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DECLARATION OF CONDOMINIUM
FOR
INDIAN HILLS CONDOMINIUM ONE
A CONDOMINIUM
PHASE II

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DECLARATION OF CONDOMINIUM
FOR INDIAN HILLS CONDOMINIUM ONE, A CONDOMINIUM, PHASE II
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EXHIBITS

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B	Each Unit's Share of Limited Common Elements, Common Elements, Areas and Facilities, and Common Assessments, Expenses and Surplus	B-1
C	Bylaws of Indian Hills Condominium One, Phase II, Property Owners Association	C-1 - C-35 (Index Page is C-i which precedes Page C-1)
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STATE OF NORTH CAROLINA,
COUNTY OF TRANSYLVANIA.

DECLARATION OF CONDOMINIUM

FOR

INDIAN HILLS CONDOMINIUM ONE, A CONDOMINIUM, PHASE II

PURSUANT TO CHAPTER 47A

OF THE

NORTH CAROLINA GENERAL STATUTES

KNOW ALL MEN BY THESE PRESENTS, that this Declaration is made on the date hereinafter set forth by CONNESTEE LAKEVIEW PROPERTIES, INC., hereinafter referred to at various times as "Declarant," or "Developer," or "Grantor," a North Carolina Corporation, pursuant to the provisions of Chapter 47A of the North Carolina General Statutes, as amended, entitled the "Unit Ownership Act."

W I T N E S S E T H:

WHEREAS, Declarant is the owner in fee simple of real property and the building and improvements thereon in Transylvania County, North Carolina, more particularly described in Exhibit "A" attached hereto and incorporated herein by reference (hereinafter referred to as "the Condominium property" or "the property"); and

WHEREAS, Declarant desires to submit the property to the provisions of Chapter 47A of the North Carolina General Statutes as amended (hereinafter sometimes referred to as "the Act"), hereby creating a Condominium known as Indian Hills Condominium One, A Condominium, Phase II, (hereinafter referred as "the Condominium"); and

WHEREAS, Declarant desires to publish a plan for the individual ownership of the several condominium units and the ownership of individual interests in that portion of the property hereinafter defined as "Common Elements" or "Common Areas and Facilities"; and

WHEREAS, Declarant desires to convey the property pursuant

and subject to certain protective covenants, conditions, restrictions, reservations, liens, agreements and charges hereinafter set forth;

NOW, THEREFORE, Declarant hereby submits the property to the provisions of Chapter 47A of the North Carolina General Statutes, as amended, and hereby publishes its plan as to the division of the property, the imposition of covenants, conditions, restrictions, reservations, liens, agreements and charges thereon and the individual ownership thereof, and Declarant hereby specifies that this Declaration shall constitute covenants, conditions, reservations and restrictions, which shall run with the property and shall bind and inure to the benefit of Declarant and its successors and assigns, and all subsequent owners of any interest in the property and their respective grantees, successors, heirs, executors, administrators, devisees or assigns.

ARTICLE I

DEFINITIONS

Definitions. As used in this Declaration and the By-Laws and Exhibits attached hereto, and all Amendments thereto, unless the context otherwise requires, the following definitions shall prevail:

(a) Assessment, means a share of the funds required for the payment of common expenses or other expenses which, from time to time, are assessed against some or all of the unit owners.

(b) Board of Directors, means the Board of Directors of Indian Hills Condominium One, Phase II, Property Owners Association.

(c) Building, means a building, or group of buildings, each building containing one or more units, and comprising a part of the property; provided that the property shall contain not less than two (2) units.

(d) By-Laws, means the By-Laws of Indian Hills Condominium One, Phase II, Property Owners Association (hereinafter sometimes referred to as "the Association"), as amended from time to time.

(e) Common Elements, or Common Areas and Facilities, means and includes all of the property of the Condominium excluding the Units, and includes general common elements, which shall be all

common elements not otherwise designated as limited common elements pursuant to the provisions of this Declaration, the exhibits attached hereto and the By-Laws, and limited common elements, if any. Common elements shall include the tangible personal property required for maintenance and operation of the Condominium, even though owned by the Association.

(f) Common Expenses, means and includes (1) all expenses incident to the administration, maintenance, repair and replacement of the common elements, after excluding therefrom any and all expenses which are the responsibility of a unit owner as set forth in Sections B and C of Article XIII hereof; (2) expenses determined by the Association to be Common Expenses; (3) expenses assessed each unit owner by Indian Hills Condominium One, Phase II, Property Owners Association; and (4) expenses declared by the Act to be Common Expenses.

(g) Common Surplus, means the excess of all receipts of the Association, including, but not limited to, assessments, rents, profits and revenues on account of the common elements over and above the amount of common expenses of the Condominium and not otherwise reserved or designated for specific use.

(h) Condominium Unit or Unit means an individual condominium unit as defined and described by the Act, and as further defined and described herein and in the Exhibits hereto, including the site plan and other plans and drawings constituting part of Exhibit "A" hereto, which delineate the physical boundaries of each unit.

(i) Co-owner or Unit Owner, means any person or other legal entity, including Declarant, owning one or more units, but shall not include any mortgagee, unless said mortgagee has acquired title pursuant to foreclosure, or by some process in lieu of foreclosure.

(j) Indian Hills Condominium One, Phase II, Property Owners Association, means the Association of all Co-owners, sometimes hereinafter called "the Association."

(k) Declaration, means this Declaration establishing and defining the property of the Condominium and submitting said property to the Act, together with all subsequent lawful

amendments to this Declaration.

(1) Institutional Mortgagee, means a Bank, Savings and Loan Association, Insurance Company or Union Pension Fund authorized to do business in the United States of America, an Agency of the United States Government, a real estate or mortgage investment trust, a lender generally recognized in the community as an institutional type lender having a lien on the property or any part hereof, or a purchase money mortgagee and such purchase money mortgagee's successors and assigns.

(m) Limited Common Elements, means and includes those common elements which are agreed upon by the Co-owners to be reserved for the use of a certain number of units to the exclusion of all other units and also includes those common elements designated herein and in the exhibits attached hereto as limited common elements, if any.

(n) Management Agreement, means that certain agreement attached to this Declaration and made a part hereof, which provides for the management of the Condominium.

(o) Management Firm, means and refers to the entity identified in the Management Agreement attached to this Declaration as the Management Firm and its successors and assigns. The Management Firm shall be responsible for the management of the Condominium property as provided in the Management Agreement attached to this Declaration and made a part hereof.

(p) Occupant, means any person or persons in possession of a unit or any part thereof.

(q) Person, means an individual, firm, corporation, partnership, association, trustee, or other legal entity.

(r) Property, or Condominium Property, means and includes the land and all buildings and other improvements and structures thereon, and all easements, rights and appurtenances belonging thereto, whether or not contiguous, and all articles of personal property intended for use in connection therewith which have been or are intended to be submitted to the provisions of Chapter 47A of the General Statutes of North Carolina, as amended.

(s) The Act, means Chapter 47A of the General Statutes of

North Carolina, as amended. It is the intent of Declarant that the provisions of the Act shall control the creation of the Condominium. Should there be any conflict between the Act and this Declaration, the Act shall control.

ARTICLE II

THE ASSOCIATION OF CO-OWNERS

A. Responsibility for Administration: The administration of the Condominium and the maintenance, repairs, replacement and operation of the Common Elements as herein provided, and those acts required of the Association by this Declaration shall be the responsibility of the Association. Such administration shall be in accordance with the provisions of the Act, this Declaration and the By-Laws of the Association.

B. Membership: The members of the Association shall be the Unit Owners.

C. Incorporation: The Association shall be incorporated under Articles of Incorporation in the form attached as Exhibit "D."

D. By-Laws: The By-Laws of the Association shall be in the form attached as Exhibit "C."

E. Limitation of Liability: Notwithstanding the duty of the Association to maintain and repair parts of the Condominium property, the Association shall not be liable for injury or damage, other than the cost of maintenance and repair, caused by any latent condition of the property to be maintained and repaired by the Association, nor for injury or damage caused by the elements or other owners or person.

F. Transfer of interest in assets: The share of a member in the funds and assets of the Association cannot be assigned, hypothecated, or transferred in any manner except as an appurtenance to his Unit.

G. Agreements: The Association shall be and hereby is authorized to enter into such agreements, including without limitation, a Management Agreement, as it may deem necessary or desirable for the administration and operation of the Condominium Property. Each Unit Owner, by acquiring or holding an interest in any Condominium Unit, thereby agrees to be bound by the terms

and conditions of all such agreements entered into by the Board of Directors on behalf of the Association. A copy of all such agreements shall be made available at the office of the Association or the Management Firm for review by each Unit Owner.

H. Voting Rights: For each Condominium Unit owned one person shall be designated and known (and is hereinafter referred to) as a "Voting Member." If a unit is owned by more than one person, the owners of said unit shall designate one of them as a Voting Member, or in the case of a corporate owner, an officer or employee thereof shall be the Voting Member. In any case, the designation of the Voting Member shall be made as provided by and subject to the provisions and restrictions set forth in the By-Laws of the Association. The vote of each Voting Member shall not be divisible and such vote shall be that assigned to him at the time of the conveyance as expressed in Exhibit "B."

Whenever the decision of a Unit Owner is required upon any matter, whether or not the subject of any Association meeting, such decision shall be expressed by the same person who would cast the vote of such owner if in an Association meeting, unless the joinder of record owners is specifically required by this Declaration.

ARTICLE III

PROPERTY RIGHTS

A. Identification of Units: The Condominium Property consists essentially of all units and other improvements as set forth in Exhibit "A" attached hereto, and for the purpose of identification, there is one building located on said Condominium Property, and all units in said building are given identifying numbers and delineated on the exhibits collectively identified as Exhibit "A" attached hereto and made a part of this Declaration. No unit within the building bears the same identifying number as does any other unit located within said building. Said Exhibit "A" includes a survey of the land and a graphic description of the improvements showing where the building and the units therein are located, which, together with this Declaration identify in detail the location, dimensions and size of the common elements, and of each unit, as further evidenced by the Certificate of the

Registered Architect attached thereto and constituting part of said Exhibit "A." All legends and notes contained in said Exhibit "A" are incorporated herein by reference. The aforesaid units, building and improvements were constructed substantially in accordance with the plans and specifications therefor prepared by the Registered Architect hereinabove referred to which are attached to and constitute part of said Exhibit "A."

B. Common Elements:

(a) Each of the unit owners shall own an undivided interest in the common elements, and such undivided interest, stated as a percentage of ownership in the said common elements, shall be as set forth in Exhibit "B," which is attached to this Declaration and made a part hereof.

(b) The fee title to each Condominium Unit shall include both the Condominium Unit and the above respective undivided interest in the common elements, said undivided interest in the common elements to be deemed to be conveyed or encumbered as part of each respective Condominium Unit. Any attempt to separate the fee title to a Condominium Unit from the undivided interest in the common elements appurtenant to that unit shall be null and void. The term "common elements" when used throughout this Declaration shall mean both general common elements and limited common elements, if applicable, unless the context otherwise specifically requires.

C. Use of Common Elements: The Association, its members, the Developer and its successors and assigns and all parties who own an interest in and to the aforesaid common elements agree that they shall not have any right to bring any action for partition and division of said common elements. The initial Rules and Regulations, and all amendments thereto and revisions thereof pertaining to use of the common elements shall be posted in conspicuous places upon the common elements. The unit owners hereby covenant and agree to be bound by all of such Rules and Regulations and said parties shall obey same and be responsible for their being obeyed by the said unit owners, their families, guests, invitees, servants, and any other occupants. Should a unitowner fail to pay an assessment for common expenses, as

required under the terms of this Declaration for the period of time specified herein whereby said assessment becomes delinquent, the Association may deny the unit owner and/or the authorized user of the common elements the use and enjoyment of the same until such time as all assessments are paid. The Association shall further have the right in its sole discretion to suspend any unit owner and/or authorized user of said common elements from the use of same for a period not to exceed thirty (30) days for any infraction of the promulgated Rules and Regulations pertaining to said common elements. Should any such suspension occur, it shall not result in any reduction in the assessments due and payable by said unit owner or authorized user.

Any person who is a unit owner of a Condominium, together with his or her spouse and other members of said owner's immediate family and their guests, who are in residence in the Condominium, as provided herein, may use the common elements. In the case of a corporate owner, the use of said common elements shall be limited at any one time to such officer, director, employee or guest of said corporation who is in actual residence and such individual shall be deemed to be the Condominium owner for the purposes of this paragraph. In the event of the lease of a Condominium Unit by the owner thereof, the lessee shall be entitled to the use of the facilities, and said lessee's rights thereto shall be the same as though he were the unit owner during the term of said lease, and neither the unit owner nor other members of his family shall be entitled to the use of the facilities during said period.

D. Limited Common Elements: Those areas which are or will be reserved for the use of certain unit owners or a certain unit owner, to the exclusion of other unit owners, are designated as "limited common elements" and, if any, will be shown and located on the survey and/or descriptions annexed hereto as Exhibit "A" or any amendments thereto. Any expenses for maintenance, repair or replacement relating to limited common elements shall be treated as and paid for as part of the common expenses of the Association, unless otherwise specifically provided in this Declaration and the Exhibits attached hereto. Should said

maintenance, repair or replacement be caused by the negligence or misuse by a Unit Owner, or his family, guests, servants or invitees, he shall be responsible therefor, and the Management Firm, as long as the Management Agreement remains in effect, and thereafter, the Association, shall have the right to levy an assessment for the expense of such maintenance, repair or replacement against such unit owner, which assessment shall have the same force and effect as all other special assessments. The cost and expense of the maintenance, care and preservation, including painting and the like, where applicable, of patios, decks, balconies and exterior stairs shall be a common expense of the Association, with the provisions of Article XIII applicable thereto.

In the event the Management Firm, as long as a Management Agreement remains in effect, and thereafter the Association, shall deem it advisable to assign particular parking spaces to particular units, said assignment shall be designated by an appropriate indication on the parking spaces affected, and such designations shall thereupon become one of the Rules and Regulations of the Association, enforceable as to all owners or other users, until said assignment shall have been properly rescinded by Management Firm or the Association, as the case may be. Each unit shall, however, be entitled to the use of at least two parking spaces, and such other additional parking spaces as might be determined from time to time by the Management Firm as long as the Management Agreement remains in effect, and thereafter by the Association. A record of any assignment of parking spaces shall be maintained in the office of the Association or the Management Firm. All parking spaces shall be used as provided by the Rules and Regulations adopted by the Management Firm or the Association.

ARTICLE IV

ARCHITECTURAL CONTROL

A. Approval Required for Changes: To preserve the original architectural appearance of the Condominium after purchase of the Condominium units from the Declarant, or its successors or assigns, no exterior construction of any nature whatsoever,

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except as specified in this Declaration or the Exhibits attached hereto, shall be commenced or maintained upon any building, common element, or limited common element; nor shall any unit owner paint, decorate or change the color of any exterior surface, or the design or color of any exterior lights; nor shall any unit owner install, erect or attach to any part of the exterior any sign of any kind whatsoever; nor shall any exterior addition or change, including without limiting the generality of the foregoing, the erection or construction of any fence or wall, be made, unless and until the plans and specifications showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted to and approved as to harmony of exterior design, color and location in relation to the surrounding structures, by the Board of Directors of the Association or by an architectural committee composed of three or more representatives appointed by said Board of Directors, if said committee is then in existence. Failure of said committee, or of the Board of Directors if said committee is not then in existence, to approve or disapprove such plans and specifications within sixty (60) days after receipt of said documents shall constitute approval; provided, however, that in no event shall any such addition or change be made which shall not be architecturally compatible with existing structures.

ARTICLE V

COMMON EXPENSES AND COMMON SURPLUS

The common expenses of the Condominium, including the obligation of each Unit Owner under the Management Agreement attached to this Declaration, shall be shared by the unit owners in the percentages specified in Exhibit "B." This ratio of sharing common expenses and assessments shall remain constant, regardless of any variations in later prices of units.

Any common surplus of the Association (being the excess of all receipts of the Association, including but not limited to assessments, rents, profits and revenues on account of the common elements of the Association over and above the amount of the common expenses of the Association and not otherwise reserved or

designated for specific use) shall be owned by the unit owners in the same proportion as their percentage ownership interest in the common elements.

ARTICLE VI

METHOD OF AMENDMENT OF DECLARATION

This Declaration may be amended at any regular or special meeting of the members of the Association, called and convened in accordance with the By-Laws, by the affirmative vote of Voting Members casting not less than seventy-five percent (75%) of the total vote of the members of the Association. All amendments shall be recorded and certified as required by the Act. No amendment shall change any unit, or any unit's proportionate share of the common expenses or common surplus, or the voting rights appurtenant to the unit, unless the owner(s) thereof, and all owners of mortgages or other voluntarily placed liens thereon, of record, shall join in the execution of the Amendment. No other Amendment which shall affect the rights of the record mortgagee(s) of a unit or the holders of liens voluntarily placed on a unit shall be passed without the written consent of said mortgagee(s) or lien holder(s).

No Amendment to this Declaration or to the By-Laws shall change the rights and obligations of Declarant or the Management Firm, without the applicable party's written approval.

Notwithstanding the foregoing paragraphs of this Article VI, the Developer reserves the right to change the interior design and arrangement of all units or any unit or units and to alter the boundaries between units as long as the Developer owns the units so altered; provided, however, that no such change shall increase the number of units or alter the boundaries of the common elements, except the party wall between units owned by the Developer, without amendment of this Declaration in the manner hereinabove set forth. If more than one unit is altered the Developer shall appropriately reapportion the shares in the common elements which are allocated to the altered units. If the Developer shall make any changes in units as provided in this paragraph, such changes shall be reflected by an amendment of this Declaration with a survey or set of Architect's plans

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attached, reflecting such authorized alteration or subdivision of units, and said amendment need only be executed and acknowledged by the Developer and any holders of Institutional Mortgages encumbering the said altered or subdivided units. The survey or set of Architect's plans shall be certified in the manner required by the Act.

The Developer, so long as it owns more than twenty-five percent (25%) of the Condominium Units in the Condominium, reserves the right at any time to amend the Declaration, as may be required by any lending institution or public body, or in such manner as the Developer may determine to be necessary to carry out the purposes of the project provided that such Amendment shall not increase the proportion of common expenses nor decrease any unit owner's percentage ownership interest in the common elements, and during such period of time this Declaration may also be amended by Developer by filing such additional plans as may be required to describe adequately the completion of the improvements. Such completion may be shown by a certificate of an architect, engineer or surveyor certifying that the improvements have been constructed substantially as herein represented or designating any changes made. Such plans or certificate, when signed and acknowledged by the Developer shall in themselves constitute an amendment of this Declaration, notwithstanding the procedures for amendment described elsewhere in the Declaration.

ARTICLE VII

BY-LAWS

The operation of the Condominium's property shall be governed by the By-Laws of the Association which are attached hereto as Exhibit "C" and incorporated herein by reference. No modification of or amendment to said By-Laws shall be valid unless set forth in or annexed to a duly recorded amendment to this Declaration. The By-Laws may be amended in the manner provided for therein, but no amendment to said By-Laws shall be adopted which would affect or impair the validity or priority of any mortgage or other voluntarily placed lien of record covering any Condominium Unit, without the written consent of the record

holder of said mortgage or lien. No amendment to said By-Laws shall be made which will affect the rights and obligations of Declarant or the Management Firm without the prior written consent of the affected party. Any amendment to said By-Laws shall be executed by the parties affected, as proved hereinabove, and recorded in the office of the Register of Deeds of Transylvania County, North Carolina, and in such other public office as may be required by law.

ARTICLE VIII

THE OPERATING ENTITY

The operating entity of the Condominium shall be the Association, which is responsible for the operations specified in Article II hereinabove, said Association being organized and existing pursuant to the Act. The said Association shall have all of the powers and duties set forth in the Act, as well as all of the powers and duties granted to or imposed upon it by this Declaration, the By-Laws of the Association and its Articles of Incorporation, a copy of said Articles of Incorporation being annexed hereto as Exhibit "D," and incorporated herein by reference, and all of the powers and duties necessary to operate the Condominium, as set forth in this Declaration and the By-Laws, and as they may be amended from time to time.

Every unit owner, whether he has acquired his ownership by purchase, by gift, conveyance or transfer by operation of law, or otherwise, shall be bound by the By-Laws, Articles of Incorporation and Rules of the said Association, the provisions of this Declaration, the Management Agreement, and all other conditions, covenants and restrictions of record.

ARTICLE IX

ASSESSMENTS

The Association, through its Board of Directors, has delegated to the Management Firm the power of the Association to fix and determine from time to time the sum or sums necessary and adequate to provide for the common expenses of the Condominium Property, and other sums and assessments as are specifically provided for in this Declaration, the By-Laws, and other Exhibits attached hereto, for such period of time as the Management

Agreement is in effect, and thereafter the Association shall have such power, through its Board of Directors. The procedure for the determination of all such sums and assessments shall be as set forth in the By-Laws of the Association, this Declaration and the Exhibits attached hereto.

Assessments and installments that are unpaid for over ten (10) days after due date shall bear interest at the maximum rate allowed by law from the due date thereof until paid, and at the sole discretion of the Management Firm, so long as the Management Agreement is in effect, and thereafter at the sole discretion of the Board of Directors, a late charge of Five Dollars (\$5.00) shall also be due and payable. All payments upon account shall be first applied to interest and then to the assessment payment first due. Regular assessments shall be due and payable in advance, at such intervals as may be determined by the Management Firm, so long as the Management Agreement is in effect, and thereafter by the Board of Directors. After initial notification to the unit owners of the amount and interval of said assessments, periodic billing therefor shall not be required, however, each time either the amount or interval of said assessments is changed by the legal entity having the authority to make such a change by the By-Laws of the Association and this Declaration and the Exhibits attached hereto, notification of any such change must be given to the unit owners.

The Association and the Management Firm, as long as the Management Agreement remains in effect, shall have a lien on each Condominium Unit for assessments chargeable to that unit remaining unpaid for a period of thirty days or longer, upon the filing of such a lien in the office of the Clerk of Superior Court of Transylvania County in the manner prescribed in the Act, together with interest thereon, and against the unit owner(s) thereof, together with a lien on all tangible personal property located within said unit. Such lien against any unit owner upon the aforesaid property shall be subordinate to prior bona fide liens of record and to all liens afforded priority under the terms of the Act. Reasonable attorney's fees incurred by the Association and the Management Firm incident to the collection of

such assessments or the enforcement of such liens, together with all sums advanced and paid by the Association or the Management Firm for taxes and payments on account of superior mortgage liens and other superior liens or encumbrances which the Association or Management Firm may be required to advance in order to preserve and protect the lien herein granted the Association and/or Management Firm, and all other costs of said collection, shall be payable by the unit owner and secured by such lien. The Management Firm, as long as the Management Agreement remains in effect, and thereafter, the Board of Directors, may take such action as it deems necessary to collect assessments, by a personal action or by enforcing and foreclosing said lien in like manner as a deed of trust or mortgage of real property, or both, and may settle and compromise the same if deemed by it to be appropriate. Said lien shall be effective as and in the manner provided for by the Act, and shall have the priorities established by said Act. The Management Firm, as long as the Management Agreement remains in effect, and the Association shall be entitled to bid at any sale held pursuant to a suit to foreclose an assessment lien, and to apply as a cash credit against its bid, all sums due, as provided herein, covered by the lien enforced. In case of such foreclosure, the unit owner shall be required to pay a reasonable rental for the Condominium Unit for the period of time said unit is occupied by the unit owner or anyone by, through or under said unit owner, during the period of time such default exists, and the Plaintiff in such foreclosure or other collection action shall be entitled to the appointment of a receiver to collect said rental from the unit owner and/or occupant.

Where the Mortgagee of an Institutional First Mortgage of record, or other purchaser of a Condominium Unit obtains title to a Condominium Unit as a result of foreclosure of the Institutional First Mortgage, or when an Institutional First Mortgagee of Record accepts a deed to said Condominium Unit or an interval ownership therein, in lieu of foreclosure, such acquirer of title, its successors and assigns, shall not be liable for the shares of common expenses or assessments by the Management Firm or the Association pertaining to such Condominium Unit or charge-

able to the former unit owner, which became due prior to acquisition of title as a result of the foreclosure or the acceptance of such deed in lieu of foreclosure. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the unit owners, including such acquirer, his successors and assigns.

Any person who acquires an interest in a unit, except through foreclosure by an Institutional First Mortgagee of record, or by virtue of an Institutional First Mortgagee of record accepting a deed to a Condominium Unit in lieu of foreclosure as specifically provided hereinabove, including, without limitation, persons acquiring title by operation of law including purchasers at judicial sales, shall not be entitled to occupancy of the unit or enjoyment of the common elements until such time as all unpaid assessments due and owing by the former unit owners have been paid. The Management Firm, as long as the Management Agreement remains in effect, and thereafter, the Association acting through its Board of Directors, shall have the right to assign its claim and lien rights for the recovery of any unpaid assessments to the Developer, or to any unit owner or group of unit owners, or to any third party.

ARTICLE X

INSURANCE PROVISIONS

A. Liability Insurance: The Management Firm, as long as the Management Agreement remains in effect, and thereafter the Board of Directors of the Association, shall obtain a Public Liability and Property Damage Insurance Policy or policies covering all of the common elements of the Condominium project and insuring the Association, the Unit Owners and their invitees or tenants incident to the ownership and use of the Condominium Property, and including the personal liability expense of the owners, and the Management Firm, as long as the Management Agreement remains in effect, as its and their interests may appear, in such amounts and providing such coverage, including but not limited to hired automobile and non-owned automobile coverages, as the Management Firm, as long as the Management

Agreement remains in effect, and thereafter, the Board of Directors of the Association, may determine from time to time to be adequate provided, however, that in no event shall the limits of liability under such coverage be less than One Million Dollars (\$1,000,000.00) for any one person injured, or for any one accident, or less than Three Million Dollars (\$3,000,000.00) for property damage each occurrence. Furthermore, said policy or policies shall be issued on a comprehensive liability basis and shall provide cross liability endorsement wherein the rights of each named insured under the policy or policies shall not be prejudiced as respects his, her or their action against another named insured. Premiums for the payment of such insurance shall be paid by the Management Firm as long as the Management Agreement remains in effect, and thereafter by the Board of Directors of the Association, and such premiums shall be charged as a common expense.

B. Casualty Insurance: The Management Firm, as long as the Management Agreement remains in effect, and thereafter the Board of Directors of the Association, shall obtain a Fire and Extended Coverage Insurance and Vandalism and Malicious Mischief Insurance policy or policies, insuring all of the insurable improvements within the Condominium, including personal property owned by the Association or included in the common elements, in and for the interests of the Association, all Unit Owners and their Mortgagees, and the Management Firm as their respective interests may appear, from a company licensed to do business in the State of North Carolina and holding a rating of A, Class XV, or better by Best's Insurance Reports, which is acceptable to the standards set by the Management Firm, as long as the Management Agreement remains in effect, and thereafter by the Board of Directors of the Association, in an amount equal to the full insurable replacement value thereof, as determined annually in the manner hereinafter set forth in subsection 7(d) of Section J of this Article X. Or in lieu of obtaining such coverage the Management Firm, as long as the Management Agreement remains in effect, and thereafter the Association, may obtain such other fire and casualty insurance as it shall determine gives substantially

equal or greater protection to the owners and their mortgagees, as their interests may appear. The premium for such insurance policy or policies shall be paid by the Management Firm, as long as the Management Agreement remains in effect, and thereafter by the Association, and shall be charged as a common expense. Such policies shall provide that payments for losses thereunder by the insurer shall be made to the insurance trustee hereinafter designated, and all policies and endorsements thereon shall be deposited with the insurance trustee. Such policy or policies shall provide for a separate loss payable endorsement in favor of the mortgagees of Condominium units. Institutional First Mortgagees holding mortgages on condominium units having an aggregate unpaid principal balance of \$100,000.00 or more, shall have the right to approve or disapprove the policies of said insurance and the sources and amounts thereof; provided, however, that the absence of affirmative action by the mortgagee(s) involved shall constitute a waiver of said right for the then existing premium year. All Institutional Mortgagees who hold a first mortgage on a condominium unit shall be entitled to receive a certificate of such insurance coverage.

C. Other Insurance: The Management Firm, as long as the Management Agreement remains in effect, and thereafter the Board of Directors of the Association, shall obtain such Workmen's Compensation Insurance as may be required by law, and such other insurance as it determines from time to time to be necessary or desirable for and in the interest of the Association, all unit owners and their mortgagees, and the holders of other voluntarily placed liens on units as their interests may appear.

D. Sources of Insurance and Waiver of Subrogation: Subject only to any right of a mortgagee to approve or disapprove of a source of insurance, as hereinabove provided, insurance companies authorized to do business in the State of North Carolina and holding a rating of A, Class XV, or better by Best's Insurance Reports shall be presumed to be good and responsible companies, and neither the Management Firm nor the Board of Directors of the Association shall be responsible for the quality or financial responsibility of the companies from whom insurance is obtained,

so long as they are licensed to do business in said state and hold a rating of A, Class XV, or better by Best's Insurance Reports. The Management Firm, as long as the Management Agreement is in effect, and thereafter the Board of Directors of the Association, shall be required to make every effort to obtain policies, to the extent obtainable, which provide that the insurer waives its right of subrogation as to any claims against unit owners, the Association, the Management Firm, and their respective servants, agents and guests.

E. Institutional Mortgagees' Right to Advance Premiums:

Should the party responsible hereunder for the payment of insurance premiums fail to pay any of said premiums when due, any institutional mortgagee holding a mortgage on a condominium unit shall have the right, at its option, to obtain insurance policies and/or pay the premiums thereon, in which case said mortgagee(s) shall be subrogated to the assessment and lien rights of the Association for the payment of such premiums as a common expense.

F. Authority to Compromise Claims: The Management Firm, as long as the Management Agreement remains in effect, and thereafter the Board of Directors of the Association, is hereby irrevocably appointed as agent and attorney-in-fact for each co-owner, each mortgagee, other named insured and their beneficiaries, and any other holder of a lien or other interest in the Condominium Property for the purpose of compromising and settling claims arising under any insurance policies relating to the Condominium Property which have been purchased by the Management Firm or the Association, including the right to litigate any such claim when considered necessary by the Management Firm or the Board of Directors, as the case may be, and to execute and deliver releases therefor.

G. Casualty Loss or Damage: In the event of casualty loss of or damage to any of the Condominium Property, the Management Firm, as long as the Management Agreement remains in effect, and thereafter the Board of Directors of the Association, shall make claim on the policy or policies covering said loss, and, unless it is determined in the manner elsewhere provided in this Declaration that the Condominium shall be terminated, shall apply

the proceeds received toward the repair, replacement and/or reconstruction of the lost or damaged property, it being hereby provided, as a covenant running with the Condominium Property, that no mortgagee shall be entitled to require the application of insurance proceeds toward the payment of its loan, any provisions in any policies to the contrary being hereby waived by said lenders. No owner shall be entitled to compensation for loss of occupancy of his unit pending completion of said work or replacement. The Management Firm, so long as the Management Agreement remains in effect, and thereafter the Board of Directors, is hereby irrevocably appointed the exclusive agent and attorney-in-fact for each co-owner, each mortgagee, other named insured and their beneficiaries, and any other holder of a lien or other interest in the Condominium Property to negotiate and contract for the repair, reconstruction or replacement of lost or damaged property, including the right to require any contractor involved to furnish a performance bond should said agent and attorney-in-fact consider it desirable.

H. Insurance Trustee; Share of Proceeds: All insurance policies purchased by the Management Firm and/or the Association shall provide that all proceeds covering property losses shall be paid to the insurance trustee, which shall be designated by the Board of Directors of the Association and which shall be any bank or trust company in North Carolina with trust powers. The insurance trustee shall not be liable for payment of premiums, for the renewal or the sufficiency of policies, or for the failure to collect any insurance proceeds. The duty of the insurance trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes elsewhere stated herein and for the benefit of the Unit Owners and their mortgagees in the following shares, but which shares need not be set forth on the records of the insurance trustee:

(1) Common Elements. Proceeds on an account of damage to common elements - an undivided share for each Unit Owner, such share being the same as the undivided share in the common elements appurtenant to his Unit.

(2) Condominium Units. Proceeds on account of damage to Units shall be held in the following undivided shares:

(a) When the building is to be restored - For the Owners of damaged Units in proportion to the cost of repairing the damage suffered by each Unit Owner, which cost shall be determined by the Association.

(b) When the building is not to be restored - An undivided share for each Unit Owner, such share being the same as the undivided share in the common elements appurtenant to his Unit.

(3) Mortgagees. In the event a mortgagee endorsement has been issued as to a Unit, the share of the Unit Owner shall be held in trust for the mortgagee and the Unit Owner as their interests may appear; provided, however, that no mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds except distributions thereof made to the Unit Owner and mortgagee pursuant to the provisions of this Declaration.

I. Distribution of Proceeds: Proceeds of insurance policies received by the insurance trustee shall be distributed to or for the benefit of the beneficial Owners in the following manner:

(1) Expense of the trust. All expenses of the insurance trustee shall be first paid or provision made therefor.

(2) Reconstruction or repair. If the damage for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost thereof as elsewhere provided in the Declaration. Any proceeds remaining after defraying such costs shall be distributed to the beneficial Owners, remittances to Unit Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by such mortgagee.

(3) Failure to reconstruct or repair. If it is

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determined in the manner elsewhere provided in this Declaration that the damage for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the beneficial Owners, remittances to Unit Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by such mortgagee.

(4) Certificate. In making distribution to Unit Owners and their mortgagees, the insurance trustee may rely upon a certificate of the Association made by its President and Secretary as to the names of the Unit Owners and their respective shares of the distribution.

J. FURTHER PROVISIONS:

The insurance provided for hereinabove shall be governed by the following provisions:

1. In no event shall the insurance coverage obtained and maintained by the Management Firm or the Board of Directors of the Association hereunder be brought into contribution with insurance purchased by individual co-owners or their mortgagees;

2. Each co-owner may obtain additional insurance at his own expense; provided, that such insurance shall be obtained from the same insurance carrier insuring the Condominium and common elements unless written permission is received from the Management Firm, as long as the Management Agreement remains in effect, and thereafter the Board of Directors of the Association, authorizing the use of another carrier, and no co-owner shall be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount which the Management Firm and the Association, on behalf of all of the co-owners, may realize under any insurance policy which the Management Firm or the Association may have in force on the Condominium Property at any particular time;

3. Each co-owner shall be required to notify the Association of all improvements made by the co-owner to his Unit, the value of which is in excess of One Thousand Dollars (\$1,000.00);

4. Any co-owner who obtains individual insurance policies covering any portion of the Condominium Property other than personal property belonging to such co-owner, shall be required to file a copy of such individual policy or policies with the Association within thirty (30) days after purchase of such insurance;

5. The insurer issuing the Master Policy covering the Condominium and the common elements shall issue sub-policies to each co-owner specifying the portion of the Master Policy earmarked for each co-owner's interest, and, upon request, shall likewise issue a certificate or endorsement to a lender holding a mortgage or lien on a co-owner's Unit noting the aliquot share of the blanket insurance permanently allotted to such lender's security. Such sub-policies shall further stipulate that, until the insurance carrier furnishes notice and a grace period to the mortgagee, the latter's coverage shall neither be jeopardized by the conduct of the mortgagor, the Association or other Unit Owners, nor cancelled for nonpayment of premiums.

6. Premiums upon insurance policies which the Management Firm or the Association are required to purchase under the provisions of this Declaration shall be paid by them as a common expense.

7. The Management Firm, as long as the Management Agreement remains in effect, and thereafter the Board of Directors of the Association, shall be required to make every effort to secure insurance policies that will provide for the following:

(a) That the Master Policy on the Condominium Property cannot be cancelled, invalidated or suspended on account of the conduct of any one or more individual co-owners;

(b) That the Master Policy on the Condominium Property cannot be cancelled, invalidated or suspended on account of the conduct of any officer or employee of the Association or the Management Firm or any other manager employed by the Association without a prior demand in writing that the Association, the Management Firm or any other manager employed by the Association cure the defects;

(c) That any "no other insurance" clause in the Master Policy exclude individual co-owner's policies from consideration.

(d) The limits and coverage hereinabove provided for shall be reviewed at least annually by the Management Firm, as long as the Management Agreement remains in effect, and thereafter by the Board of Directors of the Association, and increased or decreased in the discretion of the reviewing party. The annual insurance review herein provided for shall include an appraisal of the improvements on the Condominium Property by a representative of the insurance carrier writing the Master Policy.

(e) That in any legal action in which the Management Firm and/or the Association may be exposed to liability in excess of insurance coverage protecting it and the Unit Owners, the Management Firm and/or the Association will give notice of the exposure within a reasonable time to all Unit Owners who may be exposed to the liability and they shall have the right to intervene and defend.

(f) That a copy of each insurance policy obtained by the Management Firm and/or Association shall be made available for inspection by Unit Owners at reasonable times.

ARTICLE XI

RECONSTRUCTION OR REPAIR AFTER CASUALTY

A. Determination to Reconstruct or Repair: If any part of the Condominium Property shall be damaged by casualty, whether or not it shall be reconstructed or repaired shall be determined in the following manner:

(1) Common Element. If common elements are damaged, they shall be reconstructed or repaired, unless it is determined in the manner elsewhere provided that the Condominium shall be terminated.

(2) Condominium Units.

(a) Lesser Damage - If the damage is to a building containing Condominium Units, and if Units to which 50% of the common elements are appurtenant are found by the Board of Directors of the Association to be tenantable, the

damaged property shall be reconstructed or repaired unless within 60 days after the casualty, it is determined in the manner elsewhere provided in this Declaration that the Condominium shall be terminated.

(b) Major Damage - If the damage is to a building containing Condominium Units, and if Units to which more than 50% of the common elements are appurtenant are found by the Board of Directors to be not tenantable, then the damaged property will not be reconstructed or repaired and the Condominium will be terminated without agreement as elsewhere provided in this Declaration unless within 60 days after the casualty, the Owners of 51% of the Common Elements agree in writing to such reconstruction or repair.

(3) Certificate. The insurance trustee may rely upon a certificate of the Association made by its President and Secretary or by the Management Firm (if the Management Agreement is then in effect) to determine whether or not the damaged property is to be reconstructed or repaired.

B. Plans and Specifications: Any repair, reconstruction or replacement must be substantially in accordance with the plans and specifications for the original building, portions of which are attached hereto as Exhibits; or if not, then according to plans and specifications approved by the Board of Directors of the Association and the Management Firm (if the Management Agreement is then in effect), and if the damaged property is a building containing Condominium Units, by the Owners of not less than 51% of the common elements, including the Owners of all damaged Units, which approval shall not be unreasonably withheld.

C. Responsibility: If the damage is only to those parts of one Unit for which the responsibility of maintenance and repair is that of the Unit Owner, then the Unit Owner shall be responsible for reconstruction, repair, or replacement after casualty. In all other instances, the responsibility of reconstruction, repair or replacement after casualty shall be that of the Association.

D. Estimates of Costs: Immediately after a determination is made to rebuild, repair, or replace damage to property for

which the Management Firm or the Association has the responsibility of reconstruction, repair, or replacement, the responsible party shall obtain reliable and detailed estimates of the cost to rebuild, repair, or replace.

E. Assessments: If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction, repair, or replacement by the Management Firm (or the Association if the Management Agreement is no longer in effect) or if at any time during reconstruction, repair, or replacement, or upon completion of reconstruction, repair, or replacement, the funds for the payment of the costs of reconstruction, repair, or replacement are insufficient, assessments shall be made against the Unit Owners directly affected in the case of damage to limited common elements, and against all of the Unit Owners in the case of general common elements, in sufficient amounts to provide funds for the payment of such costs. Such assessments against Unit Owners for damage to Units shall be in proportion to the cost of reconstruction, repair, or replacement of their respective Units. Such assessments on account of damage to common elements shall be in proportion to the Owner's share in the common elements.

F. Construction Funds: The funds for payment of costs of reconstruction, repair or replacement after casualty, which shall consist of proceeds of insurance held by the insurance trustee and funds collected by the Management Firm or the Association from assessments against Unit Owners, shall be disbursed in payment of such costs in the following manner:

(1) Management Firm or Association: If the total assessments made by the Management Firm or the Association in order to provide funds for payment of costs of reconstruction, repair, or replacement which is the responsibility of the Association is more than \$5,000.00, then the sums paid upon such assessments shall be deposited by the Management Firm or the Association with the insurance trustee. In all other cases, the Management Firm, as long as the Management Agreement remains in effect, and thereafter, the Association shall hold the sums paid upon

such assessments and disburse the same in payment of the costs of reconstruction, repair, or replacement.

(2) Insurance Trustee: The proceeds of insurance collected on account of a casualty, and the sums deposited with the insurance trustee by the Management Firm or the Association from collections of assessments against Unit Owners on account of such casualty shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction, repair, or replacement in the following manner and order:

(a) Association: Lesser Damage - If the amount of the estimated costs of reconstruction, repair or replacement which is the responsibility of the Management Firm or the Association is less than \$5,000.00, then the construction fund shall be disbursed in payment of such costs upon the order of the Management Firm if the Management Agreement is then in effect, and, if not, by the Association; provided, however, that upon request to the insurance trustee by a mortgagee which is a beneficiary of an insurance policy, the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner hereafter provided for the reconstruction and repair of major damage.

(b) Association: Major Damage - If the amount of the estimated costs of reconstruction, repair or replacement which is the responsibility of the Management Firm or the Association is more than \$5,000.00, then the construction fund shall be disbursed in payment of such costs in the manner required by the Management Firm if the Management Agreement is then in effect, and, if not, by the Board of Directors of the Association, and upon approval of an architect qualified to practice in North Carolina and employed by the Association to supervise the work.

(c) Unit Owner - The portion of insurance proceeds representing damage for which the responsibility of reconstruction, repair or replacement lies with a Unit Owner shall be paid by the insurance trustee to the Unit Owner, or if there is a mortgage endorsement as to such Unit, then to

the Unit Owner and mortgagee jointly, who may use such proceeds as they may be advised.

(d) Surplus - It shall be presumed that the first monies disbursed in payment of costs of reconstruction, repair and replacement shall be from insurance proceeds. If there is a balance in a construction fund after payment of all costs of the reconstruction, repair and replacement for which the fund is established, such balance shall be distributed to the beneficial Owners of the fund in the manner elsewhere stated in this Declaration; except, however, that the part of a distribution to a beneficial Owner which is not in excess of assessments paid by such Owner into the construction fund shall not be made payable to any mortgagee.

(e) Certificate - Notwithstanding the provisions herein, the insurance trustee shall not be required to determine whether or not sums paid by Unit Owners upon assessments shall be deposited with the insurance trustee, nor to determine whether the disbursements from the construction fund are to be upon the order of the Management Firm, or the Association, or upon approval of an architect, or otherwise, nor whether a disbursement is to be made from the construction fund, nor to determine whether surplus funds to be distributed are less than the assessments paid by Unit Owners. Instead, the insurance trustee may rely upon a certificate of the Management Firm, if the Management Agreement is still in effect, and if not, of the Association, made by its President and Secretary, as to any or all of such matters and stating that the sums to be paid are due and properly payable, and stating the name of the payee and the amount to be paid; provided, that when a mortgagee is herein required to be named as payee, the insurance trustee shall also name the mortgagee as a payee of any distribution of insurance proceeds to a Unit Owner and further provided that when the Association or a mortgagee which is the beneficiary of an insurance policy, the proceeds of which are included in the construction fund,

so requires, the approval of an architect named by the Management Firm, if the Management Agreement is still in effect, and, if not, by the Association, shall be first obtained by the Management Firm, if the Management Agreement is still in effect, and, if not, by the Association prior to disbursements in payment of the costs of reconstruction, repair and replacement.

ARTICLE XII

USE AND OCCUPANCY

A. Residential Use Restriction: The owner of a unit shall occupy and use his unit as a single family private dwelling for himself and the members of his family, his servants, social guests, lessees, licensees and invitees, and for no other purpose. Where a corporation or other such entity owns a unit the foregoing use provision shall apply to the officer, director or employee of the entity who has been authorized by the entity to use the Unit.

B. Prohibited Acts: No unit owner shall permit or suffer anything to be done or kept in or about his unit which will increase the rate of insurance on the property, or which will obstruct or interfere with the rights of other unit owners, or annoy them by creating unreasonable noises or otherwise, nor shall the unit owners commit or permit any nuisance or illegal acts in or about the property.

No animals or pets of any kind shall be kept in any unit or on any property of the Condominium except as and if permitted by the Rules and Regulations adopted by the Management Firm as long as the Management Agreement remains in effect, and thereafter by the Board of Directors of the Association; provided, that they may not in any event be kept or maintained for any commercial purposes and further provided that any such house pets causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the Condominium property upon three (3) days' written notice from the Management Firm or the Board of Directors of the Association.

C. Restrictions on Alterations: No unit owner shall cause anything to be affixed or attached to, hung, displayed, or placed

on the exterior walls, doors, or windows of the units or the common elements, or cause any type of ground coverage to be installed, or grow any type of plant, shrubbery, flower, vine or grass outside any unit, or cause awnings or storm shutters, screens, enclosures or the like to be affixed or attached to any unit, building or common elements, or place any furniture or equipment outside any unit, except with the prior written consent of the Management Firm, as long as the Management Agreement remains in effect, and thereafter of the Board of Directors of the Association, and further when approved, subject to the Rules and Regulations adopted by the Management Firm, as long as the Management Agreement remains in effect, and thereafter by the Board of Directors of the Association. No clothes line or similar device shall be allowed on any portion of the Condominium Property, nor shall clothes be hung anywhere except where designated by the Management Firm, as long as the Management Agreement is in effect, and thereafter by the Board of Directors of the Association. No unit owner shall screen in or enclose any exterior patio which abuts his unit, or screen in or enclose any exterior deck and/or balcony which abuts his unit with any type of material without the prior written consent of the Management Firm, as long as the Management Agreement is in effect, and thereafter of the Association; provided, however, that Declarant shall have the right to screen in or enclose the foregoing as it determines in its sole discretion until five years from the date of recordation of this Declaration in the office of the Register of Deeds of Transylvania County, North Carolina, or sooner, as determined by Declarant.

D. Rules and Regulations: No person shall use any portion of the Condominium Property in any manner contrary to or not in accordance with the Rules and Regulations pertaining thereto, as from time to time promulgated by the Management Firm, as long as the Management Agreement remains in effect, and thereafter by the Association.

E. Restrictions on Leasing: No unit owner shall lease less than his entire unit to any lessee nor shall any unit owner lease his unit to any lessee for a period of less than two consecutive

weeks. No lessee of any unit shall sublet for any period of time all or any portion of the unit being leased by him.

ARTICLE XIII

MAINTENANCE AND ALTERATIONS

A. The Board of Directors of the Association may enter into a contract with any firm, persons, or corporations, or may join with other condominium associations, projects and entities in contracting for the maintenance, repair and operation of that portion of the Condominium Property for which the Association is responsible for maintaining, repairing, and/or operating, and may contract for or may join with other condominium property owners' associations in contracting for the management of such property, and may delegate to Indian Hills Condominiums Association or to a contractor or manager all powers and duties of the Association, except such as are specifically required by this Declaration, or by the By-Laws, to have approval of the Board of Directors or the membership of the Association. Indian Hills Condominiums Association or any such contractor or manager may be authorized to determine the budget, make assessments for common expenses and collect assessments, as provided by this Declaration, and the By-Laws and other Exhibits attached hereto. Pursuant to the authority granted by this Declaration and the By-Laws, the Association, through its Board of Directors, has entered into a Management Agreement, attached hereto as Exhibit "E," which encompasses the provisions of this paragraph.

B. There shall be no alterations or additions to the common elements of the Condominium except as authorized by the Management Firm, as long as the Management Agreement remains in effect, and thereafter, by the Board of Directors, and approved by the affirmative vote of Unit Owners owning at least 75% total interest in the common elements. The cost of any such alterations or additions shall be assessed as common expenses. The cost of any addition or alteration to the common elements which is exclusively or substantially exclusively for the benefit of one or more particular unit owners requesting it shall be assessed against and collected solely from said unit owner(s), and said assessment shall be levied in such proportion as may be deter-

mined to be fair and equitable by the Management Firm in its sole discretion, so long as the Management Agreement remains in effect, and thereafter, by the Board of Directors of the Association. Where such alterations or additions exclusively or substantially exclusively benefit the unit owners requesting them, said alterations or additions shall be made only when authorized by the Management Firm, as long as the Management Agreement remains in effect, and thereafter, by the Board of Directors, and approved by not less than seventy-five percent (75%) of the total vote of the unit owners exclusively or substantially exclusively benefiting therefrom, and where said unit owners are four (4) or fewer, the approval of all shall be required.

Where the approval of unit owners for alterations to the common elements is required in this Declaration and the Exhibits attached hereto, the approval of Institutional First Mortgagees (holding mortgage or deed of trust liens on Condominium Units whose owners must approve such alterations) representing not less than seventy percent (70%) of the total unpaid dollar indebtedness as to principal on said units at said time shall also be required.

In no event shall the cost of any addition or alteration to the common elements be assessed against a Unit owned by an Institutional Mortgagee which acquires its title as a result of owning a lien upon said Unit unless such owner shall approve the alteration or improvement, and this shall be so whether the title is acquired by deed from the former owner debtor or through foreclosure proceedings. The share of any cost not so assessed shall be assessed to the other Unit Owners in the proportions which their shares in the common elements bear to each other. There shall be no change in the shares and rights of a Unit Owner in the common elements which are altered or further improved, whether or not the Unit Owner contributes to the cost thereof.

C. Each unit owner agrees as follows:

(1) To maintain in good condition and repair his unit and all interior surfaces within his unit and the entire interior of his unit, and to maintain and repair the fixtures and equipment therein, which includes but is not

limited to the following, where applicable: air conditioning and heating units including condensers and all appurtenances thereto wherever situated, and hot water heater, refrigerator, range and oven, and all other appliances, drains, plumbing fixtures and connections, sinks, all plumbing and water lines within the unit, electric panels, electric wiring and electric outlets and fixtures within the unit, interior doors, windows, screening and glass, all exterior doors (except the painting of the exterior of exterior doors shall be a common expense of the Association) and pay for his electricity and telephone. Water, sewage and waste fees, if applicable, shall be a part of the common expenses if billed to the Association; if individual bills are sent to each unit by the party furnishing said service, each unit owner shall pay said bill for his unit individually. Where a unit is carpeted, the costs of maintaining and replacing the carpeting shall be borne by the unit owner. Each unit owner shall maintain, care for and preserve portions of the limited common elements, if any, as provided in Section E. of Article III of this Declaration. Where there is a light fixture or fixtures attached to the exterior wall or walls of a unit, the unit owner thereof shall replace same by the same color and bulb wattage at his cost and expense unless the Management Firm, as long as the Management Agreement is in effect, and thereafter, the Association, decides to replace same as a common expense of the Condominium. The aforesaid lights may be tied to the electric meter for the unit which is responsible for replacing said light bulbs and, in such case, the electric cost for same shall be borne by said unit owner. Any and all doors to storage rooms which are a part of a Condominium Unit shall be deemed exterior doors of that unit (except that the painting of the exterior thereof shall constitute a common expense).

(2) Not to make or cause to be made any structural addition or alteration to his unit or to the common elements or any part thereof.

Alterations within a unit may not be made without the prior written consent of the Management Firm, as long as the Management Agreement remains in effect, and thereafter, the Association, and any Institutional Mortgagee or other individual or legal entity holding a first lien mortgage or deed of trust on that unit.

(3) To make no alteration, decoration, repair, replacement or change to the common elements or limited common elements, or any part thereof, or to any outside portion of the building, without the prior written consent of the Management Firm, as long as the Management Agreement remains in effect, and thereafter, the Association. Unit owners may use such contractors and subcontractors as are approved by the Management Firm, as long as the Management Agreement remains in effect, and thereafter, the Association, and said parties shall comply with all Rules and Regulations adopted by the Management Firm, as long as the Management Agreement remains in effect, and thereafter, the Board of Directors of the Association. The unit owner shall be liable for all damages to another unit or the common elements of the property caused by the unit owner's contractor, subcontractor, or employee whether said damages be caused by negligence, accident or otherwise.

(4) To report promptly to the Association any defect or need for repairs the responsibility for which is that of the Association.

D. All unit owners agree as follows:

(1) To allow the Management Firm, the Board of Directors of the Association, or the agents or employees of the Management Firm or the Association, to enter into any unit for the purpose of maintenance, inspection, repair, replacement of the improvements within the units and/or common elements, or to determine, in case of emergency, circumstances threatening units and/or common elements, or to determine compliance with the provisions of this Declaration and the By-Laws of the Association.

(2) To show no signs, advertisements or notices of any

kind on the common elements, or units or buildings containing the same, and to erect no exterior antenna or aerials, except as consented to by the Management Firm, as long as the Management Agreement remains in effect, and thereafter by the Board of Directors of the Association.

E. In the event a unit owner fails to maintain his unit and the parts thereof, as required herein, or makes any alterations or additions without the required written consent or otherwise violates the provisions hereof, the Association, or the Management Firm on behalf of the co-owners and on its own behalf, shall have the right to proceed in a Court of Equity for an injunction to seek compliance with the provisions hereof. In lieu thereof and in addition thereto, the Management Firm, as long as the Management Agreement remains in effect, and thereafter, the Association, shall have the right to levy an assessment against such unit owner and the unit for such sums as shall be necessary to remove any unauthorized addition or alteration and to restore the property to good condition and repair.

Said assessment shall have the same force and effect as all other special assessments. The Management Firm, as long as the Management Agreement remains in effect, and thereafter, the Association, shall have the right to have its employees or agents, or any subcontractors appointed by it, enter a unit at reasonable times to do such work as is deemed necessary by the Management Firm, as long as the Management Agreement remains in effect, and thereafter, by the Board of Directors of the Association, to enforce compliance with the provisions hereof.

F. The Management Firm, as long as the Management Agreement remains in effect, and thereafter, the Association, shall determine the exterior color scheme of the building and all exteriors, and interior color schemes of the common elements, and shall be responsible for the maintenance thereof, and no unit owner shall paint an exterior wall, door, window, or any exterior surface, or replace anything thereon or affixed thereto without having first obtained the written consent of the Management Firm, as long as the Management Agreement remains in effect, and thereafter, the Association.

G. The Association shall be responsible for the maintenance, repair, and replacement of common elements, and all portions of the property not required to be maintained, repaired, and/or replaced by the unit owner(s). All incidental damage caused to a unit by such work shall be promptly repaired at the expense of the Association.

The responsibility of the Association as designated herein has been assumed by the Management Firm, as long as the Management Agreement remains in effect, as provided in the Management Agreement attached hereto as Exhibit "E." Notwithstanding the unit owner's duty of maintenance, repair, replacement, and other responsibilities as to his unit, as is provided in this Declaration and the Exhibits attached hereto, the Management Firm, as long as the Management Agreement remains in effect, and thereafter, the Association, may enter into agreements with such firms or companies as it may determine from time to time, to provide certain services and/or maintenance for and on behalf of the unit owners whereby maintenance and service are provided on a regularly scheduled basis, such as for air conditioning maintenance and service and appurtenances thereto, exterminating services and other types of maintenance and services as the Management Firm, as long as the Management Agreement remains in effect, and thereafter, the Association, deems advisable and for such periods of time and on such basis as it determines. Said agreements shall be on behalf of all unit owners and the monthly assessment due from each unit owner for common expenses shall be increased by such sum as the Management Firm, as long as the Management Agreement remains in effect, and thereafter, the Association, deems fair and equitable under the circumstances in relation to the monthly charge for said maintenance or service. Each unit owner shall be deemed a party to said agreement with the same force and effect as though said unit owner had executed said agreement, and it is understood and agreed that the Management Firm, as long as the Management Agreement remains in effect, and thereafter, the Association, shall execute said agreements as the agent for the unit owners. The aforesaid assessment shall be deemed to be an assessment under the provisions of Article IX of

this Declaration.

H. Except as elsewhere reserved to the Developer, neither a Unit Owner, the Management Firm, nor the Association shall make any alteration to the portions of a Unit or the Condominium building which are to be maintained by the Management Firm, as long as the Management Agreement remains in effect, and thereafter, the Association, or remove any portion thereof, or make any additions thereto, or do anything which would jeopardize the safety or soundness of the Condominium building, or impair any easement, without first obtaining approval in writing of owners of all Units in which such work is to be done and the approval of the Management Firm, as long as the Management Agreement remains in effect, and thereafter, the Board of Directors of the Association. A copy of plans for all of such work prepared by an architect licensed to practice in this state shall be filed with the Management Firm, as long as the Management Agreement remains in effect, and thereafter, the Association prior to the start of the work.

ARTICLE XIV

TERMINATION

If all Unit Owners and holders of all mortgages, deeds of trust and other liens of record affecting any of the Condominium Units or any of the rest of the Condominium Property execute and duly record an instrument terminating the Condominium Property, or if "major damage" occurs as defined in the insurance clauses hereunder, the Condominium shall be deemed to be terminated, unless, in the case of "major damage," within 60 days after the occurrence of "major damage" as defined in the insurance clauses hereunder, the Owners of 51% of the common elements agree in writing to the reconstruction or repair of the damaged facilities. Upon termination the Condominium Property shall be owned in common by the Unit Owners. The undivided interest in the property owned in common by each Unit Owner shall upon termination become the percentage of the undivided interest previously owned by such Owner in the common elements prior to termination of the Condominium, and each lien of record shall then attach to the undivided interest of the unit owner against

whom such lien exists.

ARTICLE XV

MANAGEMENT AGREEMENT

A. The Association, through its Board of Directors, has entered into a Management Agreement, a copy of which is attached hereto as Exhibit "E" and incorporated herein by reference, by which the Association has delegated to the Management Firm all the powers and duties of the Association except such as are specifically required by this Declaration, or by the By-Laws, to have approval of the Board of Directors or the membership of the Association. Each unit owner, his heirs, successors and assigns, shall be bound by said Management Agreement for the purposes therein expressed, including but not limited to:

(1) Adopting, ratifying, confirming and consenting to the execution of said Management Agreement by the Association.

(2) Covenanting and promising to perform each and every of the covenants, promises and undertakings to be performed by unit owners in the cases provided therefor in said Management Agreement.

(3) Ratifying, confirming and approving each and every provision of said Management Agreement, and acknowledging that all of the terms and provision thereof are reasonable.

(4) Agreeing that persons acting as directors or officers of the Association entering into such an agreement have not breached any of their duties or obligations to the Association solely by virtue of having entered into any such agreement.

(5) The acts of the Board of Directors and officers of the Association in entering into the Management Agreement be, and the same are, hereby ratified, approved, confirmed, and adopted.

B. The monthly assessments to be paid by unit owners for common expenses may also include such special assessments incurred by a unit owner for charges for guests and invitees of said unit owner, or temporary residents of said unit as to the use of facilities, and for any special services and charges.

C. The Association shall be responsible for the operation of the Condominium, but may assign its rights as provided herein under this Article XV to such party as it determines, and the

Association, by virtue of its execution of the Management Agreement attached to this Declaration as Exhibit "E," shall be deemed to have assigned its rights under this Article XV to the Management Firm under said Management Agreement.

ARTICLE XVI

MISCELLANEOUS PROVISIONS

A. The owners of the respective Condominium Units shall not be deemed to own the undecorated and/or unfinished surfaces of the perimeter walls, floors, and ceilings in their respective units, nor shall any unit owner be deemed to own pipes, wires, conduits, or other public utility lines running through his unit which are utilized for or serve more than one Condominium Unit, which items are hereby made a part of the common elements. Said unit owner shall, however, be deemed to own the interior walls and partitions contained wholly within his unit, and shall also be deemed to own the inner decorated and/or finished surfaces of the perimeter walls, floors, and ceilings, including plaster, paint, wallpaper, carpets, etc.; provided, however, that all load bearing walls and, where applicable, the floor between the first ground floor and second floor located within a unit and, where applicable, the floor between any subsequent higher floors located within a Condominium Unit, and the floor of the first ground floor within a Condominium Unit are a part of the common elements to the unfinished surfaces of said walls and floors.

B. The owners of the respective Condominium Units agree that if any portion of a unit encroaches upon any portion of the common elements or another unit, or if any portion of the common elements encroaches upon any portion of a unit, an easement for said encroachment and the maintenance of the same, so long as it exists, is hereby granted. However, notwithstanding anything hereinabove set forth to the contrary, in no event shall an easement for encroachment exist if such encroachment occurred due to the willful and knowing conduct on the part of an owner, tenant or the Association. In the event a Condominium Building should be partially or totally destroyed and rebuilt, each unit owner hereby agrees that encroachments upon the common elements or other units, due to construction, shall be permitted, and an

easement for said encroachment and the maintenance thereof is hereby granted.

C. No owner of a Condominium Unit may exempt himself from liability for his contribution toward the common expenses by waiver of the use and enjoyment of any of the common elements, including the recreation facilities, or by the abandonment of his Condominium Unit.

D. All provisions of this Declaration, the Exhibits attached hereto, and any amendments thereto, shall be construed as covenants running with the land, and every part thereof and interest therein, including, but not limited to, every unit and the appurtenances thereto, and every unit owner and occupant of the property, or any part thereof, or any interest therein, and his heirs, executors, successors and assigns, shall be bound by all of the provisions of this Declaration, the Exhibits annexed hereto and any amendments thereto.

E. If any of the provisions of this Declaration, or of the By-Laws, the Articles of Incorporation of the Association, the Management Agreement, or of the Condominium Act, or any section, sentence, clause, phrase, word, or the application thereof, in any circumstance, is held invalid or unenforceable for any reason, the validity and enforceability of the remainder of this Declaration, the By-Laws, Articles of Incorporation of the Association, Management Agreement, or the Condominium Act, and of the application of any such provision, section, sentence, clause, phrase or word, in other circumstances, shall not be affected thereby.

F. Whenever notices are required to be sent hereunder, the same may be delivered to unit owners either personally or by mail, addressed to such owners at their last known place of residence designated in writing to the Association. Proof of such mailing or personal delivery by the Association or the Management Firm shall be given by the affidavit of the person mailing or personally delivering said notices. Notices to the Association shall be delivered by mail to the Management Firm, as long as the Management Agreement remains in effect, and thereafter, to the registered office of the Association. The

change of the mailing address of any party as specified herein shall not require an amendment to this Declaration.

Notices to the Declarant shall be delivered by mail to:
7 Atsadi Court, Connetsee Falls, Brevard, North Carolina 28712.

Notices to the Management Firm shall be delivered by mail to: 7 Atsadi Court, Connetsee Falls, Brevard, North Carolina 28712.

All notices shall be deemed and considered sent when mailed. Any party may change his or its mailing address by written notice. Notices required to be given to the personal representative of a deceased unit owner or a devisee or heir at law, of such deceased unit owner, when there is no personal representative, may be delivered either personally or by mail to such party at his or its address appearing in the records of the Court wherein the estate of such deceased owner is being administered, or, when there is no personal representative of a deceased unit owner and the address(es) of his devisee(s) or heir(s) at law is unknown, to the last known residence of said deceased unit owner indicated by the records of the Association.

G. In order to facilitate the sale of Condominium Units in this and other projects, the Declarant hereby reserves an easement into and on the Condominium Property for prospective unit purchasers, Declarant's employees and all others engaged in sales, maintenance, construction or management activities who are authorized by Declarant to go into and on the Condominium Property. Furthermore, in conjunction with the use of such easement the Declarant shall have all rights delineated in the following paragraph.

The Declarant reserves the right to use any Units owned or leased by the Declarant as models, management offices, sales offices (for this and other projects) or customer service offices. The Declarant reserves the right to relocate the same from time to time within the Condominium Property; upon relocation, the furnishings thereof may be removed. The Declarant further reserves the right to maintain on the Condominium Property such advertising signs as may comply with applicable governmental regulations, which may be placed in any location on the Condominium Property and may be relocated or

removed, all at the sole discretion of the Declarant. The Declarant shall have the right to restrict the use of certain common element parking spaces for sales purposes and to use such spaces for sales purposes. Further, the Declarant shall have the right to erect temporary offices on certain common elements for models, sales, management, customer service and similar purposes. This section may not be amended without the express written consent of the Declarant; provided, however, the right contained in this Section G of Article XVI shall terminate upon the earlier of (a) twenty-five (25) years from the date this declaration is recorded, or (b) upon the Declarant's recording a written statement that all sales activity has ceased.

H. Whenever the context so requires, the use of any gender shall be deemed to include all genders and the use of the singular shall include the plural, and the plural shall include the singular. The provisions of the Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of a condominium project, and the other purposes set forth herein.

I. The captions used in this Declaration and the Exhibits attached hereto are inserted solely as a matter of convenience and shall not be relied upon and/or used in construing the effect or meaning of any of the text of this Declaration or the Exhibits attached hereto.

J. Where an institutional mortgage or deed of trust by some circumstance fails to be a first lien mortgage or deed of trust, when it is evident that it was intended to constitute a first lien mortgage or deed of trust, it shall nevertheless, for the purposes of this Declaration and the Exhibits attached hereto, be deemed to constitute an institutional first lien mortgage or deed of trust.

K. THE DECLARANT SPECIFICALLY DISCLAIMS ANY INTENT TO HAVE MADE ANY WARRANTY OR REPRESENTATION IN CONNECTION WITH THE CONDOMINIUM PROPERTY (INCLUDING ANY WARRANTIES AS TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE) OR THE CONDOMINIUM DOCUMENTS, EXCEPT AS SPECIFICALLY SET FORTH THEREIN, AND NO PERSON SHALL RELY UPON ANY WARRANTY OR REPRESENTATION NOT

SO SPECIFICALLY MADE HEREIN. Maintenance fees, common expenses, taxes, or other charges are estimates only and no warranty, guaranty or representation as to their exact amounts is made or intended to be made, nor may one be relied upon.

The Developer shall not be responsible for conditions resulting from condensation on, or expansion or contraction of materials, paint over walls, both exterior and interior, loss or injury caused in any way by the elements, the watertightness of windows and doors, defects which are the result of characteristics common to the materials used, and damage due to ordinary wear and tear or abusive use, collection of water within buildings or on any portion of the property, or anything of any type or nature except such items as may be specifically delineated and agreed to in writing between the Developer and an individual unit owner and it shall be understood and agreed that, with the exception of such items as may be specifically delineated and agreed to in writing between the Developer and an individual unit owner, the Developer shall not be responsible to the Association or the unit owners for any of the items set out above in this paragraph.

L. Each unit owner, by virtue of his acceptance of the deed of conveyance to his Condominium unit or use of said Condominium, and other parties by virtue of their occupancy of units or use of said Condominium, hereby approve the foregoing and all of the terms and conditions, duties and obligations set out in this Declaration and the Exhibits attached hereto.

M. No unit owner shall bring, or have any right to bring any action for partition or division of the Condominium Property.

N. The real property submitted to Condominium ownership herewith is subject to all presently existing conditions, limitations, restrictions, reservations, and all matters of record, including, but not limited to, taxes, applicable zoning ordinances now existing or which may hereafter exist, all recorded covenants and restrictions, easements for construction or renovation related purposes including the storage of tools, machinery, equipment, building materials, appliances, supplies and fixtures and the performance of work respecting the

Condominium Property, easements for ingress and egress for pedestrian and vehicular purposes, blanket easements upon, across, over and under the Condominium Property for ingress, egress, installing, replacing, repairing and maintaining cable television systems, master television antenna systems, security and similar systems, walkways, drainage systems (including the right to cut any trees, bushes, or shubbery, to grade the soil or take any other action reasonably necessary in order to maintain and correct drainage of surface, roof or storm water, following which the Developer shall restore the affected property as closely to its original condition as possible) and all utilities, including, but not limited to, water, sewers, meter boxes, telephones, gas and electricity, said easements, whether now existing or hereafter granted by the Developer, shall be for the benefit of the Developer and its designees (including, without limitation, any utility company designated by the Developer), and the said Developer shall have the right to grant all of the types of easements hereinabove designated and designate the beneficiaries thereof for such time as it determines in its sole discretion, and thereafter, the Association shall be empowered to grant such easements on behalf of its members. During the period of time that the Developer has the right to grant the foregoing easements, the consent and approval of the Association and its members shall not be required. The right to grant the foregoing easements shall be subject to said easements not structurally weakening the buildings and improvements upon the Condominium Property nor unreasonably interfering with the enjoyment of the property by the Association's members. DEVELOPER HEREBY EXPRESSLY RESERVES A PERPETUAL EASEMENT OVER ALL DRIVEWAYS AND PARKING AREAS ON THE CONDOMINIUM PROPERTY, PLUS ANY ADDITIONAL AREA NEEDED TO CONNECT SAID DRIVEWAYS AND PARKING AREAS WITH THE BOUNDARIES OF THE CONDOMINIUM PROPERTY, THE LOCATION OF WHICH MAY BE CHOSEN BY DEVELOPER, FOR USE IN COMMON WITH THE UNIT OWNERS AND OTHERS WHO MAY BE RIGHTFULLY USING SAID DRIVEWAYS AND PARKING AREAS, FOR ACCESS TO ALL ADJACENT AND NEARBY PROPERTY OWNED BY DEVELOPER, WHICH SAID EASEMENT SHALL BE CONSIDERED AN EASEMENT APPURTENANT TO SAID PROPERTY, TO RUN WITH SAID PROPERTY AND ALL

PORTIONS THEREOF.

O. The Association and its members, invitees and licensees, and Declarant and its successors, assigns and designees, by virtue of the Declarant's execution of this Declaration and the Exhibits attached hereto, are hereby granted an easement over, through and across the roadway and parking areas of the common elements, other than any parking spaces which might be specifically assigned as elsewhere provided herein, for vehicular and pedestrian purposes. The aforesaid parties are further granted a pedestrian easement over and across the other common elements of the property other than limited common elements. Any of the easements created hereby may be modified or terminated at any time by the joint consent of Declarant, or its successors and assigns, and all persons owning an interest in the property constituting the Condominium Property.

ARTICLE XVII

PERPETUITIES

If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

ARTICLE XVIII

RIGHT TO LEASE OR SELL UNITS

The Declarant shall own in fee simple each Condominium Unit until such time as legal title has been conveyed or otherwise transferred to some other person or legal entity. The Declarant retains the right to enter into leases with any persons for the occupancy of any of the units owned by the Declarant.

ARTICLE XIX

SPECIAL DECLARANT RIGHTS; TRANSFER

Any or all of the special rights and obligations of Declarant may be transferred to other persons or entities, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein, and provided further, no such transfer shall be effective unless it is in a

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written instrument signed by Declarant and duly recorded in the office of the Register of Deeds for Transylvania County, North Carolina

ARTICLE XX

APPOINTMENT OF PROCESS AGENT

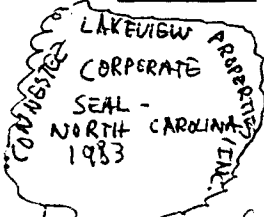
In accordance with the provisions of G. S. 47A-13-(7), GAYLE E. RAMSEY is hereby designated as the person to receive service of process. The address of the said process agent is c/o The Legal Building, 1 North Gaston Street, P. O. Box 949, Brevard, Transylvania County, North Carolina 28712. In the event of his death, resignation or removal, his successor shall be appointed by the Board of Directors of the Association as provided in Article XXIV of the By-Laws thereof.

CONTINUED ON THE NEXT PAGE

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IN WITNESS WHEREOF, Declarant has caused this Declaration which consists of this page, the preceding 46 pages and all Exhibits attached hereto or referred to herein, to be executed by its duly authorized officers, and its corporate seal to be duly affixed hereto, this 30th day of September, 1986.

ATTEST



CONNESTEE LAKEVIEW PROPERTIES, INC.

Asst. Secretary

By:

Vice President

STATE OF NORTH CAROLINA,
COUNTY OF TRANSYLVANIA.

I, Sandra G. Crowe, a Notary Public of said State and County, do hereby certify that ROBERT W. FRICKHOEFFER personally came before me this day and acknowledged that he is Asst. Secretary of CONNESTEE LAKEVIEW PROPERTIES, INC., a corporation, and that by authority duly given and as the act of the said corporation, the foregoing instrument was signed in its name by its ^{Vice} President, sealed with its corporate seal and attested by himself as its ^{Assistant} Secretary.

WITNESS my hand and Notarial seal, this the 30th day of September, 1986.

Notary Public

My Commission Expires: June 21, 1988.

STATE OF NORTH CAROLINA,
COUNTY OF TRANSYLVANIA.

The foregoing certificate of Sandra G. Crowe, a Notary Public, is certified to be correct. This instrument was presented for registration and recorded in this office in Condominium Book 5, page 721.

7 This the 30 day of Sept., 1986 at 4:30 o'clock P.M.

Register of Deeds

By:

Deputy Register of Deeds

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BEGINNING at a point in the center of the 20-foot wide right-of-way of Indian Hills Drive, said point being the easternmost corner of the tract of land known as Indian Hills Condominium One as shown on a plat thereof recorded in Plat File 2, Slide 378, Records of Plats for Transylvania County in the office of the Register of Deeds for Transylvania County, North Carolina, said point of beginning also being located the following two calls from a concrete monument (located in the outside property line of the 2.55 acre tract of land known as Ticoa View Villas Condominium One as described in the Declaration of Unit Ownership thereof recorded in Condominium Book 1, page 596, in the office of the Register of Deeds for Transylvania County, North Carolina, and as shown on a plat thereof recorded in Plat File 1, Slide 47, Records of Plats for Transylvania County, said concrete monument being the point of terminus of the fifth call in the description of said 2.55 acre tract as set out in said Declaration of Condominium): South 37 deg. 02 min. 30 sec. West 40.21 feet to a point in the center of the 20-foot wide right-of-way of Indian Hills Drive; thence along a curve to the left having a radius of 87.00 feet, an arc distance of 63.07 feet to the beginning, and runs thence from said point of beginning, North 68 deg. 13 min. 48 sec. East 28.94 feet to a point in Indian Hills Drive; thence North 53 deg. 59 min. 03 sec. East 58.43 feet to a point in Indian Hills Drive; thence leaving said drive, South 13 deg. 57 min. 47 sec. East 94.13 feet to a stake; thence South 41 deg. 09 min. 39 sec. West 85.00 feet to a stake; thence North 79 deg. 39 min. 54 sec. West 105.19 feet to an iron pin found, said iron pin being the southernmost corner of the tract of land comprising Indian Hills Condominium One as shown on the plat recorded in Plat File 2, Slides 378-378A, hereinabove referred to; thence along the property line of Indian Hills Condominium One the following two calls: North 46 deg. 22 min. 12 sec. East 84.30 feet to a stake and North 02 deg. 41 min. 03 sec. East 33.24 feet to the BEGINNING. Containing 0.29 acres, more or less, as surveyed and platted by Scott M. Sylvester, RLS, and as shown on a plat dated September 25, 1986, designated as Drawing No. 1209.

Together with a right-of-way over and along Indian Hills Drive to Tinequa Court and also over and along all other roads located in the condominium project known as Indian Hills Condominiums, said right-of-way to be for travel of all kinds, on foot with all types of vehicles, with the right of ingress, egress and regress over and along the same in common with all others entitled to the use thereof, but subject, however, to the obligation to pay, in common with all other users of the same, a fair share of the annual cost of repairing and maintaining Indian Hills Drive and the other roads located in the Condominium project known as Indian Hills Condominiums, and subject further to the obligation to pay, in common with all other users of the same, a fair share of the annual cost of maintaining and repairing all lakes, ponds, and other recreational facilities or areas in the Development generally known as Indian Hills Condominiums which are made available by the Developer for the use of owners of Condominium Units in the Condominium and their guests.

Together with a right-of-way for an electric power line, telephone line, gas pipe line, water line, a sewer line and other public utilities in common with Developer and all others entitled to the use thereof, over and across Parcel MF-6 of Unit 33 of Connestee Falls Development, with the right of ingress, egress, and regress over and along the same for the purpose of installing, maintaining and repairing said utilities.

It is understood and agreed that the property hereinabove described is conveyed subject to the following:

1. To the privileges and mutual and beneficial restrictions, covenants, equitable servitudes and charges set forth in that certain Declaration of Restrictive Covenants by Connestee Falls Development Corporation, dated May 25, 1971, and recorded in Book 189, page 443, Records of Deeds for Transylvania County, North Carolina, as amended by that certain amendment to the Declaration of Restrictive Covenants dated August 18, 1971, and recorded in Book 190, page 437, Records of deeds for Transylvania County, North Carolina, and by all subsequent valid amendments thereto,

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and by Supplemental Declarations of Restrictive Covenants of record in the office of the Register of Deeds for Transylvania County, North Carolina, and particularly to the Supplemental Declaration of Restrictive Covenants for Unit 33 of Connestee Falls Development, dated February 20, 1974, and recorded in Book 206, page 110, Records of Deeds for Transylvania County, North Carolina.

2. To a right of entry retained by Connestee Falls Development Corporation in a deed recorded in Book 207, page 130, Records of Deeds for Transylvania County, North Carolina, for the purpose of completing promised improvements and other related purposes, until such promised improvements have been completed.

3. To a right-of-way agreement between Fred H. Smith and wife, Claire V. Smith, and Connestee Falls Development Corporation, dated February 1, 1975, and recorded in Book 212, page 291, Records of Deeds for Transylvania County, North Carolina.

4. To the right of way of Indian Hills Drive which traverses the northeastern portion of the property.

5. To the right of way of an existing sewer line which traverses the southern portion of the property.

6. To a right of way for an electric power line, a telephone line, a gas pipe line, a water line, a sewer line and other public utilities in common with all others entitled to the use thereof, over and across Parcel MF-6 of Unit 33 of Connestee Falls Development, with the right of ingress, egress and regress over and along the same for the purpose of installing, maintaining and repairing said utilities as set out in the Declaration of Unit Ownership of Ticoa View Villas Condominium One, a Condominium, recorded in Condominium Book 1, page 596, at page 597, in the office of the Register of Deeds for Transylvania County, North Carolina.

Reserving, however, a perpetual easement over all driveways and parking areas on the land hereinabove described, plus any additional area designated by the Developer, or its successors and assigns, which is needed to connect said driveways and parking areas with the boundaries of said property, and all or any portion of all adjacent and nearby property owned by the Developer, for use in common with the unit owners of the condominium hereby created, and others who might be rightfully using said driveways and parking areas, for access to all of said adjacent and nearby property, which said easement shall be considered an easement appurtenant to said property, to run with said property an all portions thereof.

The aforesaid property and the particular improvements thereon which are hereby committed (and the location of such improvements) are shown and described on the survey/site plan entitled "Location Survey of Indian Hills Condominium One, Condominium Phase II at Connestee Falls in Dunns Rock Township, Transylvania County, North Carolina," prepared by Scott M. Sylvester, RLS, dated September 25, 1986, and designated as Drawing No. 1209, and plans entitled "A Condominium for Connestee Lakeview Properties Inc., Connestee Falls, Transylvania Co., NC," prepared by Alfred F. Platt, Jr., AIA, PA, dated July 24, 1986, revised August 6, 1986, sheets A1-A7 and S1 and S7, which constitute a part hereof, being incorporated herein by this reference, recorded simultaneously herewith in Plat File 3, Slide 37-39, Transylvania County Registry. Improvements consisting

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of the building in which the units are located and the location of individual units therein, layout, number of rooms, dimensions, ceiling and floor elevations, approximate size, building designation, unit numbers and location of the common areas and facilities affording access to each unit are as shown and described on said survey/site plan and plans. All areas not contained within the units, as said units are defined and depicted in this Declaration and said survey/site plan and plans constitute either limited common elements or common elements. Any stairs, or entrance deck leading to a particular unit, any deck, or outside storage enclosure adjacent to and attached to a particular unit constitute limited common elements with the use thereof being restricted to the owner of that particular unit and the unit owner's family, guests, invitees and servants.

The building is a two story wood structure containing two units. The building is constructed principally of wood frame construction, with concrete and concrete block foundation with poured concrete piers, elevated floor joists, channel rustic cedar siding and asphalt shingle roofs. Subject to permitted options, each kitchen is equipped with a free standing range and oven, range hood with exhaust fan, refrigerator, sink, dishwasher, compactor and wall cabinets. Bathrooms have vanities, sinks, water closets and tubs or showers. The walls are painted sheetrock with stained or painted trim. All floors are covered with carpeting except the kitchen and bathrooms which are covered with vinyl and the hallways which are either brick or parquet. The windows are wood casement thermopane windows. The sliding glass doors are primarily of aluminum and glass construction. Each unit has a wood deck.

ARCHITECT'S CERTIFICATE

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(To be filed in a subsequent amendment to this Declaration.)

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EXHIBIT "B"

The percentage undivided interest of each owner of the respective units in the limited common elements, common elements, areas and facilities, and common assessments, expenses and surplus shall be as follows:

<u>UNIT</u>	<u>UNDIVIDED INTEREST</u>
4	50.00%
5	50.00%

EXHIBIT "C"

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BY-LAWS
OF
INDIAN HILLS CONDOMINIUM ONE, PHASE II, PROPERTY OWNERS
ASSOCIATION
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BY-LAWS
E 776
OF
INDIAN HILLS CONDOMINIUM ONE, PHASE II, PROPERTY OWNERS
ASSOCIATION

ARTICLE I - Name and Location.

Section 1. The name of this association shall be INDIAN HILLS CONDOMINIUM ONE, PHASE II, PROPERTY OWNERS ASSOCIATION.

Section 2. Its principal office shall be located at the Condominium Property, or at such other place in Transylvania County, North Carolina, as may subsequently be designated by the Board of Directors of the Association and its mailing address shall be #8 Indian Hills Road, Connestee Falls, Brevard, North Carolina 28712.

Section 3. The Corporation shall have a seal on which there shall be inscribed in the outer circle the words "Indian Hills Condominium One, Phase II, Property Owners Association," and inscribed in the inner circle the words, "Corporate Seal - North Carolina- 1986."

ARTICLE II - Purpose.

The purpose of this association shall be to provide a collective association of the Unit Owners (as hereinafter defined) of Indian Hills Condominium One, a Condominium, Phase II, (the "Condominium") to manage and control the Condominium and the activities of the owners therein and all things appurtenant to or related thereto and to carry out all activities and promulgate all rules and regulations and to have all responsibilities and purposes as are given to Indian Hills Condominium One, Phase II, Property Owners Association (the "Association") in the Declaration of Condominium (the "Declaration") which is recorded in the office of the Register of Deeds for Transylvania County, North Carolina, in Condominium Book 5, page 721.

ARTICLE III - DEFINITIONS.

Section 1. Whenever used herein, the following terms shall have the following definitions:

- (a) Board, or Board of Directors - means the Board of Directors of the Association.
- (b) By-Laws - mean the By-Laws of the Association.
- (c) Common Area - means the common elements (or common

areas and facilities) as defined in the Declaration.

(d) Association, or the Corporation - means Indian Hills Condominium One, Phase II, Property Owners Association, the Association of all of the owners of the Condominium (as hereinafter defined).

(e) Condominium, or the Condominium - means Indian Hills Condominium One, a Condominium, Phase II, as defined in the Declaration of Condominium thereof.

(f) Declaration - means the Declaration of Condominium of Indian Hills Condominium One, a Condominium, Phase II, recorded in the office of the Register of Deeds for Transylvania County, North Carolina, in Condominium Book 5, page 721.

(g) Development - means Indian Hills Condominium One, a Condominium, Phase II, as described in the said Declaration, and all Exhibits attached thereto.

(h) Improvements - means and includes all buildings outbuildings, streets, roads, driveways, parking areas, fences, retaining and other walls, landscaping, poles, antennae, and any other structure or facility of any type or kind located within the Condominium.

(i) The Act - means Chapter 47A of the General Statutes of North Carolina, as amended.

Section 2. All other words, not otherwise defined in this Article III, as used herein, shall have the same definitions as attributed to them in the Declaration of Condominium to which these By-Laws are attached.

ARTICLE IV - MEMBERSHIP AND VOTING PROVISIONS.

Section 1. Membership in the Association shall be limited to Owners of the Condominium Units located in the Condominium Property. Transfer of Unit Ownership, either voluntarily or by operation of law, shall terminate membership in the Association, and said membership will thereupon become vested in the transferee. If Unit Ownership is vested in more than one person, then all of the persons so owning said Unit shall be members eligible to hold office, attend meetings, etc., but, as hereinafter indicated, the vote of a Unit shall be cast by the "voting member." If Unit Ownership is vested in a corporation, said corporation may designate an individual officer or employee

of the corporation as its "voting member."

Section 2. Voting:

(a) Voting shall be on a percentage basis and the percentage of the total vote to which each unit owner is entitled, is the percentage assigned to his unit in the Declaration and all Exhibits thereto.

(b) As used in these by-laws, the term "majority of the Unit Owners" shall mean those owners holding fifty-one percent (51%) of the votes in accordance with the percentages assigned in the Declaration of Condominium. A majority of the Unit Owners' total votes shall decide any question, unless the Declaration of Condominium, By-Laws or Articles of Incorporation of the Association provide otherwise.

Section 3. Quorum: Unless otherwise provided in these By-Laws, the presence in person or by proxy of a majority of the Unit Owners' total votes shall constitute a quorum at members' meetings.

Section 4. Proxies: Votes may be cast in person or by proxy. Proxies may be made by any person entitled to vote. Each proxy shall be valid only for the particular meeting designated and must be filed with the Secretary before the designated time of the meeting. Any proxy will be revoked by the filing with the Secretary of the Association of either (1) a written instrument of revocation, or (2) a duly executed proxy bearing a later date, prior to the designated time of the meeting. All proxies or revocations of proxies shall be in writing, signed by the person entitled to vote or by his duly authorized attorney-in-fact (as set forth below in Section 5) and filed with the Secretary of the Association. Where a Unit is owned jointly by a husband and wife, and if they have not designated one of them as a voting member, a proxy must be signed by both husband and wife where a third person is designated.

Section 5. Designation of Voting Member: If a Condominium Unit is owned by one person, his right to vote shall be established by the record title to the Unit. If a Condominium Unit is owned by more than one (1) person, or is under lease, the person entitled to cast the vote for the Unit shall be designated

in a certificate signed by fifty-one percent (51%) or more of the record owners of the Unit and filed with the Secretary of the Association. If a Condominium Unit is owned by a corporation, the person entitled to cast the vote of the Unit for the corporation shall be designated in a certificate of appointment for this purpose, signed by the President or Vice-President, attested to by the Secretary or Assistant Secretary of the corporation, and filed with the Secretary of the Association. The person designated in each such certificate who is entitled to cast the vote for a Unit shall be known as the "voting member." If such a certificate is not on file with the Secretary of the Association for a Unit owned by more than one person or by a corporation, the vote of the Unit concerned shall not be considered in determining the requirement for a quorum, or for any purpose requiring the approval of a person entitled to cast the vote for the Unit, except if said Unit is owned by a husband and wife. Any such certificate shall be valid until revoked or until superseded by a subsequent certificate, or until a change in the ownership of the Unit concerned. A certificate designating the person entitled to cast the vote of a unit may be revoked by fifty-one percent (51%) or more of the record owners thereof. If a Condominium Unit is owned jointly by a husband and wife, the following three provisions are applicable thereto:

(a) They may, but they shall not be required to, designate a voting member.

(b) If they do not designate a voting member and if both are present at a meeting and are unable to concur in their decision upon any subject requiring a vote, they shall lose their right to vote on that subject at that meeting. (As previously provided, the vote of a Unit is not divisible).

(c) Where they do not designate a voting member, and only one is present at a meeting, the person present may cast the Unit vote, just as though he or she owned the Unit individually, and without establishing the concurrence of the absent person.

ARTICLE V - MEETINGS OF THE MEMBERSHIP.

Section 1. Place: All meetings of the Association's membership shall be held at the Condominium Property, or at such

other place in Transylvania County, North Carolina (except for the annual meeting which shall be held at the Condominium Property), and at such time as shall be designated by the Board of Directors of the Association and stated in each notice of meeting, and shall be open to all Unit Owners.

Section 2. Notices: It shall be the duty of the Secretary to mail or deliver a notice of each annual or special meeting, however, the President or Vice President may also give such notice, stating the time and place thereof, to each Unit Owner of record at least fourteen (14) but not more than sixty (60) days prior to such meeting. Notice of any special meeting shall state the purpose thereof. All notices shall be in writing and shall be mailed to or served at the address of each Unit Owner as it appears on the books of the Association. Proof of such mailing shall be given by the affidavit of the person giving the notice. Notice of meeting may be waived only in writing but such written waiver may be given either before or after meetings.

Section 3. Order of Business at Meetings: The order of business at annual members' meetings, and as far as practical, at all other members' meetings shall be

- (a) election of Chairman of the meeting if necessitated by the absence of the President or Vice President;
- (b) calling of the roll and certifying of proxies;
- (c) proof of notice of meeting or waiver of notice;
- (d) reading and disposal of any unapproved minutes;
- (e) reports of officers;
- (f) reports of committees;
- (g) election of directors (if necessary);
- (h) unfinished business;
- (i) new business; and
- (j) adjournment.

Section 4. Annual Meeting: The annual meeting shall be held at the Condominium Property at 2:00 P.M. on the third Tuesday of July in each year for the purpose of electing Directors and transacting any other business authorized to be transacted by the members, provided, however, that if that day is a legal holiday, the meeting shall be held at the same hour on

the next day following. At the annual meeting, the members shall elect by plurality vote - (cumulative voting prohibited), a Board of Directors, and shall transact such other business as may properly be brought before the meeting.

Section 5. Special Meetings: Special meetings of the members for any purpose or purposes, unless otherwise prescribed by statute, may be called by the President or Vice President, and must be called by the President or Vice President at the request, in writing, of a majority of the Board of Directors, or at the request, in writing, of voting members entitled to cast twenty-five percent (25%) of the members' total votes, which request shall state the purpose or purposes of the proposed meeting. Business transacted at all special meetings shall be confined to the objects stated in the notice thereof.

Section 6. Adjourned Meetings: If any meeting of members cannot be organized because a quorum of voting members is not present, either in person or by proxy, the members who are present, whether in person or by proxy, may adjourn the meeting for at least fourteen (14) days and adequate notice of the new date shall be given as described in Section 2 of this Article.

Section 7. Approval or Disapproval: Approval or disapproval of a Unit Owner upon any matter, whether or not the subject of an Association meeting, shall be by the voting member(s) provided, however, that where a Unit is owned jointly by a husband and wife, and they have not designated one of them as a voting member, their joint approval or disapproval shall be required where they are both present, or in the event only one is present, the person present may cast the vote without establishing the concurrence of the absent person.

Section 8. Limitation on Meetings: Until the Developer of the Condominium (herein called the Developer) has completed and sold all of the units of the Condominium, or until the Developer elects to terminate its control of the Condominium, whichever shall first occur, there shall be no meeting of members of the Association unless a meeting is called by the Board of Directors.

ARTICLE VI - DIRECTORS.

Section 1. Number, Term and Qualifications: The affairs of

the Association shall be governed by a Board of Directors composed of not less than three (3) nor more than five (5) persons, as is determined from time to time by the members. All Directors shall be either owners as defined in the Declaration, or officers of a corporate owner, or partners of a partnership owner, or spouses of owners.

Notwithstanding anything hereinabove to the contrary, however, until such time as the Developer has sold all units owned by it in the Condominium property, the Developer may from time to time designate non-residents of the Condominium property who do not own any Condominium Units to serve as Directors of the Association. The term of each director's service shall extend until the next annual meeting of the members and thereafter until his successor is duly elected and qualified, or until he is removed in the manner provided in Section 3 of this Article below.

Section 2. First Board of Directors:

(a) The first Board of Directors of the Association who shall hold office and serve until their successors have been elected and qualified, shall consist of the following:

Harry J. Eyreman

William L. Jackson

James I. Shaw

Fred Wilkins

Paul Stephenson

(b) The organizational meeting of a newly elected Board of Directors of the Association shall be held within ten (10) days of its election, at such place and time as shall be fixed by the directors at the meeting at which they were elected, and no further notice of the organizational meeting shall be necessary, provided a quorum shall be present.

(c) Until the Developer has completed and sold all of the Units of the Condominium, or until the Developer elects to terminate its control of the Condominium, whichever shall first occur, the first directors of the Association shall serve; and in the event of vacancies the remaining directors shall fill the vacancies, and if there are no remaining directors, the vacancies

shall be filled by the Developer.

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Section 3. Removal of Directors: At any time after the first annual meeting of the membership at any duly convened regular or special meeting, any one or more of the directors may be removed, with or without cause, by the affirmative vote of the voting members casting not less than two-thirds (2/3) of the total votes present at said meeting, and a successor may then and there be elected to fill the vacancy thus created. Should the membership fail to elect said successor, the Board of Directors may fill the vacancy in the manner provided in Section 4 below.

Section 4. Vacancies on Board of Directors: If the office of any director or directors becomes vacant by reason of death, resignation, retirement, disqualification, removal from office or otherwise, a majority of the remaining directors, though less than a quorum, shall choose a successor or successors, who shall hold office for the balance of the unexpired term in respect to which such vacancy occurred. The election held for the purpose of filling said vacancy may be held at any regular or special meeting of the Board of Directors.

Section 5. Disqualification and Resignation of Directors: Any director may resign at any time by sending a written notice of such resignation to the office of the Corporation, delivered to the Secretary. Unless otherwise specified therein, such resignation shall take effect upon receipt thereof by the Secretary. Commencing with the directors elected at the first annual meeting of the membership, the transfer of title of his Unit by a director shall automatically constitute a resignation, effective when such resignation is accepted by the Board of Directors. No member shall continue to serve on the Board should he be more than thirty (30) days delinquent in the payment of any assessment and said delinquency shall automatically constitute a resignation, effective when such resignation is accepted by the Board of Directors.

Section 6. Regular Meetings: The Board of Directors may establish a schedule of regular meetings to be held at such times and places as the Board of Directors may designate. Notice of such regular meetings shall nevertheless, be given to each

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director personally or by mail, telephone or telegraph at least three (3) days prior to the day named for such meeting. All meetings of the Board of Directors, including special meetings in accordance with Section 7 of this Article below, shall be open to all Unit Owners.

Section 7. Special Meetings: Special meetings of the Board of Directors may be called by the President, and in his absence, by the Vice President, and must be called by the Secretary upon the written request of one-third (1/3) of the directors. Notice of any such meeting shall be given to each director personally or by mail, telephone or telegraph at least three (3) days prior to the date named for such meeting. All notices of special meetings shall state the time, place and purpose of the meeting.

Section 8. Directors' Waiver of Notice: Before, at, or after any meeting of the Board of Directors, any director may waive notice of such meeting and such waiver shall be deemed equivalent to the giving of notice. Attendance by a director at any meeting by the Board shall be a waiver of notice by him of the time and place thereof unless the director attends for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. If all of the directors are present at any meeting of the Board, and no director is in attendance for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened, no notice shall be required and any business may be transacted at such meeting.

Section 9. Quorum: At all meetings of the Board of Directors, a majority of the directors shall constitute a quorum for the transaction of business, and the acts of the majority of the directors present at such meetings at which a quorum is present shall be the acts of the Board of Directors except where approval by a greater number of directors may be required by the Declaration, the Articles of Incorporation of the Association or these by-laws. If, at any meeting of the Board of Directors there shall be less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At any such adjourned meeting, any business which

might have been transacted at the meeting, as originally called, may be transacted without further notice. The joinder of a director in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such director for the purpose of determining a quorum.

Section 10. Presiding Officer: The presiding officer at directors' meetings shall be the President. In the absence of the presiding officer the directors present shall designate one of their number to preside.

Section 11. Order of Business at Meetings: The order of business at directors' meetings shall be:

- (a) calling of roll;
- (b) proof of due notice of meeting;
- (c) reading and disposal of any unapproved minutes;
- (d) reports of officers and committees;
- (e) election of officers;
- (f) unfinished business
- (g) new business; and
- (h) adjournment.

Section 12. Powers and Duties:

(a) All of the powers and duties of the Association existing under the Condominium Act, the Declaration, the Articles of Incorporation, and these By-laws shall be exercised exclusively by the Board of Directors, its agents, contractors, or employees, subject only to approval by unit owners when such is specifically required. Compensation of employees of the Association shall be fixed by the directors. A director may be an employee of the Association and a contract for management of the Condominium may be entered into with a director.

(b) The Board of Directors of the Association 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 or by the Declaration of Condominium ~~or these~~ By-Laws, directed to be exercised and done by Unit Owners. These powers shall specifically include, but shall not be limited to the following:

- (i) To exercise all powers specifically set forth in

the Declaration of Condominium, the Association's Articles of Incorporation, in these By-Laws, and in the Condominium Act, and all powers incidental thereto.

(ii) To provide for and be responsible for maintenance, repair, care, upkeep and surveillance of the condominium and of the common areas and facilities thereof.

(iii) To borrow money on behalf of the Association when required in connection with any one instance relating to the operation, care, upkeep and maintenance of the common elements; provided, however, that the consent of a least two-thirds in number and in common element interest ownership of all unit owners, obtained either in writing or at a meeting duly called and held for such purpose in accordance with the provisions of these By-Laws, shall be required to borrow any sum in excess of Ten Thousand Dollars. However, notwithstanding anything hereinabove set forth to the contrary, the Ten Thousand Dollar maximum sum which the Board of Directors is authorized to borrow, without the consent of the Unit Owners, on behalf of the Association in any one instance relating to the operation, care, upkeep and maintenance of the common elements, shall be increased each year to a sum which shall be equal in purchasing power to the sum of Ten Thousand Dollars on the date that the Declaration was recorded as adjusted annually thereafter by the percentage of decrease in the purchasing power of the dollar in each succeeding twelve-month period thereafter as reflected in the Consumer Price Index for All Urban Consumers - U. S. City Average, All Items, as published by the Bureau of Labor Statistics, U. S. Department of Labor. If the Consumer Price Index as published by the Bureau of Labor Statistics is discontinued, then the Consumer Price Index published by the United States Department of Commerce (with proper adjustment) shall be used, and if the Department of Commerce discontinues its Index, then adjustments in said maximum sum shall be determined in accordance with the Uniform Arbitration Act then in effect in North Carolina. If any sum borrowed by the Board of Directors on behalf of the Association pursuant to the authority contained in this subsection (iii) is not repaid by the Association, a unit owner who pays to the

creditor a percentage of the total amount due equal to his ownership interest in the common elements in the Condominium shall be entitled to obtain from the creditor a release of any judgment or other lien which such creditor shall have filed or shall have the right to file against such unit owner's Condominium Unit, and the Association shall not be entitled to assess his Unit for payment of the remaining amount due such creditor.

(iv) To make and determine assessments, collect said assessments, and use and expend the assessments to carry out the purposes and powers of the Association.

(v) To employ, dismiss and control the personnel necessary for the maintenance and operation of the Condominium, and of the common areas and facilities including the right and power to employ attorneys, accountants, contractors, and other professionals as the need arises.

(vi) To make and amend regulations respecting the operation and use of the common elements and Condominium property, and the use and maintenance of the Condominium Units therein.

(vii) To contract for the management of the Condominium property by a management agent, at a compensation established by the Board, to perform such duties and services as the Board shall authorize, including but not limited to, the duties listed in Section 12(b) ii, and iv of this Article and the collection, use and expenditure of assessments to carry out the purposes and powers of the Association.

(viii) The further improvement of the Condominium property, both real and personal, and the right to purchase and/or lease or otherwise acquire realty and items of furniture, furnishings, fixtures and equipment for the foregoing, subject to the provisions of the Declaration of Condominium, the Association's Articles of Incorporation and these By-Laws.

(ix) To designate one or more committees which, to the extent provided in the resolution designating each such committee, shall have the powers of the Board of Directors in the management and affairs and business of the Association. Each of

such committees shall consist of at least two (2) members of the Association and shall have such name as may be determined from time to time by the Board of Directors, and each such committee shall keep regular minutes of its proceedings and report the same to the Board of Directors, as required.

The foregoing powers shall be exercised by the Board of Directors or its contractor or employees, subject only to approval by Unit Owners when such is specifically required.

ARTICLE VII - OFFICERS.

Section 1. Elective Officers: The principal officers of the Association shall be a President, a Vice-President, a Secretary and a Treasurer, all of whom shall be elected by and from the Board of Directors. One person may not hold more than one of the aforementioned offices, except one person may be both Secretary and Treasurer.

Section 2. Election: The officers of the Association designated in Section 1 above shall be elected annually by the Board of Directors at the organizational meeting of each new board following the annual meeting of the members.

Section 3. Appointive Officers: The Board may appoint Assistant Secretaries and Assistant Treasurers, and such other officers as the Board of Directors deems necessary, who need not be Directors.

Section 4. Term: The officers of the Association shall hold office for one year or until their successors are chosen and qualify in their stead. At any regular meeting of the Board of Directors, or any any special meeting of the Board called for such purpose, any officer elected or appointed by the Board of Directors may be removed, with or without cause, by the Board of Directors, provided however, that no officer shall be removed except by the affirmative vote for removal by a majority of the whole Board of Directors (e.g. if the Board of Directors is composed of three persons, then two of said Directors must vote for removal). If the office of any officer becomes vacant for any reason, the vacancy shall be filled by the Board of Directors.

Section 5. The President: He shall be the chief executive officer of the Association; he shall preside at all meetings of the Unit Owners and of the Board of Directors. He shall have executive powers and general supervision over the affairs of the Association and other officers 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 power to appoint committees from among the owners from time to time as he may in his discretion decide is appropriate to assist in the conduct of the affairs of the Association.

Section 6. The Vice President: The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board of Directors shall appoint some other member of the Board to do so on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him by the Board of Directors.

Section 7: The Secretary: He shall issue notices of all Board of Directors' meetings and all meetings of the Unit Owners; he shall attend and keep the minute book wherein the resolutions adopted and other items transacted at such meetings shall be recorded; he shall have charge of such books and papers as the Board of Directors may direct, and shall, in general, perform all the duties incident to the office of Secretary. The Assistant Secretary shall perform the duties of the Secretary when the Secretary is absent.

Section 8: The Treasurer:

(a) He shall have responsibility for the Association's funds and securities, except the funds payable to any Management Firm, 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 depositing all monies and other valuable effects in the name of and to the credit of the Association, in such depositories as may be designated from time to time by the Board of Directors.

(b) He shall disburse the funds of the Association as may

be ordered by the Board of Directors in accordance with these By-Laws, making proper vouchers for such disbursements, and shall render to the President and Board of Directors at the regular meetings of the Board of Directors, or whenever they may require it, an account of all of his transactions as the Treasurer and of the financial condition of the Association.

(c) He shall be responsible for collecting the assessments and shall promptly report the status of collections and of all delinquencies to the Board of Directors.

(d) He shall give status reports to potential transferees of Condominium units and to mortgagees and lienholders of a unit on which reports such mortgagees, lienholders and potential transferees may rely.

(e) He shall be responsible for delivering to the Management Firm any and all funds of the Association which by agreement are to be received by the Management Firm.

(f) The Assistant Treasurer shall perform the duties of the Treasurer when the Treasurer is absent.

(g) The duties of the Treasurer may be fulfilled by a Management Firm employed by the Association, and in such event said Management Firm shall have custody of such books of the Association as the Board of Directors determines in its sole discretion and the foregoing may include any books required to be kept by the Secretary of the Association.

ARTICLE VIII - FINANCES AND ASSESSMENTS.

Section 1. Depositories: The funds of the Association shall be deposited in such banks and depositories as may be determined by the Board of Directors from time to time upon resolutions approved by the Board of Directors, and shall be withdrawn only upon checks and demands for money signed by such officer or officers of the Association as may be designated by the Board of Directors. Obligations of the Association shall be signed by at least two officers of the Association; provided, however, that the provisions of any Management Agreement between the Association and a Management Firm relative to the subject matter in this Section shall supersede the provisions hereof.

Section 2. Fidelity Bonds: The Treasurer and all officers who are authorized to sign checks, and all officers and employees of the Association, and any contractor handling or responsible for Association funds shall be bonded in such amount as may be determined by the Board of Directors. The premiums on such bonds shall be paid by the Association. Each bond shall be in an amount sufficient to equal the monies the individual to be bonded handles or has control of via a signatory or a bank account or other depository account.

Section 3. Fiscal Year: The fiscal year for the Association shall begin on the first day of January of each year provided, however, that the Board of Directors is expressly authorized to change to a different fiscal year in accordance with the provisions and regulations from time to time prescribed by the Internal Revenue Code of the United States of America, at such time as the Board of Directors may deem advisable.

Section 4. Determination of Assessments:

(a) The Board of Directors of the Association, and/or the Management Firm when given the power to assess under the Management Agreement, the Declaration and these By-Laws, shall fix and determine from time to time, the sum or sums necessary and adequate for the common expenses of the Condominium. Common expenses shall include expenses for the operation, maintenance, repair or replacement of the common elements and the limited common elements, use and maintenance of recreational facilities, costs of wages, materials, services, supplies and other expenses incurred in carrying out the powers and duties of the Association, all insurance premiums and expenses relating thereto, including fire insurance and extended coverage, and any other expenses designated as common expenses from time to time by the Board of Directors of the Association, or under the provisions of the Declaration of Condominium to which these By-Laws are attached. The Board of Directors, and/or the Management Firm when given the power to assess under the Management Agreement, the Declaration and these By-Laws, is specifically empowered, on behalf of the Association to make and collect assessments for a general operating reserve for the

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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, a reserve fund for repair or replacement of those items of the Condominium property for which the Association has the responsibility of repairing or replacing, and all other things as required or authorized in these By-laws, the Declaration and all Exhibits attached thereto and as provided for in the Management Agreement, if there be one, and to lease, purchase or otherwise acquire, maintain, repair and replace such recreational and other facilities as the Board of Directors may deem advisable and the common elements and limited common elements of the Condominium. Funds for the payment of common expenses and for the accumulation and maintenance of a general operating reserve shall be assessed against the Unit Owners in the proportions or percentages of sharing common expenses, as provided in the Declaration. Assessments against the Unit Owners for their shares of the items of the budget shall be made on or before December 20th preceding the year for which assessments are made. Regular assessments shall be payable in advance and shall, at the option of the Board of Directors, be due and payable monthly on the first day of the month, or quarterly on the first day of January, April, July and October or at such other intervals as may be determined by the Board of Directors. Special assessments, should such be required by the Board of Directors, shall be levied in the same manner as hereinbefore provided for regular assessments, and shall be payable in the manner determined by the Board of Directors.

(b) The Board of Directors shall adopt a budget for each calendar year which shall include, but not be limited to, the estimated funds required to defray common expenses. The budget shall take into account the following items: current expenses, reserves for repair or replacement of the Condominium property, operations (to provide a working fund or to meet losses) and additional improvements. A copy of the proposed annual budget shall be mailed to the Unit Owners not less than thirty (30) days

prior to the meeting at which the budget will be considered, together with a notice of that meeting. The Unit Owners shall be given written notice of the time and place at which the meeting of the Board of Directors shall be held to consider the proposed annual budget, and such meeting shall be open to the Unit Owners. If a budget is adopted by the Board of Directors which requires assessments against the Unit Owners for current expenses or for reserves for repair or replacement of the Condominium property in any fiscal or calendar year exceeding 115% of such assessments for the preceding year, upon written application of 25% of the Unit Owners, a special meeting of the Unit Owners shall be held upon not less than ten (10) days written notice to each Unit Owner, but within thirty (30) days of the delivery of such application to the Board of Directors or any member thereof, at which special meeting Unit Owners may consider and enact a revision of the Budget, or recall any and all members of the Board of Directors and elect their successors. In either case, unless these By-laws shall require a larger vote, the revision of the budget or the recall of any and all members of the Board of Directors shall require a vote of not less than a majority of the whole number of votes of all Unit Owners. The Board of Directors may in any event propose a budget to the Unit Owners at a meeting of members or by writing, and if such budget or proposed budget be approved by the Unit Owners at the meeting, or by a majority of their whole number by a writing, such budget shall not thereafter be reexamined by the Unit Owners in the manner hereinabove set forth nor shall the Board of Directors be recalled under the terms of this Section. Notwithstanding anything hereinabove set forth to the contrary, however, in no event shall there be any budgeted item for additional improvements and an assessment therefor without approval by the vote of at least 75% of the Unit Owners. In determining whether assessments exceed 115% of similar assessments in prior years, there shall be excluded in the computation any provision for reasonable reserves made by the Board of Directors for repair or replacement of the Condominium property if no provision for such reserves was made in the budget for the preceding fiscal or calendar year, or

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for anticipated operational expenses by the Condominium Association which are not anticipated to be incurred on a regular or annual basis, such as the accumulation of funds to provide a working fund or to meet losses, provided, however, that so long as the Developer, by virtue of its ownership of a majority of the condominium units, has the ability to designate a majority of the voting members, the Board shall not impose an assessment for a year greater than 115% of the prior fiscal or calendar year's assessment without approval of a majority of the Unit Owners. Furthermore, until the Developer has completed and sold all of the Units of the Condominium, or until the Developer elects to terminate its control of the Condominium, whichever shall first occur, the Board of Directors may omit from the budget all allowances for contingencies and reserves. When the Board of Directors has determined the amount of any assessment, the Treasurer of the Association shall mail or present to each Unit Owner a statement of said Unit Owner's assessment. All assessments shall be payable to the Treasurer of the Association and, upon request, said Treasurer shall give a receipt for each payment made to him.

(c) Notwithstanding anything hereinabove set forth to the contrary, in the event the membership disapproves a proposed budget or the Board of Directors fails to determine and adopt the budget for the succeeding year, then until such time as a budget shall have been determined, adopted, and/or approved in the manner hereinabove provided for, the budget in effect for the then current year shall continue for the succeeding year.

(d) If an annual assessment is not made as required, an assessment shall be presumed to have been made in the amount of the last prior assessment. In the event an annual assessment proves to be insufficient, the budget and assessments therefor may be amended at any time by the Board of Directors if the items of the amended budget do not exceed the limitations thereon for that year. Any item which does exceed such limitation shall be subject to the approval of the membership of the Association as provided for above in subsection (b) of Section 4 of this Article. If the budget is subsequently amended, a copy of the

amended budget shall be mailed or delivered to each member within two weeks after the adoption of such amendment.

Section 5. Application of Payments and Co-Mingling of Funds: All sums collected by the Association from assessments may be co-mingled in a single fund or divided into more than one fund, as determined by the Board of Directors of the Association. All assessment payments by a Unit Owner shall be applied as to interest, delinquencies, costs and attorney's fees, other charges, expenses and advances as provided herein and in the Declaration of Condominium and general or special assessments, in such manner and amounts as the Board of Directors determines in its sole discretion.

Section 6. Acceleration of Assessment Installments Upon Default: If a Unit Owner shall be in default in the payment of an installment upon any assessment, the Board of Directors may accelerate the remaining installments for the fiscal year upon notice thereof to the Unit Owner and, thereupon, the unpaid balance of the assessment shall become due upon the date stated in the notice, but not less than ten (10) days after delivery of such notice to the Unit Owner, or not less than fifteen (15) days after the mailing of such notice to him by registered or certified mail, whichever shall first occur.

Section 7. Application of Surplus: Any payments or receipts to the Association, whether from Unit Owners or otherwise, paid during the year in excess of the amount required for actual operating expenses and other common expenses of the Association plus reserves shall be kept by the Association and applied against the Association's common expenses for the following year.

Section 8. Limitation on use of Assessments: No assessments or other funds collected by the Association shall be utilized for the purpose of prohibiting or financing any attempt to prohibit the Developer from following the general scheme of development set out or disclosed in the Declaration, the By-Laws, the Management Agreement, or any other Condominium document or exhibit for the Condominium, or in any public offering statement, sales contract or promotional literature for the Condominium.

ARTICLE IX - Obligations of the Owners.Section 1. Payment of Assessments

(a) All owners are obligated to pay in advance all assessments levied and imposed by the Board of Directors of the Association, and/or by the Management Firm for such purposes as are enumerated in the Declaration and/or By-laws for which the Management Firm is given the power to assess under the Management Agreement, the Declaration and the By-Laws. Such assessments so levied shall be paid on or before the date or dates fixed by resolution of the Board. Written notice of the assessment and the date of payment shall be sent to each owner at the address given by such owner to the Association. Such assessments may include payments to a general operating reserve, and to a reserve fund for repairs or replacements and all other things required or authorized in the Management Agreement, the By-laws, the Declaration and all Exhibits attached thereto.

(b) The amount of each assessment levied by the Association and/or the Management Firm shall be paid on or before the date or dates fixed by resolution of the Board of Directors. If not so paid, and if still unpaid thirty days after the date payment becomes due, the amount of any such assessment, including all installments thereof which may have been properly accelerated pursuant to the provisions of Section 6 of Article VIII above, plus any other charges thereon, including interest at the maximum limit provided by law per annum from the date of delinquency, late charges of \$50.00 to cover administrative expenses incurred by such delinquency, and costs of collection, including attorney's fees, shall constitute and become a lien on the condominium unit so assessed, and on all tangible personal property located within said unit, when the Board causes a notice of lien, which shall state the amount of the assessment and such other charges and contain a description of the condominium unit which has been assessed, to be recorded in the office of the Clerk of Superior Court of Transylvania County, North Carolina. Such lien rights shall be as provided for in accordance with the terms and provisions of the Declaration and all Exhibits thereto. Following its recordation, a copy of said notice of lien shall be

mailed to the owner. Such notice of lien shall be signed either by the Secretary of the Association or by a duly authorized agent of the Management Firm. Upon payment of said assessment and charges or other satisfaction thereof, the Board shall, within a reasonable time, cause to be recorded a notice stating the satisfaction and release of said lien.

(c) The priority of liens hereinabove set forth shall be as provided in the Declaration.

(d) The liens provided for herein may be foreclosed by suit by the Association in like manner as a mortgage or deed of trust and in such event the Association may be a bidder at a foreclosure sale. The Association or its duly authorized agent may also pursue any other remedy against any owner owing money to it which is available to it by law, or equity for the collection of debt.

(e) The Association shall, at the request of any individual, partnership or corporation obligated under the terms of a contract of sale to purchase a condominium unit, furnish a statement, upon which such individual, partnership or corporation may rely, certifying that all assessments then due have been paid or indicating the amount then due.

Section 2 - Suspension. The Association or the Management Firm, if there be one, shall suspend any unit owner not paying assessments when due and such owner shall be refused entrance into the Condominium and use of the facilities thereof until all assessments and penalties to which the unit owner is subject have been paid.

Section 3 - Maintenance and Repair.

(a) Each and every unit owner shall perform promptly all maintenance and repair work required of individual owners by the Declaration and all Exhibits thereto, or which, if within his own unit, if omitted, would affect the Condominium in its entirety or in a part belonging to other owners, being expressly responsible for the damages and liabilities that his failure to do so may engender.

(b) All the repairs of internal installations of an individual unit such as water, lights, gas, power, sewage,

telephones, air conditioners, sanitary installations, doors, windows, lamps and all other accessories belonging to the unit owner shall be at the unit owner's expense.

(c) The Association or the Management Firm, if there be one, shall be responsible for all maintenance and repair work required of the Association in the Declaration.

(d) A unit owner shall reimburse the Association or Management Firm, if there be one, for any expenditures incurred in repairing or replacing any common areas or facilities damaged by such unit owner, his family, guests or lessees.

Section 4 - Abuse of Condominium Units.

(a) All units shall be utilized only for the purposes allowed by the Declaration.

(b) A unit owner shall not make any structural modifications or alterations within his unit without the consent of the Board of Directors, or the Management Firm, if there be one, and without previously notifying in writing the Association through the President of the Board of Directors, or the Management Firm, if there be one, and the President of the Board of Directors has directed that such notification be given to the Management Firm. Should the Association or the Management Firm not answer such notification within thirty (30) days, such failure to answer shall mean that there is no objection to the proposed modification or alteration and the necessary consent shall be deemed to have been given by the appropriate party.

Section 5 - Use of common areas and facilities and restricted common areas and facilities. A unit owner shall not place or cause to be placed in any common area furniture, packages or objects of any kind. Such areas shall be used for no purpose other than normal transit through them or normal use of the facilities provided.

Section 6 - Right of entry.

(a) A unit owner shall grant the right of entry to the Management Firm or to any other person authorized by the Board of Directors of the Association to enter his unit for the purpose of maintenance, inspection, repair, replacement of the improvements within the unit and/or common elements or to determine, in case

of emergency, circumstances threatening units and/or common elements, or to determine compliance with the provisions of the Declaration and the By-laws.

(b) A unit owner shall grant the right of entry to the Management Firm or to any other person authorized by the Board of Directors of the Association to enter his unit in the case of any emergency originating in or threatening the unit, whether the owner is present at the time or not.

Section 7 - Rules of Conduct.

(a) All present or future owners, tenants, future tenants, or their employees, or any other person who might use the facilities of the Condominium Property in any manner are subject to the regulations set forth in these By-laws and to all rules and regulations adopted pursuant hereto.

(b) The mere acquisition of any condominium unit of the said Condominium, or the mere act of occupancy of any of said units shall signify that these By-laws and the provisions of all rules and regulations adopted pursuant hereto are accepted, ratified and will be complied with.

(c) Every resident of the Condominium Property shall observe as rules of conduct, the rules and regulations which are attached hereto and incorporated herein by reference.

(d) The Board of Directors may, from time to time, adopt or amend previously adopted administrative rules and regulations governing the details of the operation, use, maintenance, management and control of the common elements and limited common elements of the Condominium and any facilities or services made available to the Unit Owners. A copy of the rules and regulations adopted from time to time as herein provided shall from time to time be posted in a conspicuous place and/or copies of same shall be furnished each Unit Owner.

(e) The Board of Directors may from time to time adopt or amend previously adopted rules and regulations governing and restricting the use and maintenance of the Condominium Units provided, however, that copies of such rules and regulations, prior to the time the same become effective, shall be posted in a conspicuous place and/or copies of same shall be furnished to

each Unit Owner.

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(f) In the event of any conflict between the rules and regulations adopted, or from time to time amended, and the Condominium documents, or the Act, the latter shall prevail. If any unreconciled conflict should exist or hereafter arise with respect to the interpretation of these By-Laws and the Declaration of Condominium, the provisions of said Declaration shall prevail.

ARTICLE X - ADDITIONS OR ALTERATIONS.

There shall be no additions or alterations to the common elements or limited common elements of the Condominium project which this Association operates and maintains except as specifically provided for in said Condominium's Declaration of Condominium

ARTICLE XI - COMPLIANCE AND DEFAULT.

Section 1. Violations: In the event of a violation (other than the nonpayment of an assessment by a Unit Owner) of any of the provisions of the Declaration of Condominium, or of these By-Laws, or of the applicable portions of the Act, the Association, by direction of its Board of Directors, may notify the Unit Owner by written notice of said breach, transmitted by mail, and if such violation shall continue for a period of seven (7) days from date of notice, the Association, through its Board of Directors, shall have the right to treat such violation as an intentional and inexcusable and material breach of the Declaration, of these By-Laws, or of the pertinent provisions of the Act, and the Association may then, at its option, have the following elections:

(a) An action at law to recover for its damage, on behalf of the Association or on behalf of the other Unit Owners;

(b) An action in equity to enforce performance on the part of the Unit Owner; or

(c) An action in equity for such equitable relief as may be necessary under the circumstances, including injunctive relief; or

(d) The Association may refer the matter to an adjudicatory panel composed of three or more Unit Owners which shall determine

if the Unit Owner in question has violated any of the provisions of the Declaration of Condominium, these By-Laws, or the applicable portions of the act. Such panel shall have the authority to fine the Unit Owner in question a sum not to exceed One Hundred Fifty (\$150.00) Dollars for each such violation; but each day a violation continues after notice is given to the Unit Owner in question shall constitute a separate violation. Such panel shall accord to the party charged with the violation notice of the charge, opportunity to be heard and to present evidence, and notice of the decision. All fines shall be special assessments secured by a lien against the Unit Owner's Unit with the same force and effect as if the charge were a part of the common expenses.

Any violations which are deemed by the Board of Directors to be a hazard to public health may be corrected immediately as an emergency matter by the Association and the cost thereof shall be charged to the Unit Owner as a specified item, which shall be a lien against said Owner's Unit with the same force and effect as if the charge were a part of the common expenses.

Section 2. Negligence or Carelessness of Unit Owner: Each Unit Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness, or by that of any member of his family, guests, employees, agents or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Such liability shall include any increase in insurance rates occasioned by use, misuse, occupancy or abandonment of any Unit or its appurtenances. Nothing herein contained, however, shall be construed so as to modify the effect of any waiver by any insurance company of its rights of subrogation. The expense of any maintenance, repair or replacement required, as provided in this Section, shall be charged to said Unit Owner as a specific item which shall be a lien against said Owner's Unit with the same force and effect as if the charge were a part of the common expenses.

Section 3. Costs and Attorneys' Fees: In any proceeding arising out of an alleged default by a Unit Owner, the prevailing

party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be determined by the Court.

Section 4. No Waiver of Rights: The failure of the Association or of a Unit Owner to enforce any right, provision, covenant or condition which may be granted by the Condominium documents shall not constitute a waiver of the right of the Association or Unit Owner to enforce such right, provision, covenant or condition in the future.

Section 5. Election of Remedies: All rights, remedies and privileges granted to the Association or Unit Owners, pursuant to any terms, provisions, covenants or conditions of the Condominium documents, shall be deemed to be cumulative and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies, or privileges as may be granted to such other party by the Condominium documents, or at law or in equity.

Section 6. The Act Governs: These By-laws are set forth to comply with the requirements of Chapter 47A of the General Statutes of North Carolina. In case any of these By-laws conflict with the provisions of said chapter, it is hereby accepted and agreed that the provisions of said chapter will apply.

ARTICLE XII - Mortgagees.

Section 1. Notification of Association: Any Unit Owner who mortgages his unit or his interest therein, or places on record a deed of trust or any other encumbrance thereon, shall notify the Association through the Management Firm, if any, or the President of the Board of Directors, in the event there is no Management Firm, of the name and address of such mortgagee or lien holder, and the Association and/or Management Firm shall maintain such information in a book entitled "Mortgagees of Units."

Section 2. Notice of Unpaid assessments: The Association or the Management Firm shall, at the request of a Mortgagee or lienholder of a unit, report any unpaid assessments due from the owner of the unit.

Section 3. Rights of Institutional First Mortgagees: Any and all institutional first mortgagees shall have those rights and powers granted to them by the Declaration and nothing herein contained shall supersede such rights and powers. In the event any right or duty or power herein delegated or granted to the Association by these By-Laws is given to any institutional first mortgagee by the Declaration, or should said institutional first mortgagee, by reason of the Declaration, have any voice in such decisions, then such institutional first mortgagee is given such rights and powers and vote in such decisions as are granted in the Declaration.

Article XIII - ACQUISITION OF UNITS ON FORECLOSURE:

At any foreclosure sale of a Unit, the Board of Directors may, with the authorization and approval by the affirmative vote of voting members casting not less than sixty percent (60%) of the total votes of the members present at any regular or special meeting of the members wherein said matter is voted upon, acquire in the name of the Association, or its designee, a Condominium Unit being foreclosed. The term, "foreclosure," as used in this paragraph of this Section, shall mean and include any foreclosure of any lien, excluding the Association's lien for assessments.

The power of the Board of Directors to acquire a Condominium Unit at any foreclosure sale shall never be interpreted as any requirement or obligation on the part of the said Board of Directors of the Association to do so at any foreclosure sale, the provisions hereof being permissive in nature and for the purpose of setting forth the power of the Board of Directors to do so should the requisite approval of the voting members be obtained. The Board of Directors shall not be required to obtain the approval of Unit Owners at the foreclosure sale of a Unit due to the foreclosure of the Association's lien for assessments under the provisions of the Declaration of Condominium to which these By-Laws are attached notwithstanding the sum the Board of Directors determines to bid at such foreclosure sale.

During the period a Condominium Unit is owned by the Association following foreclosure, the Association, acting on behalf of the other Unit Owners, shall have the power to hold,

lease, mortgage and convey such Unit, and during the period such Unit is owned by the Association: (a) No right to vote shall be exercised on its behalf; (b) no assessment shall be assessed or levied on it; and (c) each other Unit shall be charged, in addition to its usual assessment, its equal pro rata share of the assessment that would have been charged such Unit had it not be acquired by the Association as a result of foreclosure.

ARTICLE XIV - TITLE TO REAL ESTATE ACQUIRED BY THE ASSOCIATION.

In the event the Association shall purchase or otherwise acquire the legal title to any Condominium Unit, or to any recreational facilities or other real estate, such title shall be vested in the Association as trustee for each of the remaining owners in the percentages established in the Declaration of Condominium.

ARTICLE XV - AMENDMENTS TO THE BY-LAWS.

The By-Laws may be altered, amended or added to at any duly called meeting of the Unit Owners, provided:

(1) Notice of the meeting shall contain a statement of the proposed Amendment.

(2) If the Amendment has received the unanimous approval of the full Board of Directors, then it shall be approved upon the affirmative vote of the voting members casting not less than fifty-one percent (51%) of the total votes of the members of the Association.

(3) If the Amendment has not been approved by the unanimous vote of the full Board of Directors, then the Amendment shall be approved by the affirmative vote of the voting members casting not less than three-fourths (3/4) of the total votes of the members of the Association; and

(4) Said Amendment shall be recorded and certified as required by the Act. All unit owners shall be bound to abide by any amendment upon the same being passed and duly set forth in an amended Declaration of Condominium, duly recorded. No such amendment shall become operative unless set forth in an amended Declaration of Condominium and duly recorded.

(5) No future amendment to the By-laws of this Association shall be retroactive to the extent that any mortgage or deed of

trust executed on any unit shall in any way be affected thereby unless the lending institution, or holder of the note secured by said mortgage or deed of trust, agrees in writing to the terms of such amendment.

(6) Notwithstanding anything hereinabove to the contrary, these By-Laws may only be amended with the written approval when required of the parties specified in the Declaration of Condominium to which these By-Laws are attached.

ARTICLE XVI - NOTICES.

Whatever notices are required to be sent hereunder shall be delivered or sent in accordance with the applicable provisions for notices as set forth in the Declaration of Condominium to which these By-Laws are attached.

ARTICLE XVII - INDEMNIFICATIONS.

The Association shall indemnify every director and every officer, his heirs, executors, and administrators, against all loss, cost and expense including counsel fees, reasonably incurred by or imposed upon him in connection with any action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be made a party by reason of being or having been a director or officer of the Association. The officers and directors shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled. The Association shall, as a common expense, maintain adequate general liability and officers' and directors' liability insurance to

fund this obligation, if such insurance is reasonably available.

ARTICLE XVIII - LIABILITY SURVIVES TERMINATION OF MEMBERSHIP.

The termination of membership in the Condominium shall not relieve or release any such former owner or member from any liability or obligations incurred under or in any way connected with the Condominium during the period of such ownership and membership, or impair any rights or remedies which the Association may have against such former owner and member arising out of or in any way connected with such ownership and membership, and the covenants and obligations incident thereto.

ARTICLE XIX - LIMITATION OF LIABILITY.

The Association shall not be liable for any failure of water supply or other services to be obtained by the Association or paid for as a common expense, or for injury or damage to person or property caused by the elements or by the unit owner of any Condominium Unit, or any other person, or resulting from electricity, water, snow or ice which may leak or flow from or over any portion of the common elements or from any pipe, drain, conduit, appliance or equipment. The Association shall not be liable to any Unit Owner for loss or damage, by theft or otherwise, of articles which may be stored upon any of the common elements. No diminution or abatement of any assessments, as herein elsewhere provided, shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the common elements or from any action taken by the Association to comply with any law, ordinance or with the order or directive of any governmental authority.

ARTICLE XX - COMMON OR INTERESTED DIRECTORS.

Each director shall exercise his powers and duties in good faith and with a view to the interests of the Condominium. No contract or other transaction between the Association and any of its directors, or between the Association and any corporation, firm or association (including the Declarant) in which any of the directors of the Association are directors or officers or are pecuniarily or otherwise interested, is either void or voidable because any such director is present at the meeting of the Board of Directors or any committee thereof which authorizes or

approves the contract or transaction, or because his vote is counted for such purpose, if any of the conditions specified in any of the following subsections exist:

(a) The fact of the common directorate or interest is disclosed or known to the Board of Directors or a majority thereof or noted in the minutes, and the Board authorizes, approves or ratifies such contract or transaction in good faith by a vote sufficient for the purpose; or

(b) The fact of the common directorate or interest is disclosed or known to at least a majority of the unit owners, and the unit owners approve or ratify the contract or transaction in good faith by a vote sufficient for the purpose; or

(c) The contract or transaction is commercially reasonable to the Association at the time it is authorized, ratified, approved or executed.

Any common or interested directors may be counted in determining the presence of a quorum of any meeting of the Board of Directors or committee thereof which authorizes, approves or ratifies any contract or transaction, and may vote at the meeting to authorize any contract or transaction with like force and effect as if such director of the Association were not an officer or director of such other corporation, firm or association or not so interested.

ARTICLE XXI - PARLIAMENTARY RULES.

Roberts Rules of Order (latest edition) shall govern the conduct of the Association's meetings when not in conflict with the Act, the Declaration of Condominium, or these By-Laws.

ARTICLE XXII - LIENS.

Section 1. Protection of Property: All liens against a Condominium Unit, other than for mortgages, deeds of trust, taxes or special assessments, shall be satisfied or otherwise removed within thirty (30) days of the date the lien attaches. All taxes and special assessments upon a Condominium Unit shall be paid before becoming delinquent, as provided in the Condominium documents or by law, whichever is sooner.

Section 2. Notice of Lien: A Unit Owner shall give notice to the Association of every lien upon his Unit, other than for

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mortgages, deeds of trust, taxes and special assessments within five (5) days after the attaching of the lien.

Section 3. Notice of Suit: Each Unit Owner shall give notice to the Association of every suit or other proceeding which will or may affect title to his Unit or any part of the property, such notice to be given within five (5) days after the Unit Owner receives notice thereof.

Section 4. Failure to Comply: Failure to comply with this Article concerning liens will not affect the validity of any judicial sale.

Article XXIII - CONVEYANCES.

The sale or leasing of Units in the Condominium shall be subject to the following provisions:

A Unit Owner making a sale or lease of his Unit or any interest therein shall give to the Association notice of such sale or lease within ten (10) days of the date of same together with the name and address of the purchaser or lessee, and such other information concerning the intended purchaser or lessee as the Association may reasonably require. A Unit Owner who has obtained his title by gift, devise or inheritance shall give to the Association notice of the acquiring of his title, together with such personal information as the Association may reasonably require, and a certified copy of the instrument evidencing his title. The Association may send all necessary notices to the person shown as Owner of said Unit in its records, and said notices shall be binding as to any other Owner of said Unit where the Association has not been notified as provided herein. Each Owner of a Unit, by purchasing a Unit in the Condominium, consents to the furnishing to a bona fide buyer of a statement of the status of the owner's account with the Association.

ARTICLE XXIV - AGENT FOR SERVICE OF PROCESS.

The Board of Directors shall at all times maintain a duly appointed process agent within Transylvania County, North Carolina, as required by Section 47A-26 of Chapter 47A of the North Carolina General Statutes. The Board of Directors by majority action may at any time revoke the appointment of any such agent, and point a successor, by an instrument duly recorded

in the office of the Register of Deeds for Transylvania County. To comply with the requirements of this Article, Gayle E. Ramsey, The Legal Building, 1 North Gaston Street, Post Office Box 949, Brevard, Transylvania County, North Carolina 28712, is hereby appointed process agent for the Association.

ARTICLE XXV - SPECIAL PROVISIONS PERTAINING TO DEVELOPER.

Section 1. It is understood and agreed by each of the members of the Association that Developer is planning to develop additional condominiums on tracts of land adjacent to or near the tract covered by the Declaration of Condominium for Indian Hills Condominium One, Phase II. In order to provide uniformity of management and to reduce the cost to owners of individual units, a separate Indian Hills Condominiums Association may be created and enlarged from time to time to include representatives from Indian Hills Condominium One, Phase II, Property Owners Association and the additional Condominium Associations established by Developer within the area. Upon such additions each additional Condominium Association shall have one director on the Board of the separate Indian Hills Condominiums Association and the director representing each additional Association shall be the President of such additional Association. The addition of these members to the separate Association shall be conditioned upon their adoption of By-laws substantially similar to these By-laws, and the maintenance costs of each additional Condominium shall be kept separate, and the assessments shall be taxed against each Unit Owner only in relation to the costs and expenses, and in accordance with the percentages applicable to the Condominium in which his Unit is located, and the common areas and facilities appurtenant thereto. For so long as Developer owns not less than two Units in the Condominium project known as Indian Hills Condominiums, it shall have the right to elect at least two members of the Board of Directors of the separate Association. Directors elected by Developer pursuant hereto need not be residents of the Condominium or owners of Units in Indian Hills Condominiums.

Section 2. Indian Hills Condominium One, Phase II, Property Owners Association shall become a member of Indian Hills Condominiums

Association on June 1, 1986, if Indian Hills Condominiums Association if then in existence, and if said Association is not then in existence, at such time thereafter as the Articles of Incorporation for Indian Hills Condominiums Association shall be filed in the Office of the Register of Deeds for Transylvania County, North Carolina.

Section 3. In order to provide more efficient and economical management of the Condominium for which this Association has been formed, the Board of Directors of this Association is specifically empowered to designate Indian Hills Condominiums Association as its agent for entering into all contracts which this Association is authorized to enter into under the provisions of Article XIII of the Declaration, and the Board of Directors of this Association is further authorized to delegate to Indian Hills Condominiums Association or to a contractor or manager all powers and duties of the Association, except such as are specifically required by the Declaration, or by the By-Laws, to have approval of the Board of Directors or the membership of this Association.

Section 4. Notwithstanding anything else to the contrary in these By-laws or in the Declaration of Condominium, this Article of the By-laws cannot be amended without the consent of Developer.

EXHIBIT "D"
ARTICLES OF INCORPORATION
OF
INDIAN HILLS CONDOMINIUM ONE, PHASE II, PROPERTY OWNERS
ASSOCIATION

ARTICLES OF INCORPORATION
OF
INDIAN HILLS CONDOMINIUM ONE, PHASE II, PROPERTY OWNERS
ASSOCIATION

I, the undersigned natural person of the age of eighteen (18) years of more, do make and acknowledge these Articles of Incorporation for the purpose of forming a non-profit corporation under and by virtue of the laws of the State of North Carolina.

I

NAME

The name of the Corporation is INDIAN HILLS CONDOMINIUM ONE, PHASE II, PROPERTY OWNERS ASSOCIATION.

II

DURATION

The period of duration of the Corporation shall be perpetual.

III

PURPOSES

The purpose for which this Corporation is organized is to provide an entity pursuant to the provisions of Chapter 47A of the General Statutes of North Carolina known as the Unit Ownership Act for the operation of Indian Hills Condominium One, a Condominium, Phase II, located upon the lands of the said condominium off of U. S. Highway No. 276, in Connestee Falls Development, Brevard, Transylvania County, North Carolina.

IV

MEMBERSHIP

The Corporation shall have members who shall be owners of units in the said Indian Hills Condominium One, a Condominium, Phase II. All members shall be accepted, elected or designated, in the manner provided for in the by-laws.

V

DIRECTORS

The Directors of the Corporation shall be elected by the members in the manner provided for in the by-laws.

VI

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EARNINGS OF THE CORPORATION

No part of the net earnings of the Corporation shall inure to the benefit of any officer, director or member of the Corporation; and upon dissolution of the Corporation, the assets thereof shall, after all of its liabilities and obligations have been discharged or adequate provision made therefor, be distributed to any association or associations organized for purposes similar to those set forth in Article III hereinabove, or as more particularly provided for in the by-laws of the Corporation.

VII

REGISTERED OFFICE

The address of the initial registered office of the Corporation is:

c/o Gayle E. Ramsey
The Legal Building
1 North Gaston Street
Post Office Box 949
Brevard, Transylvania County
North Carolina 28712

and the name of the initial registered agent at such address is Gayle E. Ramsey.

VIII

NUMBER OF DIRECTORS

The number of Directors constituting the initial Board of Directors shall be five (5), and the names and addresses of the person who are to serve as the initial Directors are:

<u>NAME</u>	<u>ADDRESS</u>
Harry J. Eyreman	3 Governors Lane Hilton Head Island, S. C. 29928
William L. Jackson	11 Governors Lane Hilton Head Island, S. C. 29928
James I. Shaw	16 Newhall Road Hilton Head Island, S. C. 29928
Fred Wilkins	Turtle Lane Club Hilton Head Island, S. C. 29928
Paul Stephenson	Heritage Road Hilton Head Island, S. C. 29928

IX

INCORPORATORS

The name and address of the incorporator is:

NAME

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ADDRESS

Gayle E. Ramsey

The Legal Building
1 North Gaston Street
Post Office Box 949
Brevard, North Carolina 28712

IN WITNESS WHEREOF, I have hereunto set my hand, this 30th
day of September, 1986.

s/ Gayle E. Ramsey

Gayle E. Ramsey

STATE OF NORTH CAROLINA,
COUNTY OF TRANSYLVANIA.

I, Sandra G. Crowe, a Notary Public in and
for said County and State, do hereby certify that GAYLE E. RAMSEY
personally appeared before me this day and acknowledged the due
execution by him as incorporator of the foregoing Articles of
Incorporation for Indian Hills Condominium One, Phase II,
Property Owners Association for the purposes therein set forth.

WITNESS my hand and Notarial Seal, this 30th day of
September, 1986.

(Notary Seal)

s/ Sandra G. Crowe

Notary Public

My Commission Expires:

June 21, 1988.

STATE OF NORTH CAROLINA,
COUNTY OF TRANSYLVANIA.

MANAGEMENT AGREEMENT

This Agreement, made and entered into this 30th day of September, 1986, by and between INDIAN HILLS CONDOMINIUM ONE, PHASE II, PROPERTY OWNERS ASSOCIATION, a North Carolina non-profit corporation (hereinafter referred to as "the Association"), and CONNESTEE LAKEVIEW PROPERTIES, INC., a North Carolina Corporation (hereinafter referred to as "the Management Firm"), which said terms shall be deemed to extend to and include the legal representatives, successors and assigns of each of the parties to this agreement;

W I T N E S S E T H:

THAT, WHEREAS, the Association is responsible for the operation of that certain Condominium project to be known as Indian Hills Condominium One, a Condominium, Phase II, including its management, repair, maintenance, upkeep and improvement, and is therefore required to perform this function itself or to employ some person, firm or corporation to perform such function for it; and

WHEREAS, the Management Firm is in the business of managing, operating and maintaining Condominium projects, and all things contained therein, and desires to perform such services for the Association; and

WHEREAS, the Association is desirous of employing the Management Firm to provide such management and operating services as are hereinafter specified upon the terms and conditions as hereinafter specified;

NOW, THEREFORE, for and in consideration of the foregoing premises and the mutual promises and covenants herein contained and the sum of Ten Dollars each to the other paid, the receipt and sufficiency of which is hereby acknowledged, it is agreed as follows:

1. That the foregoing recitals and all recitals of fact contained herein are true and correct.

2. That all terms and words and phrases used in this agreement shall be and are defined as having their ordinary and common meaning unless such terms or phrases are otherwise defined in the Declaration of Condominium to which this Management Agreement is attached (hereinafter referred to as "the Declaration"), and/or the North Carolina Unit Ownership Act (hereinafter referred to as "the Act"), and in such case, such terms, words and phrases used herein shall be and are defined as they are in said Declaration and/or the Act, which definitions are incorporated herein and made a part hereof by reference.

3. The Association does hereby employ the Management Firm as the exclusive manager of the Condominium property and as its sole and general agent for all purposes and reasons herein described and does grant unto it exclusive authority in all matters hereinafter described. Further, the Management Firm does hereby accept such agency, authority and employment for all purposes and in all matters herein described.

4. The term of this agreement shall be from the date of the execution of this agreement (which is set forth on the first page of this agreement) through December 31, 1989. Thereafter, it shall be automatically renewed for successive five year periods, unless and until terminated by the vote of members in good standing of the Association owning a majority interest in the common elements, areas and facilities of the Condominium, at a duly authorized meeting of the Association, or by written notice from the Management Firm to the Association, given at least sixty (60) days prior to the expiration of the then existing term of this agreement, that this agreement will not be renewed for the next successive five year term.

5. The Management Firm is hereby granted for the period of this agreement, and all successive and renewal terms thereof, while this agreement shall remain in effect, to the exclusion of all other persons, firms or corporations (including, but not limited to, the Association, its Board of Directors and its members), all of the powers and duties of the Association and its

Board of Directors, as set forth in the Declaration and the By-Laws of the Association (except and excluding, however, those powers and duties as are specifically required by said Declaration or this agreement to be exercised by the Association or its members without delegation). By way of illustration and not of limitation, the Management Firm shall have the sole power, authority and right to:

(a) Hire, pay and supervise, or cause to be hired, paid and supervised, all persons, firms and corporations or associations necessary to be employed in order to properly maintain and operate the Condominium property, including a manager, and the Management Firm, in its absolute discretion shall determine the number of employees to be so employed who, in each instance, shall be the employees of the Management Firm, and, in its absolute discretion, any employee or employees to be discharged for any reason whatsoever.

(b) To maintain and repair the property of the Condominium and the common elements thereof to the same extent that the Association is required to maintain and repair the same, as provided in said Condominium's Declaration of Condominium, all amendments thereto and all Exhibits attached thereto. Except as is otherwise set out below, for any one item of repair, replacement or refurbishing, the expense incurred to the Condominium as a whole shall not exceed the sum of One Thousand Five Hundred Dollars (\$1,500.00) unless specifically authorized by the Board of Directors of the Association, except as otherwise provided herein, or in the case of an emergency, in which case the Management Firm is authorized to expend any sums necessary to protect and preserve the Condominium property. For any one item of improvement of, alteration to, or addition to the common elements or limited common elements, the Management Firm is hereby authorized to expend a maximum of One Thousand Five Hundred Dollars (\$1,500.00). Any amount in excess thereof must be specifically authorized and approved by the Board of Directors of the Association.

(c) To enter into contracts for garbage and trash removal, vermin extermination, and other services and make all contracts

and purchases in either the name of the Association or in its own name as it shall, in its sole discretion, elect.

(d) To purchase such equipment, tools, vehicles, appliances, goods, supplies and materials as it, in its sole discretion, shall determine are reasonably necessary to perform its duties, including the maintenance, upkeep, cleaning, repair, replacement, refurbishing and preservation of the Condominium property or any parts thereof. Purchases shall be in the name of the Association or the Management Firm as the Management Firm, in its sole discretion, shall elect.

(e) To cause to be placed and kept in force, all insurance required or permitted in the Declaration; to act as agent for the Association, and the Board of Directors thereof, each unit owner and each owner or holder of any other insured interest; to adjust all claims arising under said insurance policies; to bring suit thereon and deliver releases upon payment of claims; to otherwise exercise all of the rights, powers and privileges of any or all of the insured parties, and to receive payment of all insurance proceeds on behalf of any and all of the insured parties, subject, however, to the provisions of the Declaration.

(f) To maintain all financial record books of the Association and its Board of Directors, and accounts and other records as provided for in the By-Laws of the Association and authorized or required by the Declaration and/or the Act; issue certificates of accounts to members, their mortgagees and other lien holders without liability for error unless as a result of negligence. Such records shall be kept at the office of the Management Firm and shall be available for inspection by the Association, its members or any duly appointed agent, or agents thereof during normal business hours. The Association may also conduct an external audit, provided the cost for the same is paid by the Association, and said independent auditor, in any instance, must be acceptable to the Management Firm whose acceptance may not be unreasonably withheld. As a standard procedure, the Management Firm shall render to the Association a statement for each calendar year not later than the April 1, next thereafter, or, if applicable, not later than three months after

the end of the fiscal year for which it is made if such fiscal year does not end on December 31. The Management Firm shall perform a continual internal audit of the financial records of the Association for the purposes of verifying the same, but no external or independent audit shall be required of it.

(g) To maintain records sufficient to describe its services hereunder and such financial books and records sufficient in accordance with prevailing accounting standards to identify the source of all funds collected by it in its capacity as Management Firm, and the disbursement thereof. Such records shall be kept at the office of the Management Firm, and shall be available for inspection by an expert employed by and at the cost and expense of the Association and at such reasonable time as the Management Firm may agree to; however, said request for inspection cannot be made more than once in any calendar year, or fiscal year in the event that the calendar year is not the fiscal year. The Management Firm shall perform a continual audit of the Management Firm's financial records relative to its services as Manager for the purpose of verifying the same, but no independent or external audit shall be required of it.

(h) To determine the fiscal year and when it shall commence and the budget as to the Condominium for the term of this Agreement, subject, however, to the approval of the Board of Directors. Upon said budget's being determined annually, the Management Firm shall submit annually to the Association, the operating budget for the next ensuing year setting forth the anticipated income and expenses of the Condominium property for the year, and said Management Firm shall specify therein each unit owner's monthly share thereof. Should an increase in assessments be required or special assessments be required during the year, other than those special assessments which the Management Firm is specifically authorized by this agreement to make without prior approval by the Board of Directors, the same shall be determined and made by the Management Firm, subject to the approval of the Board of Directors, and the Association shall be advised thereof and as to the share thereof payable by each of the Association's members. The Management Firm shall collect all

assessments. The allocated prorata assessments of each unit owner of the Association shall be made payable to the Management Firm or such other firm or entity as the Management Firm shall direct, subject to the approval of the Board of Directors, and the Association shall be advised thereof and as to the share thereof payable by each of the Association's members. The Management Firm shall not be responsible for obtaining the best price available as to every service, material or purchase, but shall, on a best efforts basis, strive to purchase or contract for same with such person or party as it deems advisable and in the best interests of the Association and the Management Firm, taking into account the quality of materials or service or employment so purchased or retained. Where the Management Firm does not submit an operating budget for the ensuing year to the Association as herein set forth, the operating budget for the current year shall be deemed to apply to the ensuing year and, in such case, each unit owner's share of same shall continue in the same amount subject, however, to the right of the Management Firm to increase assessments, subject to the approval of the Board of Directors, during the year or levy a special assessment, subject to the approval of the Board of Directors, where it determines that same is necessary or advisable subject to the applicable provisions of the Declaration of Condominium.

(i) Collect and deposit all funds (whether collected from the Association and its members or otherwise) accruing to the Association in a special account or accounts apart from other accounts of the Management Firm, in banks and/or savings and loan associations or other depositories in the State of North Carolina with suitable designation indicating their source, and separate from similar funds collected by the Management Firm on behalf of other condominiums or entities which the Management Firm manages.

(j) To cause a representative of the Management Firm to attend meetings of the unit owners and of the Board of Directors of the Association and of the Association; however, it is understood that the minutes of all meetings of the Association, whether of unit owners or of the Board of Directors, shall be taken by the Secretary of the Association and possession of the

minute books shall be in the custody of said secretary who shall, at all times, be responsible for preparing and furnishing notices of all meetings to all parties entitled to notice thereof.

(k) Promulgate, adopt, amend, publish and enforce, as it deems advisable, but subject to the approval of the Board of

(l) The Management Firm shall have the right, subject to such guidelines as may be established by the Board of Directors, to provide and perform, at its discretion, special services for and on behalf of any unit owner requesting the same and in such case, such sum as agreed to by the parties shall be a special assessment (not requiring the approval of the Board of Directors) against the applicable unit owner and said assessment shall have the same force and effect as all other assessments for common expenses against unit owners and their units.

(m) Make such alterations and/or additions to the common elements and limited common elements of the Condominium property and the Association's properties or facilities as may be authorized by the Board of Directors, and the Association's members where required, pursuant to and in accordance with the Declaration and all exhibits attached thereto (although this provision shall not preclude the Management Firm from making such alterations or additions on its own authority whenever such alterations are otherwise authorized under the provisions of this agreement), in which case the Management Firm shall be reimbursed for all costs involved, including costs of its personnel and overhead.

(n) Retain and employ such professionals and other experts whose services may be reasonably required to perform effectively its duties and exercise its powers hereunder and to employ the same on such basis as it deems most reasonable taking into consideration the guidelines established for such employment in this agreement.

(o) Enter into agreements upon such terms and conditions and for such purposes as the Management Firm determines, in its sole discretion, to be necessary and adequate for the proper maintenance, upkeep and use of the common areas and facilities and of all the Condominium property and improvements thereon.

(p) Make and collect special assessments for such purposes and against such parties as the Management Firm determines, subject to the approval of the Board of Directors when required by the terms of this agreement, and compliance with all applicable provisions of the Declaration and all Exhibits and Amendments thereto.

(q) Take such action as may be necessary to comply with all laws, statutes, ordinances, rules and regulations of all appropriate governmental authorities, and the rules and regulations of the National Board of Fire Underwriters, or in the event it shall terminate its present functions, those of any other body exercising similar functions.

6. The Management Firm shall apply assessments collected in such manner as it determines in its sole discretion to be appropriate as to those items specified in the By-Laws of the Association, including the Management Firm's fee and its overhead and expenses, which shall be deemed common expenses. During the term of this Agreement, the Management Firm may file a lien or liens against a unit owner's unit should such unit owner fail to pay assessments as required and provided in the Declaration, all Exhibits attached thereto and all Amendments thereto; and take such other action or actions as is provided for in said documents, either in its own name or in the name of, or as the agent of, the Association. The Management Firm may compromise liens in such amount or amounts as it deems advisable in its sole discretion and may satisfy liens of record and tender statements as to current status of a unit owner's assessments.

7. The Management Firm shall have sole right to collect and hold in such depositories as are authorized by this Agreement and to pay out in its discretion and by whatever schedule it shall see fit all assessments (both regular and special) to be paid by the unit owners or which are required to be paid by the unit owners to the Association as provided for in the Declaration (unless otherwise specified therein). The Association shall aid and assist the Management Firm in any reasonable manner requested by the Management Firm as to the collection of assessments and and the said Association shall further aid and assist the

Management Firm so as to simplify the method of collecting the assessments due from the unit owners.

8. It is specifically understood and agreed that the Management Firm does not and shall not undertake to pay common or special expenses from its own funds and shall only be required to perform its services and make disbursements to the extent that, and so long as, payments received from assessments and maintenance fees, or other revenue, if any, of the Association are sufficient to pay the costs and expenses of such services and the amounts of such disbursements. If it shall appear to the Management Firm that the assessments, and other revenue, if any, of the Association and its members are insufficient, the Management Firm shall forthwith determine such additional assessments or as are required and advise the said Association and its members who shall be responsible for forthwith paying such assessments as are necessary so that the Management Firm may have sufficient funds to pay all common expenses.

9. It is specifically understood and agreed that the Management Firm shall perform all the services required of it hereunder at no cost or expense whatsoever to itself, but solely at the cost and expense of the Association and the members thereof. As compensation, fee and profit for its services hereunder, the Management Firm shall receive a net fee, free from all charges and expenses, equal to twelve (12%) percent of the total common expense assessments, such amount to be designated as the Management Fee, with one-twelfth (1/12) of the annual management fee to be paid by the Management Firm to itself monthly on the 1st day of each month. The Management Fee shall be taken into consideration in setting the common expense assessments. The Management Fee for each condominium unit shall commence as of the first day of the month following the date of recordation of a deed from the Developer to an initial purchaser (i.e. unit owner of the applicable unit). Prior to then there shall be no Management Fee. The Developer, however, shall not be required to pay any Management Fee to the Management Firm. The

Management Firm shall have the right, in the event sufficient funds are not available, to pay the Management Fee to itself before other common expenses are paid and without regard to whether or not sufficient funds remain to pay other common expenses.

10. The Association shall not interfere with, nor permit, nor allow, nor cause any of its officers, directors, or members to interfere with the Management Firm in its performance of its duties or the exercise of its powers or rights hereunder.

11. The Management Firm shall not be liable to the Association and/or its members for any loss or damage unless such loss or damage is caused by negligence or willful misconduct of the Management Firm or its agents who are employed directly as employees of it, and said Association and its members will, and do hereby agree to, indemnify and hold harmless and save harmless the Management Firm from any and all such liability for damages, costs and expenses arising from injury to any person, persons, or property in, about, or in connection with the Condominium property specified in the Declaration from any cause whatsoever unless such damages, costs and expenses shall be caused by negligence or willful misconduct by The Management Firm or its agents who are employed directly as employees of it.

12. The Management Firm shall be authorized to assess, on behalf of the Association, a unit owner for those items of special assessments as are set forth in the Declaration and in this Agreement - i.e. maintenance, repairs or replacements caused by the negligence or misuse by a unit owner, his family, servants, guests, invitees, or lessees; or failure of a unit owner to maintain those portions of his unit and the limited common elements assigned to his unit which he is required to repair and maintain, or for any additions or alterations made by a unit owner to his unit or any portion of the common elements or limited common elements in violation of the provisions of the Declaration and which require the removal of the same by the Management Firm and/or which increase the cost of maintenance and/or repair upon the Management Firm or increase the insurance rates and premiums, etc. The Management Firm is further

authorized to assess a unit owner for special assessments for guests, invitees or lessees of said unit owner, whether in residence in the unit or not, for their use of the facilities or for services, purchases, and/or rentals of equipment or otherwise, as to the facilities of the unit and/or the Condominium, including allied services and for any other special services agreed upon between the unit owner and the Management

13. All assessments made by the Management Firm under this agreement except special assessments, shall be deemed common expenses of the Association specified in the Declaration. The Association and its members further agree that during the term of this agreement, the number of units specified in the Declaration shall not be changed except as specified in said Declaration and for the time as so specified in said Declaration. The monthly assessments for common expenses during the term of this agreement shall be in such amounts as is solely determined by the Management Firm and may be altered or changed at any time upon the giving of thirty (30) days notice to the unit owners by the Management Firm, subject , however, to limitations set forth in the provisions of subsections (c) and (b) of Section 4 of Article VIII of the Association's By-Laws, the Association having hereby delegated and does hereby delegate said powers and rights to the Management Firm.

14. If maintenance of the Condominium property referred to in the Declaration, or any portion of said property, including any unit, units and/or the common elements, is required due to loss by Act of God or other cause, which is other than normal wear and tear, and which loss is less than "major damage," as defined in the Declaration, then in such event, unless it is determined in the manner provided in the Declaration that the Condominium shall be terminated, the Management Firm shall be authorized and empowered to determine, assess, charge and levy the costs of repairing and restoring such loss among the unit owners in such proportions as it deems advisable, pursuant to the Declaration, notwithstanding the fact that said loss or damage

15. The Association hereby delegates to the Management Firm the power to regulate vehicular parking of all manner and types of vehicles and the power to assign parking spaces within the Condominium property.

16. No waiver of a breach of any of the covenants, conditions or agreements contained in this agreement shall be construed to be a waiver of any succeeding breach of the same.

17. Time is of the essence in every particular and especially where the obligation to pay money is involved.

18. No modification, release, discharge or waiver of any provision hereof shall be of any force, effect or value unless in writing signed by the parties to this agreement - i.e., the Management Firm and the Association or their respective successors or assignees.

19. All covenants, promises, conditions, rights and obligations herein contained or implied by law are covenants running with the land described and submitted to unit ownership in the Declaration which is incorporated in this Agreement and made a part hereof at all places herein designated or required and the same shall be attached to and binding upon the Management Firm, its successors and assignees, and the Association, its successors and assignees, and the present and future owners of the Condominium and their heirs, personal representatives, successors and assignees.

20. This agreement, together with the Declaration of Condominium to which this agreement is attached and the Exhibits attached to said Declaration, constitute the entire agreement between the parties hereto as of the date of execution hereof and neither has been induced by the other by any representations, promises or understandings not expressed herein; and there are no collateral agreements, stipulations, promises or understandings whatsoever in any way relating to the subject matter of this agreement or the agreements referred to herein, which are not expressly contained therein.

21. The invalidity in whole or in part of any covenant, promise, sentence, clause, phrase or word, undertaking, right or obligation, or any section, subsection, or any provision of this

agreement or of the Declaration to which this agreement is attached and the Exhibits attached to said Declaration shall not affect the validity of the remaining portions thereof or hereof. The provisions of this agreement shall be paramount to the Act as to those provisions where permissive variances are permitted. Otherwise, the provisions of said Act shall prevail and shall be deemed incorporated herein.

22. The definitions of the words, terms and phrases, etc. as provided in Article I of the Declaration are incorporated herein by reference and made a part hereof unless the context otherwise requires and said definitions shall prevail.

23. The words "Association," "Member" and "Unit Owner" wherever and whenever used herein shall include the singular and plural thereof, and the use of any gender shall include all genders wherever the same shall be appropriate. The terms "condominium unit," or "units," and the owners thereof shall be defined pursuant to the Declaration.

24. When either party hereto, or any of the members of the Association, desires to or is required to give notice to the other or to others in connection with and according to the terms of this agreement, such notice shall be given to the Association, its members and the Management Firm as provided in the Declaration.

25. If the Association, its members, or its Board of Directors shall interfere with the Management Firm in the performance of its duties and exercise of its powers hereunder, or if said Association, its members, or its Board of Directors shall fail to do promptly any of the things required of it hereunder, the Management Firm, fifteen (15) days after having given written notice to said Association of said default by delivering said notice to any officer or agent of the Association, or in their absence, to the registered agent of said Association, may declare this agreement in default unless such default is cured by the Association within fifteen (15) days after receipt of such notice. Upon default, the Management Firm may, in addition to any other remedy given it by agreement or in law or equity, bring an action against the said Association

and/or its members for damages and/or specific performance and/or such other rights or remedies as it may have, and the said Association and its members shall be liable to the Management Firm for its reasonable attorney's fees and costs incurred thereby. All such rights of the Management Firm upon default shall be cumulative and the exercise of one or more remedies shall not be deemed to exclude or constitute a waiver of any other or additional remedy.

26. Failure of the Management Firm to substantially perform its duties and obligations under this agreement for a continuous period of forty-five (45) days after written notice of default from the Association specifying the default complained of, shall be grounds for cancellation of this agreement by the Association.

27. If the Condominium Project specified in the Declaration shall be terminated as is provided in the said Declaration, then each of the Condominium unit owners shall thereby become tenants in common and shall, each as to his separate interest, continue to be a party to this agreement and bound by the provisions hereof, and the Management Firm shall manage such interests pursuant to the provisions of this agreement as the nature of such interests and the context of this agreement shall permit.

28. The Management Firm shall not be liable or responsible to the Association, its Board of Directors, or members for its failure to carry out any rights, powers and duties of the Association or its Board of Directors granted under the By-Laws of the Association (other than those rights, powers and duties which have been transferred and granted unto the Management Firm by the Association, its members, and Board of Directors).

29. The Management Firm shall have the right, in its sole discretion, to suspend any unit owner and/or authorized user of the common areas or the Association's properties and facilities whether owned, leased or otherwise, from the use of such common areas, properties or facilities, in the event that such unit owner or authorized user violates any of the promulgated rules and regulations pertaining to the use of said common areas, properties or facilities, said suspension to be for a period not to exceed thirty (30) days, and, during said period of

suspension, there shall be no reduction of the assessments due and payable from said unit owner and/or authorized user.

30. Should a unit owner fail to pay an assessment within ten (10) days after its due date, the Management Firm shall have the right to deny to the unit owner and/or authorized user, the use and enjoyment of the common areas and the Association's properties or facilities, whether owned, leased or otherwise until such time as all assessments are paid.

31. The Management Firm shall have the right to and shall, limit use of the common areas and the Association's properties or facilities, whether owned, leased or otherwise, to the unit owners, their families, guests, lessees, invitees or licensees who are in residence in the Condominium units.

32. This agreement may not be altered or amended except in writing duly executed by the Association, its successors or assigns (or authorized agent thereof), the Management Firm, its successors, or assigns, and so long as the Developer maintains or retains any control over or ownership in the Condominium, by the Developer, its successors or assigns.

33. The Association, on behalf of its members, and the Management Firm, shall both have the right to assign this Agreement as herein set forth. The Association may assign its right, title and interest herein to another condominium association operating and existing under the laws of the State of North Carolina, and the Management Firm may, subject to the approval of the Board of Directors of the Association, which approval shall not be unreasonably withheld, assign its right, title and interest herein to another management firm operating and existing under the laws of the State of North Carolina or under the laws of any other state in the United States. However, said assignment shall not be valid unless and until the assignee thereunder expressly assumes and agrees in writing to perform each and every covenant and term of this agreement. Any such assignment agreement shall be duly recorded in the office of the Register of Deeds of Transylvania County, North Carolina, and an executed duplicate of any such assignment agreement shall be delivered to the other party to this agreement by certified mail

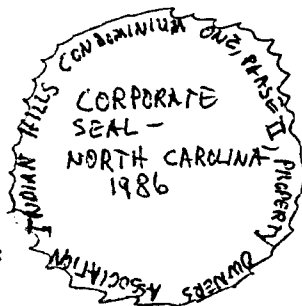
or its equivalent. The Management Firm may also, subject to the approval of the Board of Directors, which approval shall not be unreasonably withheld, sub-contract all or any portion of its duties and powers under this Management Agreement.

34. Any controversy or claim arising out of or relating to this agreement or the breach thereof, shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the Arbitrator(s) may be entered in either the District or Superior Court in Transylvania County, North Carolina. It is understood and agreed by each of the parties to this agreement that Transylvania County, North Carolina, will be the locale of all arbitration provided for under the terms of this agreement.

CONTINUED ON THE NEXT PAGE

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IN WITNESS WHEREOF, the parties have caused this agreement which consists of this page and the preceding 16 pages to be executed in their corporate names by their respective Presidents and their corporate seals to be hereto affixed and attested by their respective Secretaries, all by order of their respective Boards of Directors duly given, this the day and year first above written.

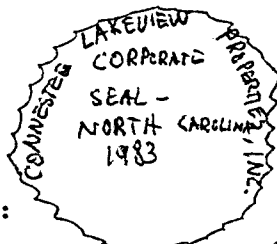


ATTEST:

Robert W. Fieckhafer
Asst. Secretary

INDIAN HILLS CONDOMINIUM ONE, PHASE II, PROPERTY OWNERS ASSOCIATION

By: W. Jackson
Vice President



ATTEST:

Robert W. Fieckhafer
Asst. Secretary

CONNESTEE LAKEVIEW PROPERTIES, INC.

By: W. Jackson
Vice President

EXHIBIT "F"
882 RULES AND REGULATIONS
OF
INDIAN HILLS CONDOMINIUM ONE, PHASE II, PROPERTY OWNERS
ASSOCIATION

* * * * *

1. The sidewalks, entrances and passages must not be obstructed or encumbered or used for any purpose other than ingress and egress to and from the premises.

2. No sign, advertisement, notice or other lettering shall be exhibited, inscribed, painted or affixed by a unit owner on any part of the outside of the condominium premises or building without the prior written consent of the Association.

3. No awnings or other projections shall be attached to the outside walls of the buildings and no blinds, shades or screens shall be attached to or hung in, or used in connection with, any window or door of the demised premises, without the prior written consent of the Association.

4. No baby carriages, velocipedes or bicycles shall be allowed to stand in the common areas of the condominium.

5. All garbage and refuse must be placed in containers with tops closed.

6. Servants and domestic help of the unit owners may not gather or lounge in the public areas of the buildings or grounds, except that such help serving as governess, nurse or baby-sitter, may accompany children to the recreation areas.

7. The Association may retain a pass key to the premises. No unit owner shall alter any lock or install a new lock or a knocker on any of the premises without the written consent of the Association or the Association's agent. In case such consent is given, the unit owner shall provide the Association with an additional key for the use of the Association pursuant to the right of access to the unit premises.

8. No unit owner shall allow anything whatever to fall from the windows or doors of the premises, nor sweep or throw from the premises any dirt or other substances into any of the other portions of the buildings or upon the grounds.

9. Nothing shall be hung from the windows, or balconies, or placed upon the window sills. Neither shall any linens, cloths, clothing, curtains, rugs or mops be shaken or hung from any of the windows or doors. No fire exits shall be obstructed in any manner. Clothes shall only be hung for drying in places designated by the Association.

10. No unit owner shall make or permit any disturbing noises in the building by himself, his family, servants, employees, agents, visitors and licensees, nor do or permit anything by such persons that will interfere with the rights, comforts, or convenience of other unit owners. No unit owner shall play upon, or suffer to be played upon, any musical instrument or operate or suffer to be operated a phonograph, television set or radio in his unit between the hours of eleven o'clock P.M. and the following eight o'clock A.M., if the same shall disturb or annoy other occupants of the building. No unit owner shall conduct or permit to be conducted, vocal or instrumental practice, nor give nor permit to be given vocal or instrumental instruction at any time.

11. No radio or television aerial shall be installed without the written consent of the Association. Any aerial erected on the roof or exterior walls of any building without the consent of the Association, in writing, is liable to removal without notice.

12. No pets other than those belonging to unit owners shall be allowed on the Condominium Property or in any Condominium Units.

13. No unit owner shall allow any insecticide or other pollutant to flow into any stream or lake adjoining the property, nor shall he block the flow of any stream or drainage area without the consent of the said Association.

14. No cleaning preparation or cooking of food shall be conducted on any common or limited common elements or on any deck, porch, doorway, window sill or hallway, it being the intent of this regulation to prohibit all cleaning, preparation or cooking of food on the Condominium Property outside of the exterior walls of the Condominium Units.