

Drafted by/Mail to:

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NORTH CAROLINA

DECLARATION OF CONDOMINIUM

ORANGE COUNTY

9787-05-3344.001 THRU .022

THIS DECLARATION OF CONDOMINIUM is made and entered into the 28 day of March, 2002, by SOUTHERN VILLAGE LIMITED PARTNERSHIP ("Declarant") pursuant to the provisions of Chapter 47C of the North Carolina General Statutes.

1. ESTABLISHMENT.

Declarant is the owner in fee simple of real property in Chapel Hill Township, Orange County, North Carolina, as more particularly described in Paragraph 2 below ("the Property"); and,

Declarant intends to construct one multi-story building on the Property containing a minimum of three (3) commercial condominium units and nineteen (19) residential condominium units for sale as individual units, and to sell and convey the same to various purchasers subject to the covenants, conditions and restrictions hereinafter set forth; and,

Declarant intends and desires by the filing of this Declaration of Condominium to submit the property described in Paragraph 2 below and improvements to be constructed thereon, together with all of the appurtenances thereto, to the provisions of Chapter 47C of the North Carolina General Statutes, (NORTH CAROLINA CONDOMINIUM ACT), and hereby declares the same to be known and identified as "THE MARKET LOFTS" ("the Condominium").

2. PROPERTY DESCRIPTION.

Being all that certain property located in Chapel Hill Township, Orange County, North Carolina, as more particularly described on Exhibit "A" attached hereto and incorporated herein by reference, together with the improvements to be constructed thereon as referenced in Exhibit "B", including complete descriptions and plans of the units with their respective locations and dimensions. A more specific description can be found in Plat Book 90, pages 52-58, Orange County Registry which is incorporated herein by reference. Such plans bear a verified statement that they are an accurate copy of the building plans.

3. UNIT SUBDIVISION.

Nothing contained herein shall be construed so as to prevent Declarant from subdividing any commercial unit(s) to create additional commercial unit(s), which subdivided unit(s) shall be subject to the provisions of this Declaration, and the Articles of Incorporation and By-Laws of the Association in the same manner and to the same extent as if such subdivided unit(s) were in existence at the time of the recordation of this Declaration, and the resulting change to the assessment due from each unit owner and to the common area and/or limited common area percentage interests shall be incorporated herein without any amendment to this Declaration, the Articles of Incorporation or By-laws of the Association being required as a matter of public record.

4. FORM OF ADMINISTRATION.

The property of the Condominium and its business shall be managed, controlled, directed and administered by The Market Lofts Condominium Association, Inc. ("the Association") as provided in the Articles of Incorporation and By-Laws of the Association, which Articles of Incorporation and By-Laws are attached hereto as Exhibits "C" and "D" and made a part hereof. Each Unit Owner shall be member of the Association. Further, the Association shall be a member of the Southern Village Master Association, Inc. and Market Street Association, Inc. as recorded in Deed Book 1271, page 165, and amendment thereto recorded in Deed Book 1456, page 295, Orange County Registry.

In order to accomplish the fair and orderly administration and management of the differing uses within the Condominium, the Association shall appoint a minimum of two (2) committees as follows:

(a) Residential Management Committee. The Association shall appoint a Residential Management Committee to administer and manage all matters under the jurisdiction of the Association which are applicable solely to the residential units and residential unit owners. The Committee shall consist of no fewer than three (3) residential unit owners, each of whom shall serve for one year, and the number of representatives and/or their terms may be increased from time to time at the discretion of the Committee. Each residential unit owner shall have one (1) vote in all Committee decisions, irrespective of his percentage interest in the common areas. The Committee shall have jurisdiction over all those areas and facilities designated as "Residential Limited Common Area" on the plans or plats of the Condominium, including without limitation, operation, maintenance, repair, and restrictions on the use thereof. All actions, decisions and recommendations of the Residential Management Committee shall be subject to final approval by the the Board of Directors of the Association.

(b) Commercial Management Committee. The Association shall appoint a Commercial Management Committee to administer and manage all matters under the jurisdiction of the Association which are applicable solely to the commercial units and commercial unit owners. The Committee shall consist of no fewer than three (3) commercial unit owners, each of

whom shall serve for one year, and the number of representatives and/or their terms may be increased from time to time at the discretion of the Committee. Each commercial unit owner shall have a vote in all Committee decisions in proportion to his percentage interest in the common areas. The Committee shall have jurisdiction over all those areas and facilities designated as "Commercial Limited Common Area" on the plans or plats of the Condominium, including without limitation, operation, maintenance, repair, and restrictions on the use thereof. All actions, decisions and recommendations of the Commercial Management Committee shall be subject to final approval by the the Board of Directors of the Association.

All powers granted in this Declaration or the By-Laws to the Association shall be exercisable by the Board of Directors, except as expressly provided in the Declaration, the By-Laws, or NCGS 47C.

Declarant shall transfer control of the Association to the Unit Owners on or before December 31, 2003.

#### 5. UNIT DESIGNATION.

Declarant does hereby establish within the Property minimum of three (3) commercial condominium units on the first floor and nineteen (19) residential condominium units on the second floor, and does hereby designate all such units for separate ownership. Each unit owner's interest in the estate will be held in fee simple. Each unit is identified by a specific numerical designation with a separate street address as shown on Exhibit "B". Each unit is bounded both as to horizontal and vertical boundaries by the interior surface of its perimeter walls, ceilings, and floors, which are shown on the aforesaid plans filed in the Orange County Registry. Mechanical equipment, stairways, and appurtenances located within any unit and designed to serve only that unit shall be a part of the unit.

Each Unit Owner has an unrestricted right of ingress and egress to his unit. This right shall be perpetual and it shall pass with the unit estate as transfers of unit ownership might occur. Any conveyance, encumbrance, judicial sale or other transfer (voluntary or involuntary) of an individual interest in the common elements will be void unless the unit to which that interest is allocated is also transferred.

#### 6. PARTY WALLS.

The walls, flooring and ceilings connecting adjacent units are "party walls" and are situated on or about the boundary line separating units. In the case of any walls, flooring and ceilings that are herein described as party walls, all furring, wallboard, paneling, tiles, wall-paper, paint, finished flooring and any other materials constituting any part of the finished flooring, and any other materials constituting any part of the finished surfaces thereof are a part of the unit, and all other portions of such walls, floors or ceilings are a part of the common elements, pursuant to GS 47C-2-102(1).

Each wall which is built as a part of the original or subdivided construction of a unit and placed on the dividing line between the units shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Declaration, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. The cost of reasonable repair and maintenance of a party wall shall be shared by the owners who make use of the wall in proportion to such use. Notwithstanding any other provisions of this Declaration, a Unit Owner who by his negligent or willful act causes a party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

#### 7. GENERAL COMMON AREAS.

The General Common Areas and facilities consist of certain parts of the multi-unit building situated on the Property, other than individual units therein, and which general common areas and facilities are available to and used by all unit owners within the Condominium. The Association shall have the responsibility for maintaining the General Common Areas and facilities. The General Common Areas and facilities shall include without limitation the following:

- (a) The land on which the building is erected and all land described in Paragraph 2 above.
- (b) All foundations, columns, girders, beams, supports and other structural members.
- (c) The roof and all exterior walls and interior walls except those partition walls and all ceilings, floors, and stairways wholly within a unit.
- (d) All central appurtenant installments for operations and for services such as power, lights, telephone, security system, cable TV, cold water for common building usage, heat and air conditioning (if any) for common building usage, including pipes, ducts, wiring, cables and conduits, whether located in common areas or in units and all other central mechanical equipment spaces.
- (e) All waterlines, storm drainage pipes and structures, sanitary sewer pipes and sanitary sewer system.
- (f) All of the parts of the property and all apparatus installations existing in the building or upon the property for general common use by all unit owners within the Condominium which are necessary or convenient to the existence, maintenance, or safety of the property.
- (g) All landscaping and all other site improvements including, but not limited to, trash collection areas and equipment related thereto, all designated recreation areas (if any), all driveways, alleys and sidewalks, all surface parking spaces on the Property, excluding any

spaces that are located within or beneath a condominium building, if not a part of the Limited Common Areas and Facilities as outlined in Paragraph 8 hereof, and all equipment rooms, lobbies and lobby closets (if any), unless the same is designated as Limited Common Area on the Plans or plats of the Condominium.

#### 8. LIMITED COMMON AREAS.

Limited Common Areas shall mean and include those common areas and facilities reserved for use by a certain Unit or Units to the exclusion of other Units, with certain Limited Common Area being further designated as "Residential Limited Common Area" or "Commercial Limited Common Area" according to the intended users thereof. Limited Common Areas shall include, without limitation, any deck, porch, patio, courtyard and/or balcony appurtenant to a given unit as shown on the Plans, the elevator and certain stairwells serving the second floor of the building, any designated basement storage areas, or as might otherwise be designated on said Plans.

Those areas which serve only the residential Unit Owners occupying the second floor of the Condominium shall be designated "Residential Limited Common Areas" as shown on the Plans. Each residential Unit Owner is hereby granted an exclusive and irrevocable license to use and occupy such Residential Limited Common Areas and facilities as are associated with such Unit Owner's Unit. The cleanliness and orderliness of the Residential Limited Common Areas and facilities shall be the responsibility of the individual residential Unit Owners, but the responsibility for operation, use, maintenance, painting, repair and replacement thereof, together with control over the exterior decoration of same, shall be and remain with the Residential Management Committee appointed by the Association as provided in Paragraph 3 hereinabove.

Those areas which serve only the commercial Unit Owners occupying the first floor of the Condominium shall be designated "Commercial Limited Common Areas" as shown on the Plans. Each commercial Unit Owner is hereby granted an exclusive and irrevocable license to use and occupy such Commercial Limited Common Areas and facilities as are associated with such Unit Owner's Unit. The cleanliness and orderliness of the Commercial Limited Common Areas and facilities shall be the responsibility of the individual commercial Unit Owners, but the responsibility for operation, use, maintenance, painting, repair and replacement thereof, together with control over the exterior decoration of same, shall be and remain with the Commercial Management Committee appointed by the Association as provided in Paragraph 3 hereinabove.

#### 9. PERCENTAGE OF OWNERSHIP IN COMMON AREAS.

Each unit shall have a fee simple undivided ownership interest in the total project common areas as set out in Exhibit "B" attached hereto. The percentage of common area per unit shall not be changed without the unanimous consent of the owners herein, except as incident to Declarant's subdivision of any commercial unit into one or more additional commercial unit(s) as provided in Paragraph 3 hereinabove.

Every owner of a Unit shall be a member of the Association, with the Association being a member of other associations as provided in Paragraph 4 hereinabove. Membership shall be appurtenant to and may not be separated from ownership of any Unit which is subject to assessment.

Each Unit together with its undivided interests in the common areas and facilities, shall, for all purposes be, and is hereby declared to be a separate parcel of real property and the Unit Owner thereof shall be entitled to the exclusive ownership and possession of his unit subject only to the covenants, restrictions, and easements herein and by the By-Laws, rules, regulations and resolutions adopted pursuant thereto.

#### 10. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS.

The Declarant, for each unit owned within the Property, hereby covenants, and each owner of any unit by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association the annual assessments or common charges to be established and collected as hereinafter provided. All units will be allocated full assessments no later than sixty days after the first unit is conveyed, except that unsold and unoccupied units owned by the Declarant shall be assessed at a rate of 25% of a full assessment until such time that they shall be either sold or occupied.

The annual and special assessments, together with the interest, and costs and reasonable attorney's fees incurred in the collection thereof, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees incurred in the collection thereof, shall also be the personal obligation of the owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

The assessments levied by the Association shall be used exclusively to promote and protect the recreation, health, safety, and welfare of the residents, for the improvement and maintenance of the common areas and facilities, the building and improvements situated upon the Property, and to pay ad valorem taxes and public improvement assessments levied against the common areas.

Any lien for delinquent common expense assessments or other charges that the Association has on a unit will be subordinate to a first mortgage on the unit, if the mortgage was recorded before the delinquent assessment was due. Any such lien for a common expense assessment will not be affected by the sale or transfer of the unit estate, unless a foreclosure of a first mortgage is involved, in which case the foreclosure will extinguish the lien for any assessments that were payable before the foreclosure sale, but will not relieve any subsequent unit owner from paying further assessments.

### 11. WORKING CAPITAL FUND.

A working capital fund shall be established by the Declarant in order to meet unforeseen expenditures or to purchase any additional equipment or services. The working capital fund shall be initially funded by the Declarant in an amount equal to two (2) months of the estimated common charges for each unit. The Declarant is expressly prohibited from using the working capital funds to defray any of its expenses, reserve contributions or construction costs or to make up any budget deficits while it is in control of the Association. Each unit's share of the working capital fund shall be collected at the time the sale of the unit is closed. Any amounts paid into this fund shall not be considered as advance payments of regular assessments. At such time that each unit's share of the working capital fund is paid in by a Unit Owner as provided herein, the Declarant shall be reimbursed out of the working capital fund for that amount previously paid by the Declarant to the working capital fund on behalf of the unit. The working capital fund shall be transferred to the Association for deposit to a segregated fund when control of the Association is transferred to the Unit Owners by the Declarant.

### 12. AMOUNT OF LIEN.

The lien as described in Paragraph 10 above as applicable to each 1<sup>st</sup> floor commercial unit shall be based on the percentage share in common areas and limited common areas as described in Paragraph 9 above and as further provided in Paragraph 4 above with regard to the jurisdiction and responsibilities of the Commercial Management Committee, and further subject to Declarant's right of commercial unit subdivision as provided in Paragraph 3 above. The lien as described in Paragraph 10 above as applicable to each 2d floor residential unit shall be equal as to each such unit and as further provided in Paragraph 4 above with regard to the jurisdiction and responsibilities of the Residential Management Committee. Said liens shall be perfected upon filing in the Office of the Clerk of Superior Court, Orange County, North Carolina. The Grantee of a unit shall be jointly and severally liable with the Grantor for all unpaid assessments against the latter for his proportionate share of the common expenses up to the time of the grant or conveyance, without prejudice to the Grantee's right to recover from the Grantor the amounts paid by the Grantee therefor. However, any such Grantee shall be entitled to a statement from the manager or Board of Directors, as the case may be, setting forth the amount of the unpaid assessments against the Grantor and such Grantee shall not be liable for, nor shall the unit conveyed be subject to a lien for, any unpaid assessment in excess of the amount therein set forth.

### 13. USE OF BUILDING.

The building and each of the units shall be used for mixed-use purposes as stated. The use of the building and units are further restricted by the By-Laws of the Association.

No more than two persons over the age of eighteen unrelated by blood or marriage shall reside in any single residential unit for more than thirty consecutive days in any one calendar year.

The common areas and facilities shall be used only for the purposes for which they are intended and for the furnishing of services for the enjoyment of the units.

No noxious or offensive activity shall be conducted upon any unit nor shall anything be done thereon which may be or may become an annoyance or nuisance or shall interfere with the peaceful possession of property by Unit Owners.

No animals, livestock or poultry of any kind shall be kept or maintained on any unit or in any dwelling, except that dogs, cats or other household pets may be kept or maintained provided that they are not kept or maintained for commercial purposes. All household pets shall be kept on a leash at all times when outside the units.

All window coverings (i.e., curtains, blinds, draperies, shades, etc.) shall be installed and maintained in accordance with provisions of the Association.

Unit Owners shall not park or store any camper, boat, trailer, trailer vehicle, or similar vehicle anywhere on the premises.

Any lease or rental agreements involving the units shall be in writing and shall be subject to the requirements of the Association documents and Association rules and regulations governing same.

#### 14. PERSON TO RECEIVE SERVICE OF PROCESS.

John W. Fugo is hereby designated to receive service of process in any action which may be brought against or in relation to this condominium. The address of such person is: 400 Market St., Suite 200, Chapel Hill NC, 27516. The person so designated to receive service of process may be changed by the Board of Directors.

#### 15. EASEMENTS.

Each Unit Owner shall have an easement in common with all other owners over all other units to use all pipes, wires, ducts, cables, conduits, public utilities and other common facilities located in any of the other units and serving each unit. Furthermore, the Declarant hereby conveys to each Unit Owner an easement and right of access to any and all common areas, open spaces, yards and parking areas for the common use of all owners. The Association shall have the right to establish the rules and regulations pursuant to which the owner of any unit, and family, guests, invitees, customers and employees may be entitled to use the common areas.

Each unit shall be subject to an easement in favor of the other owners of all other units to use the pipes, ducts, cables, wires, conduits, public utility lines and other common facilities serving other units located in such unit. The Board of Directors shall have the right of access to each unit to inspect the same, to remove violations therefrom and maintain, repair, or replace facilities contained therein or which serve other units in the building. Each Unit Owner shall specifically have an easement to maintain all components of the heating and air conditioning system serving his unit in their present location as shown in the plan attached hereto.

The Board of Directors may hereafter agree to the grant of easements for utility purposes for the benefit of the Property, including the right to install, lay, maintain, repair, and replace water lines, pipes, sewer lines, telephone wires and electrical conduits, wires over, under and along any portion of the common areas, and each Unit Owner hereby grants the Board of Directors irrevocable power of attorney to execute, acknowledge, and record for and in the name of each Unit Owner such instruments as may be necessary to effectuate the foregoing. An easement is hereby established over all common areas for the benefit of applicable governmental agencies for the setting, removing, and reading of water meters, maintaining and replacing water, drainage and drainage facilities, fire fighting, law enforcement, garbage collection and the delivering of mail.

All water and sewer lines which serve the development but are not located within the right-of-way of a public street shall be owned and maintained by the Association.

16. DISCLAIMER BY TOWN OF CHAPEL HILL.

Pursuant to the municipal code of the Town of Chapel Hill, the Town is not responsible for any failure to provide any emergency or regular fire, police or other public service to such developments or their occupants when such failure is due to the lack of access to certain roads or streets that are not public due to inadequate design or construction, the blocking of access routes, or any other factor within the control of the Declarant, the Association, or the unit occupants. Accordingly, the Board of Directors is hereby empowered to make all efforts to ensure that there is adequate access to all units and shall not allow any blocking of access or defects in access to remain uncorrected.

17. PARTITIONING.

The common areas and facilities and the limited common areas and facilities shall not be divided nor shall any right to a partition thereof exist. Nothing herein contained shall be deemed to prevent ownership of a condominium unit by the entireties, jointly, in common, or in any other form permitted by law.

18. DAMAGE, DESTRUCTION AND CONDEMNATION.

Except as herein provided, damage to or destruction of the building shall be promptly

repaired and restored by the Board of Directors. The Unit Owners shall be liable for assessment of any deficiency; provided however, that if the building is more than two-thirds destroyed by fire or any other casualty, or the same taken by condemnation, and the owners of 67% of the units and 51% of the votes of units estates that are subject to mortgages held by eligible holders resolve not to proceed with reconstruction or restoration, then in that event, the property shall be deemed to be owned as tenants in common by the Unit Owners and subject to the provisions of North Carolina General Statutes Section 47C-2-118 as the same exists as the date hereof. Implied approval by an eligible mortgage holder shall be assumed when an eligible mortgage holder fails to submit a response to any written proposal within thirty (30) days after it receives proper notice of the proposal, provide the notice was delivered by certified mail or registered mail with a "return receipt" requested.

In any related proceedings, negotiations, settlements or agreements, the Association shall be designated to represent the Unit Owners. In such event, each Unit Owner shall appoint the Association as an attorney-in-fact for this purpose. The Association shall appoint an Insurance Trustee to act on behalf of the Unit Owners in connection with the settlement of any condemnation awards or insurance claims and to administer the allocation of proceeds among the various interested parties. Any losses, awards or proceeds from the condemnation, destruction or liquidation of all or a part of the property shall be payable to the Association's Insurance Trustee for the benefit of the Unit Owners and their mortgage holders. Any distribution of funds in connection with the termination of the project shall be made based on the relative value of each unit and in accordance with the formula that is used to determine the Unit Owner's individual interest in the common elements. Any reconstruction or repair shall be in accordance with the plans and specifications of the original building, portions of which are attached hereto.

#### 19. INSURANCE.

The insurance which shall be carried upon the property shall be governed by the following provisions:

(i) Casualty or physical damage insurance shall be carried in an amount equal to the full replacement value (i.e., 100% of full "replacement cost") of all buildings and all improvements on the Property owned either by the Association or the unit owners and all personal property included within the Property described in Exhibit "A" hereto, except such personal property as may be owned by the unit owners with a replacement cost endorsement and an inflation guard endorsement, without deduction or allowance for depreciation (as determined annually by the Board of Directors with the assistance of the insurance company affording such coverage), such coverage to afford protection against at least the following:

(a) loss or damage by fire or other hazards covered by the standard coverage endorsement together with coverage for common expenses with respect to condominium units during any period of repair or reconstruction; and,

(b) such other risks as from time to time customarily shall be covered with respect to buildings similar to the Condominium building in construction, location and use, including, but not limited to, vandalism, malicious mischief, windstorm and water damage, subject to such deductible amounts as the Board of Directors shall determine. All Casualty Insurance policies shall be purchased by the Association for the benefit of the Association, the Unit Owners and their respective mortgagees, as their interests may appear and shall provide for the issuance of certificates of insurance with mortgagee endorsements to the holders of mortgages on the Units, if any, and further, that the insurer waives its rights of subrogation against the Unit Owners, Occupants and the Unit Owners Association. All casualty insurance policies shall provide that all proceeds payable as a result of casualty losses shall be paid to the Board of Directors as trustees for each of the Unit Owners in the percentages established in this Declaration for the purposes elsewhere stated herein, and for the benefit of the Association, the Unit Owners, and their respective mortgagees as their interests may appear.

(ii) The Association shall insure itself, the members of the Board, the Unit Owners, and the Occupants against liability for personal injury, disease, illness or death and for injury to or destruction of property occurring upon, in or about, or arising from or relating to the Condominium or any portion thereof, including, without limitation, water damage, legal liability, hired automobile, non-owned automobile and off-premises employee coverage, such insurance to afford protection in such amount and with such coverage as shall be deemed necessary by the Association. All liability insurance shall contain cross-liability endorsements to cover liabilities of the Unit Owners as a group to a Unit Owner. In the event the insurance effected by the Association on behalf of the Unit Owners and Occupants against liability for personal injury or property damage arising from or relating to this Condominium shall, for any reason, not fully cover any such liability, the amount of any deficit shall be a Common expense to the Unit Owners, and any Unit Owners who shall have paid all or any portion of such deficiency in an amount exceeding his proportionate share thereof based on his percentage of interest in the common areas shall have a right of contribution from the other Unit Owners according to their respective percentage of interest in the common areas.

(iii) Premiums upon insurance policies purchased by the Association shall be paid by the Association at least thirty (30) days prior to the expiration date of such policies and shall be assessed as Common expenses.

(iv) All insurance policies shall be written with a company or companies licensed to do business in the State of North Carolina and holding a rating of "A+" or better in Best's Insurance Guide.

(v) Exclusive authority to negotiate losses under said policies shall be vested in the Board of Directors or its authorized representative.

(vi) In no event shall the insurance coverage obtained and maintained pursuant to the requirements hereof be brought into contribution with insurance purchased by the Owners of the condominium units or their mortgagees, as herein permitted, and any "no other insurance" or similar clause in any policy obtained by the Unit Owners Association pursuant to the requirements hereof shall exclude such policies from consideration.

(vii) All policies shall provide that such policies may not be canceled or substantially modified without at least thirty (30) days prior written notice to any an all insureds named thereon, including any and all mortgagees of the condominium units.

(viii) All policies of casualty insurance shall provide that, notwithstanding any provisions thereof which give the carrier the right to elect to restore damage in lieu of making a cash settlement, such option shall not be exercisable without the prior written approval of the Board of Directors or any Insurance Trustee, or when in conflict with the provisions of this Declaration or the provisions of the North Carolina Unit Condominium Act as the same may be in force from time to time.

(ix) All policies of insurance shall contain a waiver of subrogation by the insurer as to any and all claims against the Association, the Board of Directors thereof, the Owners of any condominium unit and/or their respective agents, employees or invitees, and any defenses based upon co-insurance or invalidity arising from the acts of the insureds.

## 20. UNIT OWNERS POLICIES OF INSURANCE.

The Owner of any Condominium Unit, including the holder of any mortgage thereon, may obtain additional insurance, including a "Condominium Unit Owner's Endorsement" for improvements and betterments to the condominium unit made or acquired at the expense of the owner, at his own expense. Such insurance shall be written by the same carrier as that purchased by the Board of Directors pursuant to the provisions hereof or shall provide that it shall be without contribution as against the same. The Grantor recommends that each owner of a Condominium Unit in the project obtain, in addition to the insurance hereinabove provided to be obtained by the Unit Owners Association, a "Tenant's Homeowners Policy", or equivalent, to insure against loss or damage to personal property used in or incidental to the occupancy of the Condominium Unit, additional living expense, vandalism or malicious mischief, theft, personal liability and the like. Such policy should include a "Condominium Unit Owner's Endorsement" covering losses to improvements and betterments to the condominium unit made or acquired at the expenses of the Unit Owner.

## 21. UNITS SUBJECT TO DECLARATION.

All present and future owners, tenants, occupants of units and employees of owners and tenants shall be subject to, benefited by and shall comply with the provisions of this Declaration, by the By-Laws and any rules and regulations as may be adopted in accord-

ance with the By-Laws. In accordance herewith, the Declaration, By-Laws and rules and regulations may be amended from time to time. The acceptance of a deed or conveyance or the entering into of a lease or the entering into occupancy of any unit shall constitute an agreement that the provisions of this Declaration, By-Laws, and any rules and regulations which may be adopted are accepted and ratified by such owner, tenant, or occupant and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such unit as though provisions were made a part of each and every deed, conveyance or lease. When there are unsold units in the project, the Declarant also shall enjoy the same rights and assume the same duties under this Declaration as they relate to each unsold unit but for the payment of assessments on unsold and unoccupied units (see Paragraph 10).

## 22. CONSTRUCTION.

In interpreting any and all provisions of this instrument, the Exhibits attached hereto and subsequent deeds and deeds of trust covering individual units, the actual location of the unit shall be deemed conclusively to be the property intended to be conveyed, reserved or encumbered notwithstanding any minor deviations, either horizontally or vertically, from the locations indicated in Plat Book 90, pages 52-58, Orange County Registry, or in minor variations in the description of the unit contained herein. To the extent that such minor deviations in location do or shall exist, a valid easement therefor and for the maintenance thereof does and shall exist.

## 23. AMENDMENT.

The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty-year period by an instrument signed by not less than eighty percent (80%) of the Unit Owners. Any amendment must be recorded in the Orange County Registry.

Amendments of a material nature shall be agreed to by Unit Owners who represent at least 80% of the total allocated votes in the Association and by eligible mortgage holders who represent at least 51% of the votes of unit estates that are subject to mortgages held by eligible holders. Eligible mortgage holders shall be those holders of a first mortgage on a unit estate who have submitted a written request that the Association notify them on any proposed action requiring the consent of a specified percentage of eligible mortgage holders. Unit Owner votes may be cast in person or by proxy at a meeting held in accordance with the provisions of the By-Laws. For a period no longer than twenty four (24) months after the initial filing of this Declaration in the Orange County Registry, the Declarant may unilaterally amend this Declaration without the consent or approval of other Unit Owners or eligible mortgage holders, provided such amendment shall be exclusively for the purpose of

correcting clerical error, making changes required by the Federal National Mortgage Association, or making changes to this Declaration other than material changes as defined below. Otherwise, this Declaration may be amended during the first twenty-year period by an instrument signed by not less than eighty percent (80%) of the Unit Owners. No such amendment shall be effective until set forth in an amended declaration and duly recorded in the Office of the Register of Deeds in Orange County, North Carolina. Upon recording, all the Unit Owners and their successors and assigns, shall be bound by said amendments.

A material change shall be considered as one which changes any of the following:

- voting rights;
- increases in assessments that raise the previously assessed amount by more than 25%, assessment liens, or the priority of assessment liens;
- reductions in reserves for maintenance, repair, and replacement of common elements;
- responsibility for maintenance and repairs;
- reallocation of interests in the general or limited common elements, except as provided in Paragraph 3 hereinabove, or rights to their use;
- redefinition of any unit boundaries, except as provided in Paragraph 3 hereinabove;
- convertibility of units into common elements or vice versa;
- expansion or contraction of the project, or the addition, annexations, or withdrawal of property to or from the project;
- hazard or fidelity insurance requirements;
- imposition of any restrictions on the leasing of units;
- imposition of any restrictions on a Unit Owner's right to sell or transfer his or her unit;
- a decision by the Association to establish self-management if professional management had been required previously by Association documents or by an eligible mortgage holder;
- restoration or repair of the project after damage or partial destruction in a manner other than that specified in the documents; or
- any provisions that expressly benefit mortgage holders, insurers or guarantors.

Implied approval by an eligible mortgage holder shall be assumed when an eligible mortgage holder fails to submit a response to any written proposal for an amendment within thirty (30) days after it receives proper notice of the proposal, provided the notice was delivered by certified mail or registered mail with a "return receipt" requested.

This Declaration may further be unilaterally amended by the Declarant for the purpose of recording a verified statement of a registered architect or licensed professional engineer certifying that the plans heretofore filed or being filed simultaneously with such amendment fully depicting the layout, ceiling and floor elevations, unit numbers and dimensions of the units as built.

24. RIGHTS OF CONDOMINIUM MORTGAGE HOLDERS, INSURERS OR GUARANTORS.

Upon receipt of written request by a holder, insurer or guarantor of a mortgage on any unit in the Condominium, the Association shall furnish timely written notice regarding the following:

- any condemnation or casualty loss that affects either a material portion of the project or the unit securing its mortgage;
- any 60-day delinquency in the payment of assessments or charges owed by the Unit Owner of any unit on which it holds the mortgage;
- a lapse, cancellation or material modification of any insurance policy maintained by the Association; and
- any proposed action that requires the consent of a specified percentage of eligible mortgage holders.

Any interested mortgage holder, insurer, or guarantor shall send a written request to the Association stating both its name and address and the unit number or address of the unit on which it has (or insurers or guarantees) the mortgage.

25. SEVERABILITY.

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

26. WAIVER.

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

27. GOVERNING LAW.

This Declaration and the By-Laws attached hereto shall be construed and controlled by and under the laws of the State of North Carolina.

28. DEFINITION.

Any terms used herein which are defined in the North Carolina Condominium Act shall have the meaning specified in the Act unless a contrary intention fairly appears.

IN WITNESS WHEREOF, the Declarant has hereunto set its hand and seal this the day and year first above written.



SOUTHERN VILLAGE LIMITED PARTNERSHIP

by: SOUTHERN VILLAGE COMPANY  
GENERAL PARTNER

by: P.R. Bryan President

NORTH CAROLINA, WAKE COUNTY

I, Notary Public, do hereby certify that D.R. BRYAN, JR. personally came before me this day and acknowledged that he is President of SOUTHERN VILLAGE COMPANY, GENERAL PARTNER OF SOUTHERN VILLAGE LIMITED PARTNERSHIP, and that he, as President and being so authorized, executed the foregoing instrument on behalf of the company. Witness my hand and official, seal, this 28 day of March, 2002.

**OFFICIAL SEAL**  
North Carolina Wake County  
**S. ELAINE HUDSPETH**  
Notary Public  
My Commission Expires 11-3-06

S. Elaine Hudspeth  
Notary Public  
My commission expires: 11-3-2006



Joyce H. Pearson  
Register of Deeds  
Orange County  
North Carolina

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State of North Carolina, County of Orange

The foregoing certificate/s of S. Elaine Hudspeth, Notary/Notaries Public for the Designated Governmental units is/are certified to be correct. See filing certificate herein.

This day April 12, 2002

JOYCE H. PEARSON, REGISTER OF DEEDS By: \_\_\_\_\_

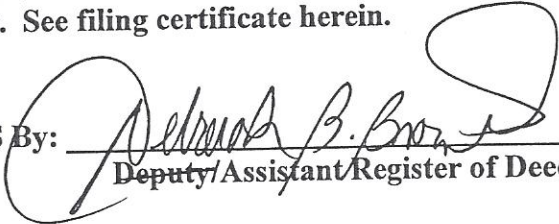
  
Deputy/Assistant Register of Deeds

EXHIBIT "A"

BEING KNOWN AND DESIGNATED as TRACT 13 as shown on a plat entitled VILLAGE CORE PHASE 7 as recorded in Plat Book 85, page 168, Orange Co. Registry, reference to which is hereby made for a more particular description.

## EXHIBIT "B"

Description of Building and Units

Project consists of a single two-story condominium building subdivided into a minimum of three (3) commercial units on the first floor and nineteen (19) residential units on the second floor. All units are of varying sizes as more particularly described on the plans contained in Plat Book 90, pages 52-58, Orange County Registry. Construction is of metal framing, with exterior walls of both masonry and EIFS surface. The roof is a mixture of standing seam metal decking and rubber membrane. Units are constructed on all floors.

Unit Designation

Unit sizes vary as more particularly shown on the plans contained in Plat Book 90, pages 52-58, Orange County Registry. Each unit has access to the common areas or limited common areas as follows:

## Stairwells/breezeways:

Three (3) will be provided, with each residential unit having access to all three, and each commercial unit having access to the Kildaire Road stairwell only. Each residential unit shall also have access to the elevator.

## Equipment rooms:

Space is reserved beneath each stairwell for common area and fire protection equipment.

Unit Address

Unit 101	700 Market Street, Chapel Hill NC 27516
Unit 102	716 Market Street, Chapel Hill NC 27516
Unit 103	310 Kildaire Road, Chapel Hill NC 27516
Unit 201	700-201 Market Street, Chapel Hill NC 27516
Unit 202	700-202 Market Street, Chapel Hill NC 27516
Unit 203	700-203 Market Street, Chapel Hill NC 27516
Unit 204	700-204 Market Street, Chapel Hill NC 27516
Unit 205	700-205 Market Street, Chapel Hill NC 27516
Unit 206	700-206 Market Street, Chapel Hill NC 27516
Unit 207	700-207 Market Street, Chapel Hill NC 27516
Unit 208	700-208 Market Street, Chapel Hill NC 27516
Unit 209	700-209 Market Street, Chapel Hill NC 27516
Unit 210	700-210 Market Street, Chapel Hill NC 27516

Unit 211 700-211 Market Street, Chapel Hill NC 27516  
 Unit 212 700-213 Market Street, Chapel Hill NC 27516  
 Unit 213 700-214 Market Street, Chapel Hill NC 27516  
 Unit 214 700-214 Market Street, Chapel Hill NC 27516  
 Unit 215 700-215 Market Street, Chapel Hill NC 27516  
 Unit 216 700-216 Market Street, Chapel Hill NC 27516  
 Unit 217 700-217 Market Street, Chapel Hill NC 27516  
 Unit 218 700-218 Market Street, Chapel Hill NC 27516  
 Unit 219 700-219 Market Street, Chapel Hill NC 27516

Common Area Percentage Interest/Commercial Management Committee Interest

Unit 101	23.65%	Unit 101	Commercial Mgmt Committee	47.31%
Unit 102	14.62%	Unit 102	Commercial Mgmt Committee	29.24%
Unit 103	11.73%	Unit 103	Commercial Mgmt Committee	23.45%
Unit 201	2.51%			100.00%
Unit 202	2.51%			
Unit 203	1.88%			
Unit 204	1.85%			
Unit 205	1.85%			
Unit 206	2.21%			
Unit 207	2.95%			
Unit 208	4.33%			
Unit 209	3.42%			
Unit 210	4.56%			
Unit 211	3.45%			
Unit 212	3.93%			
Unit 213	3.11%			
Unit 214	1.93%			
Unit 215	1.96%			
Unit 216	1.91%			
Unit 217	1.90%			
Unit 218	1.90%			
Unit 219	1.84%			
	100.00%			