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Prepared by: Donald E. Jordan  
Attorney

**DECLARATION OF UNIT OWNERSHIP  
PATTERSON PROFESSIONAL BUILDING  
A CONDOMINIUM**

By this Declaration Timothy T. Dillen (the Developer), submits to condominium ownership the Property described below pursuant to Chapter 47C of the General Statutes of North Carolina, known as the "North Carolina Condominium Act", and subjects the Property to the following Declaration.

**ARTICLE 1 - SUBMISSION OF CONDOMINIUM OWNERSHIP**

The purpose of this Declaration is to submit the Property and the improvements as actually constructed to the condominium form of ownership and use in the manner provided by the North Carolina Condominium Act, Chapter 47C of the General Statutes of North Carolina.

(a) The name by which this Condominium is to be identified is Patterson Professional Building, a Condominium (the "Condominium"),:

(b) The land owned by the Developer which is submitted to the Condominium form of ownership is described as follows:

All of the real property and improvements as were acquired by Timothy T. Dillen in the Deed recorded in Book 443, Page 471, located at 15 and 17 Main Street in Brevard, North Carolina, and as is shown on the Plat recorded in Plat File 8, Slide 32, in the records of Plats at the office of the Register of Deeds for Transylvania County. The property benefits from and is subject to the easements and agreements referenced in the Deed to Dillen.

**ARTICLE 2 - DEFINITIONS**

The terms used in this Declaration shall have the meanings stated in the North Carolina Condominium Act and as follows:

- (a) "Association" means Patterson Professional Building Owners Association.
- (b) "Buildings" means the two buildings erected on the Property, containing the five Units.
- (c) "Common Areas" means everything not a Unit, and includes the following:
  - 1. The land on which the Buildings stand and such other land and improvements included in the Declaration, except any portion included in a Unit;
  - 2. The foundation, columns, girders, beams, supports, main walls, roofs, halls, corridors, stairways, parking lot, and entrances and exits of the Buildings.
  - 3. Installations of central services such as power, lights, gas, hot and cold water, and sewer lines (heating and cooling equipment may be located in common areas subject to approval by the Association, but

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shall be owned and maintained by the individual Unit Owners);

4. Commonly used utility connections, and any mechanical installations existing for common use;
5. Such community facilities as may be provided for in this Declaration; and;
6. All other parts of the Property necessary or convenient to its existence, maintenance and safety, or normally in common use.

(d) "Common expenses" means:

1. All sums lawfully assessed against the Unit Owners by the Association of Unit Owners;
2. Expenses of administration, maintenance, repair or replacement of the common areas and facilities;
3. Expenses agreed upon as common expenses by the Association of Unit Owners.
4. Expenses declared common expenses by the provisions of Chapter 47C of the General Statutes of North Carolina, or by the Declaration or by the By-laws;
5. Hazard insurance premiums.

(e) "Common Profits" means the balance of all income, rents, profits, and revenues from the common areas and facilities remaining after the deductions of the common expenses.

(f) "Condominium" means the ownership of single Units in the Buildings, with ownership of an undivided interest in the common areas and facilities.

(g) "Declaration" means this instrument, by which the Property is submitted to the provisions of Chapter 47C of the General Statutes of North Carolina and as the Declaration may be amended.

(h) "Limited common areas and facilities" means those common areas and facilities which are agreed upon by all the Unit Owners to be reserved for the use of a certain number of Units to the exclusion of the other Units, such as assigned parking spaces.

(i) "Majority" or "Majority of Unit Owners" means the Owners of at least three units.

(j) "Person" means individual, corporation, partnership, association, trustees, or other legal entity.

(k) "Property" means and includes the land, the buildings, and all improvements, and all articles of personal property intended for use in connection with the Property which have been submitted to the provisions of Chapter 47C of the General Statutes of North Carolina.

(l) "Unit" or "Condominium Unit" means an enclosed space consisting of one or more rooms occupying all of one floor in a Building, and shall include such accessory spaces and areas as may be described in the Declaration.

(m) "Unit Designation" means the number designating the Unit in the Condominium.

(n) "Unit Owner" means a person, corporation, partnership, association, trust or other legal entity who owns a Unit within a Building.

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### ARTICLE 3 - DEVELOPMENT PLANS

The Condominium has been developed according to the following plans:

(a) A survey of the Property was recorded in Plat File 8, Slides 948 and 949, record of Plats for Transylvania County, showing the dimensions of each floor in each of the Buildings.

The Condominium includes two adjoining and connected buildings, now known as 15 and 17 West Main Street, and as are shown in detail on the referenced Plat. The buildings and Units are described as follows:

15 West Main Street is a two story building, containing Units 1 and 2 in the Condominium. The second story unit, Unit 2, has use of less space than Unit 1 on the ground floor as a result of the permitted encroachment of Unit 1 into an adjoining property, as is described in the Agreement recorded in Book 443, Page 468. Unit 2 has a floor elevation of 2,239.35 feet and measures 44.55 feet by 75.77 feet. The floor elevation of Unit 1 is 2,224.39 feet, and its dimensions are 44.55 feet by 73.42 feet, not including the additional 20.80 feet at the south end included in the encroachment.

17 West Main Street is a two story building with a basement. Unit 5 is the basement Unit, Unit 3 is located on the ground floor, and Unit 4 is on the second floor. All three units have dimensions of 38.18 feet by 73.23 feet. Unit 3 has a floor elevation at 2,222.59 feet, Unit 4 has a floor elevation of 2,236.26 feet, and Unit 5 has a floor elevation of 2,213.97 feet.

(b) The two designated parking spaces shown on the Plat to the south of the Chamber of Commerce Building shall be limited common elements for the exclusive use of Unit 4. To the extent possible, individual heating and electrical systems and meters will be provided for each Unit and other facilities, as well as individually metered water taps. Any common utilities will be divided between the Unit owners in an equitable manner.

(c) The general common areas consist of the land containing the buildings, all parking lots, and other common areas as shown on the survey and plans of the Condominium and such other applicable items as are defined in this Declaration. Each Unit Owner has a 1/5 proportionate interest in the Common Areas.

(d) Easements are available through the Condominium Property as may be required for utility service, including the location of electrical panels or meters, and the running of electric, gas, water, sewer, telephone, and other utility services.

### ARTICLE 4 - UNIT BOUNDARIES

Each Unit shall include that part of the Building containing the Unit which lies within the boundaries of the Unit, which boundaries shall be determined in the following manner;

(a) The upper boundary shall be the plane of the lower surfaces of the finished ceiling, excluding paint.

(b) The lower boundary shall be the plane of the lower surfaces of the floor systems, including the floor joists, but excluding carpet or other floor coverings.

(c) The vertical boundaries of the Unit shall be the plane of the interior surface of the plaster or sheetrock walls, excluding paint or other wall coverings.

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#### ARTICLE 5 - SHARES OF COMMON ELEMENTS AND EXPENSES

Each Unit Owner shall own a 1/5 (20%) share in the common elements and in any surplus possessed by the Association, and be liable for common expenses in the same proportion.

#### ARTICLE 6 - MAINTENANCE AND ALTERATION OF UNITS

- (a) The Association shall maintain, repair and replace all portions of a Unit contributing to the support of the Condominium buildings, which portions may include load bearing walls. All incidental damage caused to a Unit by such work shall be promptly repaired at the expense of the Association.
- (b) The responsibility of the Unit Owner shall be:
- (1) To maintain, repair, and replace at the Owner's expense all portions of the Unit except the portions to be maintained, repaired and replaced by the Association;
  - (2) Not to paint or otherwise decorate or change the appearance of any portion of the exterior of the Condominium building.
  - (3) To promptly report to the Association any defect or need for repairs the responsibility for which is that of the Association.
- (c) Neither a Unit Owner nor the Association shall make any alteration in the portions of a Unit or Building which are to be maintained by the Association, without first obtaining approval in writing of owners of all Units in which such work is to be done and the approval of the Board of Directors of the Association.

#### ARTICLE 7 - MAINTENANCE AND ALTERATION OF COMMON ELEMENTS

- (a) The maintenance and operation of the common areas and facilities, both general and limited, shall be the responsibility and the expense of the Association, which shall have the right to employ a management agent.
- (b) There shall be no alteration or further improvement of the real property constituting the common elements without prior approval in writing by the owners of all Units.

#### ARTICLE 8 - ASSESSMENTS

- (a) General assessments against Unit Owners for common expenses shall be made pursuant to the By-laws and shall be allocated 1/5 to each Unit. In addition, a special assessment shall be made against Units for expenses associated with the roof or stairwells. Roof expenses for the building at 15 West Main shall be allocated one-half each to Units 1 and 2; and roof expenses for the building at 17 West Main shall be allocated one-third each to Units 3, 4 and 5. Expenses for maintenance or repair of the stairwell leading to the second floor shall be allocated one-half each to Units 2 and 4.
- (b) Assessments paid on or before ten days after the date when due shall not bear interest, but all sums not paid on or before ten days after the date when due shall bear interest at the rate of 1 ½ percent per month or any portion of a month from the date when due until paid. All payments

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upon account shall be first applied to interest and then to the assessment payment first due.

(c) The lien for unpaid assessments provided by North Carolina law shall also secure reasonable attorney's fees incurred by the Association incident to the collection of such assessment or enforcement of such lien, not limited to any percentage of the amounts due.

#### ARTICLE 9 - THE ASSOCIATION

The operation of the Condominium shall be by Patterson Professional Building Association, a non-profit corporation under the laws of North Carolina, which shall fulfill its function pursuant to the following provisions:

- (a) The members of the Association shall be the Unit Owners.
- (b) The Association shall be incorporated under Articles of Incorporation filed with the North Carolina Secretary of State.
- (c) 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 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 persons.
- (d) The share of a member in the funds and assets of the Association cannot be assigned or transferred in any manner except as an appurtenance to a Unit.

#### ARTICLE 10 - INSURANCE

The Association shall obtain and maintain at all times for the benefit of the Association and the owners and their mortgagees insurance of the types and kinds and in at least the amounts required in N.C.G.S. Section 47C-3-113, and such other insurance as the Board of Directors shall determine to be desirable. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a common expense.

#### ARTICLE 11 - DISTRIBUTION OF INSURANCE PROCEEDS

- (a) An undivided share of insurance proceeds on account of damage to common elements shall be allocated to the Unit Owners according to their 1/5 share of the common elements. Proceeds on account of Units shall be held 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. In the event a mortgagee endorsement has been issued 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.
- (b) Proceeds of insurance received by the Association shall be distributed as follows:
  - 1. If the damage for which the proceeds are paid is to be repaired or reconstructed, any proceeds remaining after defraying such costs shall be distributed to the beneficial owners, with 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.

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2. If it is determined 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 of the damaged or destroyed building or buildings, with 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.

**ARTICLE 12 - WHEN DAMAGED PROPERTY IS TO BE RECONSTRUCTED OR REPAIRED.**

(a) If common elements are damaged, they shall be reconstructed or repaired, unless it is determined by the Association that the Condominium shall be terminated.

(b) Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original buildings, or if not, then according to plans and specifications approved by the Board of Directors of the Association.

(c) If the Association determines that a damaged building will not be reconstructed or repaired, the Condominium will be terminated as to the damaged building. Then and in that event:

1. The damaged or destroyed building and that portion of the land and common elements allocated to it shall be deemed to be owned as tenants in common by the Unit Owners of said building.
2. No mortgagee shall have any right to participate in the determination as to whether damaged property shall be reconstructed or repaired.

**ARTICLE 13 - RESPONSIBILITIES AND PROCEDURES AS TO PAYMENT FOR REPAIRS**

(a) If damage occurs to those parts of a Unit for which the responsibility of maintenance and repair is that of the Unit Owner, then the Unit Owner shall be responsible for reconstruction and repair after casualty. In all other instances the responsibility of reconstruction and repair after casualty shall be that of the Association.

(b) Immediately after the casualty damage to property for which the Association has the responsibility of maintenance and repair, the Association shall obtain estimates of the cost to rebuild or repair so as to place the damaged property in condition as good as that before the casualty.

(c) If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Association, assessments shall be made against the Unit Owners directly affected in the case of damage to common elements in sufficient amounts to provide funds to pay the estimated costs. Additional assessments may be made at any time during, or following the completion of construction. Such assessments against Unit Owners for damage to Units shall be in proportion to the cost of reconstruction and repair 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.

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#### ARTICLE 14 - USE RESTRICTIONS

The use of Condominium property shall be in accordance with the following provisions:

(a) The common elements shall be used only for the purposes for which they are intended in the furnishing of services and facilities for the enjoyment of the Units.

(b) No use or practice shall be permitted on the Condominium property which is the source of annoyance to others in the Buildings or which interferes with the peaceful possession and proper use of the Property. All parts of the Property shall be kept in a clean and sanitary condition, and no rubbish, refuse, or garbage allowed to accumulate nor any fire hazard allowed to exist. No Unit Owner shall permit any use of a Unit or of the common elements which will increase the rate of insurance upon the Condominium property or any part thereof. All valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction shall be observed. The responsibility of meeting the requirements of governmental bodies which require maintenance, modification, or repair of the Condominium property shall be the same as the responsibility for the maintenance and repair of the property concerned.

(c) No portion of the Condominium may be used for residential use. By accepting a Deed to a Unit, a purchaser waives any requirement for a Public Offering Statement under Article 4 of the Condominium Act.

#### ARTICLE 15 - COMPLIANCE AND DEFAULT

(a) Each Unit Owner shall be governed by and shall comply with the terms of this Declaration, by the Articles of Incorporation, By-laws and Regulations. A default shall entitle the Association or other Unit Owners to the relief described in sub-paragraph (b) of this Article, in addition to the remedies provided by the Unit Ownership Act.

(b) A Unit Owner shall be liable for the expense of any maintenance, repair, or replacement rendered necessary by the Owner's act, neglect, or carelessness or by that of any lessees, but only to the extent that such expenses are not met by the proceeds of insurance carried by the Association. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy, or abandonment of a Unit or its appurtenances. In any proceeding arising because of an alleged default by a Unit Owner, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorney's fees as may be awarded by the Court.

#### ARTICLE 16 - AMENDMENTS

This Declaration may be amended in the following manner:

(a) Notice of the subject matter for a proposed amendment shall be included in the notice of any meeting of which a proposed amendment is considered.

(b) A resolution adopting a proposed amendment may be proposed by either the Board of Directors of the Association or by the members of the Association. Directors and members not present in person or by proxy at the meetings considering the amendment may express their approval in writing, as provided in the North Carolina Non-Profit Corporation Act. Except as elsewhere

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provided, such approvals must be by not less than four-fifths of the Unit Owners . An amendment which alters the boundaries of the common elements shall be approved only by the unanimous consent of all Unit Owners.

(c) No amendment shall discriminate against any Unit Owner or against any Unit or class or group of Units unless the Unit Owners so affected shall consent. No amendment shall change any Unit nor the share in the common elements appurtenant to it nor increase the Owner's share of the common expenses, unless the record Owner of the Unit and all record Owners of liens thereon shall *join in the execution of the amendment.*

(d) A copy of each amendment shall be certified by the President and Secretary of the Association as *having been duly adopted and shall be effective when recorded* in the Office of the Register of Deeds for Transylvania County, North Carolina.

#### ARTICLE 17 - TERMINATION

The Condominium may be terminated in the following manner in addition to the manner provided by the Unit Ownership Act.

(a) In the event that it is determined that a damaged or destroyed Condominium building shall not be reconstructed because of major damage, the Condominium plan of ownership will be terminated as to that building without agreement.

(b) The Condominium may be terminated at any time by the approval in writing of all of the Owners of the Condominium and by all record Owners of liens thereon.

(c) The termination of the Condominium shall be evidenced by a certificate of the Association executed by the President and Secretary certifying as to the facts effecting the termination, which certificate shall become effective upon being recorded in the Office of the Register of Deeds for Transylvania County, North Carolina.

(f) *After termination of the Condominium the Unit Owners shall own the Condominium property and all assets of the Association as tenants in common in undivided shares, and their respective mortgagees and lienors shall have mortgages and liens upon the respective undivided shares of the Unit Owners. Such undivided shares of the Unit Owners shall be the same as the undivided shares in the common elements appurtenant to the Owners' Units prior to the termination.*

#### ARTICLE 18 - SEVERABILITY

The invalidity in whole or in part of any covenant or restriction, or any section, sub-section sentence, clause, phrase or word, or other provision of this Declaration and the Articles of Incorporation, By-laws of the Association shall not affect the validity of the remaining portions.

IN WITNESS WHEREOF, the Developer has executed this Declaration this the 5 day of October, 2000.

 [seal]  
Timothy T. Dillen

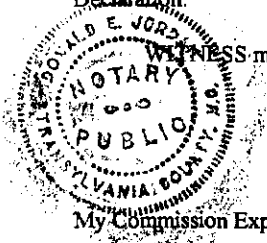


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STATE OF NORTH CAROLINA  
COUNTY OF TRANSYLVANIA

I, Donald E. Jordan, a Notary Public of said State and County, do hereby certify that Timothy T. Dillen personally came before me this day and acknowledged execution of this Declaration

WITNESS my hand and notarial seal this the 5 day of October, 2000.



[Signature]  
Notary Public

My Commission Expires: August 30, 2004

STATE OF NORTH CAROLINA  
COUNTY OF TRANSYLVANIA

The foregoing certificate of Donald E. Jordan, a Notary Public, is certified to be correct. This instrument was presented for registration and recorded in this office in Declaration of Condominium Book 7, Page 116.

This the 5 day of October, 2000, at 2:20 PM.

Vickie A. Edwards  
Register of Deeds.

By: Cindy M. Dunkley, Asst.