCE**

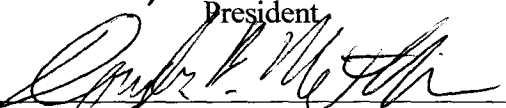
9.6. Each Unit Owner shall obtain insurance at his or her own expense for contents and personal property coverage or any other coverage obtainable and to the extent in an amount such Owner deems necessary to protect his/her interest. No such insurance shall provide that it is without contribution as against the insurance purchased by the Association or be in conflict with 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 pro-ratio 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 upon demand and shall assign the proceeds of that Unit Owner's insurance to the extent of such reduction to the Association.

IN WITNESS WHEREOF, the undersigned officers of The Grove at Appeldoorn Association, Inc. hereby certify that the above amendment to the Declaration of Condominium The Grove at Appeldoorn is duly adopted by the Association and its membership in accordance with and pursuant to the Declaration of Condominium The Grove at Appeldoorn.

This 1st day of January, 2014.

The Grove at Appeldoorn Association, Inc.

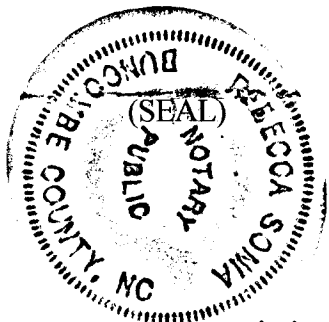
by:   
President

Attest:   
Secretary

NORTH CAROLINA  
BUNCOMBE COUNTY

I REBECCA SONIA, Notary Public for said County and State, certify that AIXA WILSON & DOUGLAS METHVIN personally came before me this day and acknowledged that he is Secretary of The Grove at Appeldoorn Association, Inc., a nonprofit corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President and attested by himself as its Secretary.

Witness my hand and official seal, this the 1 day of JANUARY, 2014.



Rebecca Sonia  
Notary Public

My commission expires 1/27/2018.