

EXHIBIT "B"
DECLARATION

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**DECLARATION OF CONDOMINIUM
FOR
THE RATCLIFFE**

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STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

DECLARATION OF CONDOMINIUM
FOR THE RATCLIFFE

This Declaration of Condominium (this "Declaration") is made this 15th day of April, 2002, by **THE RATCLIFFE, LLC**, a North Carolina limited liability company ("Declarant"), pursuant to the provisions of Chapter 47C of the North Carolina General Statutes, entitled the "North Carolina Condominium Act."

STATEMENT OF PURPOSE

Declarant is the owner of certain real property consisting of fee simple ownership of certain air rights, together with perpetual support and other easements ("Real Property") over a parcel of land containing a total of approximately 0.6477 acres located within the 400 block of South Tryon Street, in Charlotte, Mecklenburg County, North Carolina, such Real Property being more particularly described on Exhibit A attached hereto. Declarant has constructed on the Real Property one (1) building (the "Condominium Building"), containing a total of fifty-seven (57) residential condominium units. Declarant has also constructed, amenities on the Real Property such as common corridors, trash receptacles and other improvements. Declarant desires to submit the Real Property, the Condominium Building and any other improvements located on the Real Property (collectively, the "Property") to the terms and provisions of the North Carolina Condominium Act and this Declaration.

In addition, Declarant has deemed it desirable to create a nonprofit, incorporated owners' association which will be delegated and assigned powers of maintaining and administering the common areas and facilities within the Property, of administering and enforcing the covenants and restrictions created in this Declaration, and of levying, collecting and disbursing the assessments and charges created in this Declaration, and of taking any steps or performing any acts deemed necessary or appropriate to preserve the value of the condominium units within the Property and to promote the recreation, health, safety and welfare of the unit owners. In order to accomplish the foregoing, Declarant is entering into this Declaration.

NOW, THEREFORE, Declarant hereby declares that all of the Property shall be held, transferred, sold, conveyed, occupied and used subject to the following covenants, conditions, easements, uses, limitations, obligations, and restrictions, all of which are declared and agreed to be in furtherance of a plan for the division of the Property into condominium units, and shall be deemed to run with the land to both burden and benefit Declarant, its successors and assigns, and any person or entity acquiring or owning any interest in the Property and their successors, heirs and assigns.

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ARTICLE I
DEFINITIONS

Unless it is plainly evident from the context that a different meaning is intended, the following terms, words, and phrases shall have the following meanings when used in this Declaration:

Section 1.1 "Association" shall mean and refer to The Ratcliffe Condominium Owners Association, Inc., a corporation organized and existing under the North Carolina Non-Profit Corporation Act pursuant to and in accordance with this Declaration, the Bylaws, and the North Carolina Condominium Act.

Section 1.2 "Building" shall mean and refer to the ten story building located upon the top level of the Parking Facility, in which the ground floor and first floor are anticipated to be used for retail uses, the second floor is anticipated to be used for office use and the third through tenth floors comprise the Condominium Building and will be used for residential purposes.

Section 1.3 "Bylaws" shall mean and refer to the bylaws of the Association, a copy of which is attached hereto as Exhibit C, and all amendments to such bylaws which may from time to time be adopted.

Section 1.4 "Common Elements" shall mean and refer to all portions of the Property other than the Units, as depicted on the Plans, and as more particularly described in Section 5.1 of this Declaration, including, without limitation, any easement rights appurtenant to the Property pursuant to the ROA.

Section 1.5 "Common Elements Interest" shall mean and refer to the undivided percentage interest in the Common Elements allocated to each Unit, as set forth on Exhibit B attached hereto. The Common Elements Interest shall be used to allocate the division of proceeds, if any, resulting from any casualty loss or eminent domain proceedings and, each Unit's share of Common Expenses, but shall not be used to determine voting rights in the Association which shall be allocated equally among all Units.

Section 1.6 "Common Expenses" shall mean and refer to any and all expenditures made by or financial liabilities of the Association, together with any allocations to reserves, pursuant to and in accordance with this Declaration, the Bylaws, and the North Carolina Condominium Act.

Section 1.7 "Condominium" shall mean and refer to The Ratcliffe, as established by the submission of the Property to the terms of the North Carolina Condominium Act by this Declaration.

Section 1.8 "Condominium Building" shall mean and refer to floors three through ten of the Building which shall be constructed wholly within the air rights constituting a portion of the Real Property which contains a total of fifty-seven (57) Units, and such other Units as may be

created by Declarant by subdivision of Units in accordance with Declarant's development right set forth in Section 6.1(f) below, together with certain Common Elements as described in the Plans.

Section 1.9 "Condominium Documents" shall mean and refer to this Declaration, the Articles of Incorporation of the Association, the Bylaws, and the rules and regulations governing the use of the Condominium, as the foregoing may be amended and supplemented from time to time, and all attachments and exhibits thereto.

Section 1.10 "Condominium Parking Facility" shall refer to those portions of the Parking Facility that will be available exclusively to Declarant, Owners and their permittees, as described in Section 3.1 of this Declaration.

Section 1.11 "Declarant" shall mean and refer to The Ratcliffe, LLC, a North Carolina limited liability company. Following recordation of a document transferring to another person or entity all or some of the Special Declarant Rights, pursuant to Section 6.2 of this Declaration, the term "Declarant" also shall mean and refer to that transferee.

Section 1.12 "Declarant Control Period" shall mean and refer to the period commencing on the date hereof and continuing until the earlier of (i) one hundred twenty (120) days after conveyance of seventy-five percent (75%) of the Units to an Owner other than Declarant; (ii) two (2) years after Declarant ceases to offer Units for sale in the ordinary course of business; or (iii) the date upon which Declarant voluntarily surrenders control of the Condominium to the Association.

Section 1.13 "Declaration" shall mean and refer to this Declaration of Condominium, as it may be amended from time to time in the future.

Section 1.14 "Executive Board" or "Board" shall mean and refer to the governing body from time to time of the Association as constituted in accordance with the Articles of Incorporation of the Association, the Bylaws and the North Carolina Condominium Act.

Section 1.15 "Land" shall mean and refer to that certain real property constituting approximately 1.9802 acres located within the 400 block of South Tryon Street, Charlotte, North Carolina and as more particularly described in Exhibit D attached hereto, on which the Parking Facility and the Building will be constructed.

Section 1.16 "Limited Common Elements" shall mean and refer to those portions of the Common Elements allocated by this Declaration, or the terms of N.C. Gen. Stat. §47C-2-102(2) or (4), for the exclusive use and benefit of one or more, but fewer than all, of the Units, to the exclusion of all other Units, as more fully described in Section 5.2 of this Declaration, and as depicted on the Plans.

Section 1.17 "Mortgage" shall mean and refer to a mortgage or deed of trust constituting a first lien on a Unit.

Section 1.18 "Mortgagee" shall mean and refer to the owner and holder of a Mortgage that has notified the Association in writing of its name and address, and that it holds a Mortgage on a Unit. Such notice will be deemed to include a request that the Mortgagee be given the notices and other rights described in Article XVI.

Section 1.19 "North Carolina Condominium Act" shall mean and refer to Chapter 47C of the North Carolina General Statutes.

Section 1.20 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Unit but shall exclude those persons or entities having an interest in any Unit as merely security for the payment or performance of an obligation.

Section 1.21 "Parking Facility" shall refer to the five (5) level underground parking garage to be constructed under the Building, a portion of which (the Condominium Parking Facility) is reserved for the exclusive use of the Owners and their permittees, and the remainder of which is anticipated, but not required, to be open to the general public by a combination of monthly rental and first-come, first served basis.

Section 1.22 "Plans" shall mean and refer collectively to the surveys, plans and specifications of the Condominium Building and Property prepared by R. B. Pharr & Associates, P.A. and Fischero McGuire Krueger Architects, P.A. and recorded under the name of the Condominium in the Unit Ownership File under the file number stamped or written on the first page of this Declaration in the Office of the Register of Deeds of Mecklenburg County. The Plans are hereby incorporated herein by reference as if the same were attached to this Declaration.

Section 1.23 "Property" shall mean and refer to the Real Property, the Condominium Building and all other improvements and structures located on or within the Real Property; and all easements, rights and appurtenances belonging or appertaining to the Real Property.

Section 1.24 "Real Property" shall mean and refer to the real property subject to this Declaration, which includes fee ownership in air rights together with perpetual support and other easements, exclusive of any improvements located thereon or incorporated therein (except to the extent that, with regard to appurtenant easements, such easements relate specifically to identified improvements), all of which are more particularly described on Exhibit A attached hereto.

Section 1.25 "Reciprocal Operating Agreement" or "ROA" shall mean that certain Reciprocal Operating Agreement recorded in Book 13492 at Page 044 of the Mecklenburg County Public Registry by and between the Declarant, the owner of the Land and the owner of those portions of the remainder of the Building not owned by Declarant, for the purposes of providing certain rights and responsibilities governing use by the Declarant and the owner of the Land and the commercial improvements, and their successors and permittees, of the subgrade support, access, parking and other easements established in and created by that certain Deed of the Real Property to Declarant recorded in Book 13492 at Page 001 of the Mecklenburg County Public Registry. Among other things, the ROA governs the construction and use of the Parking Facility and other common areas within the commercial portions of the Building.

References in this Agreement to the Reciprocal Operating Agreement or the ROA shall be deemed to refer to such Reciprocal Operating Agreement as well as to any easements or restrictions created by the above described deed and which are appurtenant to or burden the Real Property.

Section 1.26 "Special Declarant Rights" shall mean the rights reserved for the benefit of Declarant in the Condominium Documents, as more particularly described in Article VI of this Declaration.

Section 1.27 "Unit" shall mean and refer to a portion of the Property, as more particularly described in Article IV of this Declaration, that is the subject of individual ownership by an Owner.

In addition, the definitions set forth in N.C. Gen. Stat. §47C-1-103 are incorporated in this Declaration by reference, and the terms defined therein shall have the meanings set forth therein when used in this Declaration or the Condominium Documents, unless those terms are expressly defined otherwise in this Declaration or unless it is plainly evident from the context that a different meaning is intended.

ARTICLE II DESIGNATION OF CONDOMINIUM

Section 2.1 Location and Designation. The Real Property within which the Condominium Building and other improvements are located is located entirely in Mecklenburg County, North Carolina, and is more particularly described on Exhibit A attached hereto and incorporated herein by reference. The Property is subjected to the terms of the North Carolina Condominium Act by this Declaration.

Section 2.2 Name. The name of the Condominium is The Ratcliffe.

ARTICLE III DESCRIPTION OF BUILDING AND CONDOMINIUM BUILDING

Section 3.1 Building and Condominium. The existing Building is a ten (10) story post-tension concrete building, with brick veneer and Exterior Insulation and Finish System exterior. The first three levels of the Building, including the ground floor, first floor and second floor, are anticipated to be used for commercial purposes, including offices and retail and will not be included as a part of the Condominium (except for easement rights for support and access through such areas). Only those portions of the Building which are constructed within the air rights comprising a portion of the Real Property and consisting of floors three through ten of the Building, and appurtenant easements associated therewith, are subject to the terms of this Declaration. The first floor of the Building will contain an exclusive elevator lobby, with secured entry, providing access to the Condominium and the Condominium Parking Facility. The Condominium Building contains fifty-seven (57) Units, accessible by way of the exclusive elevator

lobby, and internal corridors on each floor. The Units are divided into one story flats and two story residence and penthouse units. The first two floors of the Condominium Building (floors three and four of the Building) will consist of two story residence Units. The top two floors of the Condominium Building (floors nine and ten of the Building) will consist of two story penthouse Units. The remaining floors will consist of single story flats. Some Units will have allocated to them, a storage closet as a Limited Common Element as set forth in the Plans. The Building, which includes the Condominium Building, is constructed on top of a five (5) level underground parking garage ("Parking Facility") within which is located the Condominium Parking Facility. The Condominium Parking Facility contains at least one parking space per Unit as well as storage closets, as shown on the Plans. The parking spaces and storage closets in the Parking Facility will be allocated to Units as Limited Common Elements by reference to such parking space or storage closet in the initial deed of a unit from the Declarant, or in a subsequent deed from the Declarant to an Owner. Vehicular ingress and egress to the Condominium Parking Facility is through the remainder of the Parking Facility and by means of a non-exclusive easement for the benefit of Declarant and Owners (in common with the retail and officer users). The remaining portion of the Parking Facility is also available to Declarant and Owners on a non-exclusive basis for parking, subject to the terms of the ROA. The Condominium Building and Condominium Parking Facility are more particularly described in the Plans, which show all particulars of the same. The Plans contain a certification by C. Clark Neilson, a North Carolina Registered Land Surveyor, and Mark A. Fishero, a North Carolina Licensed Architect, that the Plans contain all the information required by N.C. Gen. Stat. §47C-2-109.

Section 3.2 Location of Condominium Building and Condominium Parking Facility. The location and dimensions of the Condominium Building, the exclusive elevator lobby on the first floor of the Building and the Condominium Parking Facility are shown on the Plans.

ARTICLE IV DESCRIPTION OF UNITS

Section 4.1 Units. The location of existing Units within the Condominium Building and their dimensions are shown on the Plans. There are a total of fifty-seven (57) Units in the Condominium Building. The identifying number for each Unit is set forth on Exhibit B and on the Plans. Pursuant to Article VI of this Declaration, Declarant reserves a development right to subdivide existing Units so that the maximum number of Units that may be created is sixty-three (63). If Declarant exercises its development right to subdivide Units and create additional Units and Limited Common Elements, the Supplementary Declaration required by Section 6.3 of this Declaration shall contain a new Exhibit B and revised set of Plans, which shall contain new identifying numbers of the Units thereby created.

Section 4.2 Unit Boundaries. The boundaries of each Unit are as follows:

(a) Upper Boundary: The horizontal plane of the top surface of the wallboard in the ceilings within the Unit. As depicted on the Plans, the ceilings in certain portions of

the Unit may be at different elevations; in such cases, the upper boundary of such Unit shall not be a single horizontal plane, but shall vary with the differing finished ceiling elevations within different portions of the Unit.

(b) Lower Boundary: The horizontal plane of the top surface of the subflooring or concrete slab within each Unit. For those Units containing two levels connected by an interior stairway, the definitions of upper and lower boundaries set forth herein apply with respect to each level within the Unit, the horizontal structural elements dividing the levels of a given Unit are part of the Common Elements.

(c) Vertical Boundaries: The vertical planes which include the back surface of the wallboard of all walls bounding the Unit, extended to intersections with each other, and with the upper and lower boundaries.

As provided in N.C. Gen. Stat. §47C-2-102(1), all lath, flooring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished surfaces of the perimeter walls, floors, and ceilings are part of the Unit. Furthermore, all interior walls (except load bearing walls), partitions, fixtures, appliances, cabinets and other facilities or improvements lying completely within the boundaries of a Unit shall be a part of such Unit. As provided in N.C. Gen. Stat. §47C-2-102(2), if any chute, flue, duct, wire, pipe for water or sewer, conduit, load bearing wall, load bearing column, or any other fixture lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving only that Unit shall be a Limited Common Element allocated to that Unit, as provided in Section 5.2 below, and any portion thereof serving more than one Unit, or any portion of the Common Elements, shall be a Common Element. Furthermore, any wall that separates a Unit from a storage closet which is a Limited Common Element of that Unit shall be deemed a Limited Common Element of such Unit.

ARTICLE V COMMON ELEMENTS

Section 5.1 Common Elements. The Common Elements include all portions of the Condominium that are not part of the Units, including without limitation:

- (a) The Real Property.
- (b) All improvements located within the Real Property outside of the Units, including without limitation the Limited Common Elements described in Section 5.2 below, as well as the interior stairwells and interior corridors within the Condominium Building.
- (d) The foundations, roofs, columns, girders, beams, supports, exterior and interior load-bearing walls, floors within and between Units, and all other structural elements of the Condominium Building.

(e) Any public connections and facilities for utility services serving the Condominium Building and located within the Real Property that are not owned by the public utility or municipal agency providing such services, until owned or maintained by the public utility or municipal agency providing such service.

(f) All tangible personal property required for the operation and maintenance of the Condominium that may be owned by the Association.

(g) The appurtenant easement areas (including without limitation the Condominium Parking Facility and exclusive elevator lobby) described as a part of the Real Property for use by the Owners and their guests and invitees, in accordance with the ROA.

Section 5.2 Limited Common Elements. The Limited Common Elements shall be composed of the following:

(a) Those portions of any chute, flue, duct, wire, pipe for water or sewer, conduit, bearing wall, bearing column, or any other fixture lying partially within and partially outside the designated boundaries of a Unit, but serving exclusively that Unit, which shall be Limited Common Elements allocated exclusively to that Unit.

(b) Any shutters, awnings, window boxes, non-structural components of balconies and terraces and all exterior doors and windows or other fixtures designed to serve a single Unit, but located outside that Unit's boundaries, which shall be Limited Common Elements allocated exclusively to that Unit.

(c) Any portions of the heating, ventilating, and air conditioning systems, including fans, compressors, return air grills and thermostats, whether located inside or located outside the designated boundaries of a Unit, which shall be Limited Common Elements allocated exclusively to the Unit or Units that they serve.

(d) At least one (1) parking space located in the Condominium Parking Facility shall be allocated to each Unit as a Limited Common Element of that Unit. In addition, some Units shall be allocated a storage closet located on the floor of the Condominium Building on which the Unit is located, or in the Condominium Parking Facility which shall be a Limited Common Element of such Unit, all as identified on the Plans and as allocated in the initial deed from Declarant to Unit Owner.

The cleanliness and orderliness of the Limited Common Elements (excluding the Condominium Parking Facility) shall be the responsibility of the individual Owner having the right to the use and enjoyment of such Limited Common Elements. Notwithstanding any other provisions of this Declaration, or any provision of the Bylaws or the North Carolina

Condominium Act, the obligation for maintenance, repair, or replacement of any portions of the heating, ventilating, and air conditioning systems that are Limited Common Elements shall be the sole responsibility of the Owners of the Units to which such Limited Common Elements are allocated. References in this Declaration to "Common Elements" shall include Limited Common Elements unless the context clearly indicates otherwise. The allocation of use of Limited Common Elements to the Units as provided for in this Declaration shall not be altered without the unanimous consent of the Owners whose Units are affected. The Condominium Parking Facility shall be maintained by the owner of the Parking Facility in conjunction with maintenance of the remainder of the Parking Facility. The Association shall be responsible for a proportional share of the costs of maintenance of the Parking Facility as described in the ROA, which costs shall be part of the Common Expense of the Association.

Section 5.3 Undivided Interests of Owners in Common Elements. The percentage interest in the Common Elements allocated to each Unit shall be the Common Elements Interest for that Unit as set forth on Exhibit B attached hereto. Except as set forth in Section 9.5(a) and Section 6.3, the Common Elements Interest allocated to each Unit shall not be changed except with the unanimous consent of all the Owners of all the Units and with the consent of all the Mortgagees. In particular, if Declarant exercises its development right to subdivide Units and create additional Units and Limited Common Elements, Declarant shall have the right to adjust the Common Elements Interest for each Unit in accordance with the following formula: the Common Elements Interest allocated to each Unit is based on the heated square footage of that Unit, as shown on the Plans, calculated by dividing the heated square footage of that Unit by the total heated square footage of all Units, and by multiplying the quotient so calculated by one hundred (100). These Supplementary Declarations required by Section 6.3 of this Declaration shall contain a new allocation of Common Elements Interest calculated in accordance with the foregoing formula which shall be substituted for Exhibit B attached to this Declaration in the event that Declarant exercises this development right.

Section 5.4 Maintenance of Common Elements. The Association, either directly or through enforcement of rights under the ROA, shall be responsible for the maintenance and repair of all Common Elements, including the Condominium Parking Facility and structural elements of balconies and terraces, but excluding other Limited Common Elements and maintenance or repairs caused by the negligence or intentional misconduct of any Owner, his agents, invitees or family members, which shall be the responsibility of that Owner.

ARTICLE VI SPECIAL DECLARANT RIGHTS

Section 6.1 Special Declarant Rights. Special Declarant Rights are those rights reserved for the benefit of Declarant in the Condominium Documents, and shall include without limitation the following rights:

- (a) The right to complete any improvements shown on the Plans.

(b) The right to maintain a sales offices, a model unit and signs advertising the Condominium.

(c) The right to use easements through the Common Elements for the purpose of completing construction.

(d) The right to appoint or remove officers of the Association or members of the Executive Board during the Declarant Control Period.

(e) The right to exercise any other rights granted to or reserved by Declarant in the Condominium Documents, the ROA or the North Carolina Condominium Act.

(f) Until the third (3rd) anniversary of the date of recording of this Declaration, the development right to subdivide Units into separate Units so long as the maximum number of Units does not exceed sixty-three (63).

(g) The right to allocate parking spaces and storage closets located in the Condominium Parking Facility to specific units as Limited Common Elements in the initial deed of conveyance of a Unit by Declarant or in a subsequent deed from Declarant to an Owner.

Section 6.2 Transfer of Special Declarant Rights. Declarant may transfer any Special Declarant Rights created or reserved under the Condominium Documents to any person or entity, by an instrument evidencing the transfer duly recorded in the Office of the Register of Deeds for Mecklenburg County. The instrument shall not be effective unless it is executed by the transferor and the transferee. Upon the transfer of any Special Declarant Rights, the liability of the transferor and the transferee shall be as set forth in N.C. Gen. Stat. §47C-3-104.

Section 6.3 Supplementary Declaration. In order to exercise the development right reserved under Section 6.1(f) above, Declarant shall execute and record an amendment to this Declaration in accordance with N.C. Gen. Stat. §47C-2-110 (a "Supplementary Declaration"). Any Supplementary Declaration executed and recorded by Declarant to exercise the development right of subdividing Units and creating new Units and Limited Common Elements shall contain an amendment or supplement to the Plans identifying the new Units and Limited Common Elements so created, as well as in an amendment to Exhibit B attached to this Declaration, assigning and identifying numbers to each new Unit and reallocating the Common Elements Interest among all Units in accordance with the formula set forth in Section 5.3 of this Declaration. Declarant may exercise the development right to subdivide Units within the three (3) year periods specified in Section 6.1(f) above, without the consent or approval of the Association, or any other Owner or Mortgagee, by executing and recording a Supplementary Declaration in accordance with this Section 6.3.

ARTICLE VII
RESTRICTIONS ON USE

Section 7.1 Residential Use. All Units shall be used for residential purposes only. Notwithstanding the foregoing, Declarant may maintain any Unit owned by Declarant as a sales office or model Unit. As used in this Declaration, the restriction on use of Units for residential purposes shall not exclude use of such Units owned by Wachovia Bank, National Association, its affiliates or subsidiaries, or any successor by merger or acquisition, ("Wachovia") as executive residences for temporary use by employees or guests of Wachovia.

Section 7.2 Nuisance. No obnoxious, offensive or unlawful activity shall be conducted within any Unit, or on or about the Common Elements, nor shall anything be done thereon or therein which may be or which may become an annoyance or nuisance to the other Owners, or endanger the health and safety of any Owner. Nothing shall be done or kept in any Unit or in the Common Elements that will result in the termination of, or an increase in the premium for, the policy of property insurance for the Condominium.

Section 7.3 Prohibitions on Use of Common Elements. The Common Elements (other than storage closets) shall not be used for the storage of personal property of any kind. Stairs, entrances, lobbies, hallways, sidewalks, yards, driveways, and parking areas shall not be obstructed in any way, or used for other than their intended purposes. In general, no activity shall be carried on nor conditions maintained by any Owner either in his Unit or upon the Common Elements which detracts from the appearance of the Condominium. All Owners, their family members, guests and invitees, shall abide by reasonable rules and regulations promulgated by the Association for use of the elevators, lobby and corridors which constitute a part of the Common Area. Specifically, but without limitation, the Association may designate one of the elevators as the primary elevator for use of non-passenger service and may designate certain times during which any elevators may be used for transport of freight, including moving of furniture, which shall in any way delay the use of the elevators for ordinary passenger service.

Section 7.4 Garbage. Trash, garbage and other waste shall be kept in sanitary containers within each Unit, and deposited only in the common trash receptacles located within the Common Elements.

Section 7.5 Parking. No Owner or any employee, agent, or invitee of any Owner, shall park, store or keep any vehicle within the Condominium Parking Facility except wholly within those portions of the Common Elements designated as parking areas by the Association, and in particular shall not block any entrances, drive aisles, and fire lanes. The parking space allotted to each Unit may be used only by the Owner of the Unit to which that parking space is allocated as a Limited Common Element, and his guests and invitees. No boat, boat trailer, motor home, travel trailer, camper or other recreational vehicle may be stored within the Condominium Parking Facility at any time. No significant automobile repair shall be allowed in the parking areas within the Condominium Parking Facility. The Association shall have the right to tow any vehicle in violation of this Section 7.5 at its owner's expense. Other than the specific parking spaces allocated to the Units as Limited Common Elements in deeds from the Declarant during the

Declarant Control Period, the remaining parking spaces in the Condominium Parking Facility, if any, shall be Common Elements available for use of all Owners, their family members, guests and invitees pursuant to the terms and conditions of the ROA and any rules and regulations for such Parking Facility as promulgated by the owner of the Parking Facility from time to time, in its sole discretion.

Section 7.6 Leases of Units. Any lease of a Unit or portion thereof shall be in writing and shall provide that the terms of the lease shall be subject in all respects to the Condominium Documents and that any failure by the lessee to comply with all of the terms of such Condominium Documents shall constitute a default under the lease. No Unit may be leased for a period shorter than one (1) year; provided, however, that any Units which are purchased by Wachovia, its affiliates or subsidiaries, may be used by Wachovia, or any successor by merger or acquisition, as executive residences for temporary use by employees or guests of Wachovia. This privilege is personal to Wachovia and its successor by merger or acquisition only, and shall not be transferable or assignable.

Section 7.7 No Timeshares. No interest in any Unit may be subjected to a time share program, as that term is defined in N.C. Gen. Stat. §93A-41(10).

Section 7.8 Animals. No animals, livestock, or poultry of any kind shall be kept or maintained in the Condominium or in any Unit except that small common household pets may be kept or maintained in each Unit, provided they are not kept or maintained for commercial purposes and provided that no Owner may have more than two (2) such pets at any one time (excluding fish). No pet shall be permitted upon the Common Elements unless carried or leashed by a person that can control the pet. All pets shall be controlled so as not to create a nuisance or unreasonable disturbance (including loud and excessive barking) in the Condominium. Pets shall not be permitted to defecate in the Common Elements, and each Owner shall clean up immediately after his pet if an accident occurs. All pets shall be registered or inoculated as required by law. Each Owner shall hold the Association harmless from any claim resulting from any action of his pet, and shall repair at his expense any damage to the Common Elements caused by his pet. If any Owner violates these rules more than twice in any twelve (12) month period, then in addition to any fines provided in the Bylaws, the Association shall have the right to require the Owner to remove the pet permanently from the Condominium upon not less than ten (10) days' written notice.

Section 7.9 Utilities. Total electrical usage in any Unit shall not exceed the capacity of the circuits for that Unit as labeled on the circuit breaker boxes, and no electrical device causing overloading of the standard circuits may be used in any Unit without permission of the Association. All clothes dryers will have lint filters, and all stove hoods will have grease screens, and such screens and filters shall be used at all times and kept clean, and in good order and repair, by the Owner of the Unit in which they are located. The Condominium will have a single meter for water and sanitary sewer service provided to the Condominium and the costs of such water and sewer service shall be deemed a Common Expense. The Association shall have the right to separately meter or submeter water and sanitary sewer service to any or all Units and costs of such utility service shall be allocated to the Unit for which such meter applies.

Section 7.10 Floor Load. There shall be no floor load in any Unit in excess of forty (40) pounds per square foot, unless an engineering determination of the floor load capacity in the area of heavy use is approved by the Association.

Section 7.11 Windows. No curtains or draperies shall be installed or hung in any window of any Unit unless they have a white lining or backing on the side exposed to the window. No storm windows shall be installed in any Unit.

Section 7.12 Architectural Control. No building, landscaping, wall or other structure (other than a satellite dish or antenna permitted by Section 7.16) shall be commenced, erected or maintained upon the Condominium, nor shall any exterior addition to or change or alteration to either the Unit or the Common Elements be made, until the plans and specification showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Association.

Section 7.13 Signs and Flags. No signs or other advertising devices shall be displayed on or about the exterior of any Unit, or in the Common Elements, except for a name plate or sign not exceeding twenty-four (24) square inches in area on the main door to each Unit. Notwithstanding the foregoing, Declarant shall have the right to maintain within the Condominium advertising signs during the Declarant Control Period, provided those signs comply with applicable governmental regulations. Further, no pole or other device for the display of decorative flags shall be erected or displayed on or about the exterior of any Unit, or in the Common Elements unless approved in advance by the Association. In the event that the Association approves installation of a pole or device for the display of decorative flags, any such flags displayed by an Owner shall be in good taste and shall not contain lewd or offensive displays or material.

Section 7.14 Maintenance. The Owner of each Unit is responsible for maintaining his Unit as well as the Limited Common Elements appurtenant thereto (excluding the Condominium Parking Facility and the structural elements of balconies and terraces). Each Owner shall keep his respective Unit and its appurtenant Limited Common Elements in a clean, neat and orderly condition and in a good state of maintenance and repair. If an Owner fails to comply with the standards or requirements of the Association relative thereto, the Association shall assess the defaulting Owner the cost thereof and shall undertake to effect said compliance.

Section 7.15 Rules and Regulations. In addition to the use restrictions set forth in this Declaration, reasonable rules and regulations governing the use of the Property may be made and amended from time to time by the Association. Copies of such regulations and amendments thereto shall be posted prominently prior to their effective date, and shall be furnished by the Association to all Owners upon request. Specifically, and not by way of limitation, the Association shall have the right to make reasonable rules and regulations governing the use of the Condominium Parking Facility, the easements described and governed by the ROA, the elevators, lobby, common corridors and, subject to the terms and conditions of the ROA, access to the roof

of the Building. No Owner shall be entitled to penetrate the roof of the Building without first providing detailed plans and specifications for the reason of any such penetration to the Association and obtaining prior written approval from the Association and, if applicable, the Mixed Use Owner. The Association shall have the right to approve any contractors working on the roof of the Building or any other Common Elements. Owners shall not be entitled to make any changes, alterations or revisions to the Common Elements without prior written approval from the Association.

Section 7.16 Satellite Dishes and Antennas. Unless otherwise required by law, no exterior satellite dish in excess of one meter in diameter may be placed on the exterior of any Unit or in the Common Elements without the prior written approval of the Executive Board, which may be withheld in its sole discretion. The location of any exterior television antenna, or satellite dish less than one meter in diameter, shall be subject to the reasonable prior approval of the Executive Board, taking into account the appropriate standards set forth in the regulations of the Federal Communications Commission, and to the extent reasonably practical, the Executive Board may require that such antenna or satellite dish be screened from public view. Prior to installing the antenna or satellite dish, the Owner shall furnish to the Executive Board a copy of his installation plans. The Association shall have the right to perform any portion of the installation work at the expense of the Owner, or to require that any portion of the work be performed by contractors designated by the Executive Board. In no event shall such antenna or satellite dish be installed on the roof unless required by law or otherwise approved by the Executive Board in its sole discretion, and then, any roof penetration that is required to install any antenna or satellite dish shall be performed only by the roofing contractor designated by the Executive Board. The Owner shall also be responsible for any damage caused by the removal of the antenna or satellite dish, including the sealing of conduits or other roof penetrations. Any Owner installing an antenna or satellite dish under this Section 7.16 shall indemnify, defend and hold the Association harmless from and against any loss, damage, claim or other liability resulting from the installation, maintenance, repair, use and/or removal of the antenna or satellite dish, including any damage to the roof of the Building or other property damage caused by roof leaks.

Section 7.17 Exterior Terraces and Balconies. The exterior terraces and balconies adjacent to certain Units shall be kept in a clean, neat, and orderly condition at all times, and shall not be used for the overnight storage of garbage, or for the drying of laundry. In particular, towels or banners shall not be hung on the railings, and any dead plants shall be removed promptly. No indoor-outdoor carpeting, hot tub, or other pool shall be installed on any balcony or terrace. If permitted by applicable building codes and zoning ordinances, an Owner may use or store a cooking grill on his exterior terrace, but such Owner shall be responsible for complying with all applicable laws, ordinances, and regulations in connection with such storage and use and any rules and regulations promulgated by the Association.

ARTICLE VIII
THE ASSOCIATION

Section 8.1 Organization of Association. A nonprofit North Carolina corporation known and designated as The Ratcliffe Condominium Owners Association, Inc. (the "Association") has been organized to provide for the administration of the Property, and the Association shall administer the operation and maintenance of the Property and undertake and perform all acts and duties incident thereto in accordance with the terms of its Articles of Incorporation, the Bylaws, and the North Carolina Condominium Act. A true copy of the Bylaws of the Association is attached hereto as Exhibit C. Every Owner shall be required to be and shall automatically be a member of the Association by virtue of his ownership interest in a Unit.

Section 8.2 Powers; Lien for Assessment. In the administration of the operation and management of the Property, the Association shall have and it is hereby granted the authority and power to enforce the provisions of this Declaration, to levy and collect assessments in the manner provided in Article X below and in Section 8 of the Bylaws, and adopt, promulgate and enforce such rules and regulations governing the use of the Units and Common Elements as the Association may deem to be in the best interest of the Owners in accordance with the Bylaws. Any sum assessed by the Association remaining unpaid for a period of thirty (30) days or longer shall constitute a lien on the Unit with respect to which such sum was assessed upon filing in accordance with N.C. Gen. Stat. §47C-3-116, and shall be enforceable by the Association in accordance with N.C. Gen. Stat. §47C-3-116 and Section 8 of the Bylaws.

Section 8.3 Declarant Control Period. During the Declarant Control Period, Declarant reserves the right to appoint and remove any Executive Board members; provided, however, (i) that not later than 60 days after conveyance of twenty-five percent (25%) of the Units to Owners other than Declarant, at least one member and not less than twenty-five percent (25%) of the members of the Executive Board shall be elected by Owners other than Declarant; and (ii) that not later than 60 days after conveyance of fifty percent (50%) of the Units to Owners other than Declarant, not less than thirty-three percent (33%) of the members of the Executive Board shall be elected by Owners other than Declarant.

Section 8.4 Books and Records. The Association shall maintain current copies of (a) the Condominium Documents, as they may be amended from time to time, (b) any rules and regulations adopted under Section 7.15 from time to time; and (c) all financial records of the Association, as required by N.C. Gen. Stat. §47C-3-118. These items shall be available for inspection, during normal business hours and upon reasonable advance notice, by any Owner, any Mortgagee, and any insurer or guarantor of a loan secured by a Mortgage.

ARTICLE IX
EASEMENTS AND PROPERTY RIGHTS

Section 9.1 Access by the Association. The Association, or any person authorized by it, shall have the right of access to each Unit and to the Limited Common Elements to the extent

necessary for performance by the Association of its obligations of maintenance, repair, or replacement within the Property.

Section 9.2 Encroachment Easements. If any portion of the Common Elements now encroaches upon any Unit, or if any Unit now encroaches upon any other Unit or upon any portion of the Common Elements, or if such encroachment shall occur hereafter as a result of the settling or shifting of the Condominium Building, there shall exist a valid easement for the encroachment and for the maintenance of same for so long as such Building shall stand. If the Condominium Building, any Unit, or any portion of the Common Elements is partially or totally destroyed by fire or other casualty or as a result of condemnation or eminent domain proceedings, and subsequently is rebuilt, any encroachment of parts of the Common Elements upon any Unit, or of parts of any Unit upon the Common Elements, due to such rebuilding shall be permitted, and valid easements for such encroachments and the maintenance thereof shall exist so long as the Condominium Building shall stand.

Section 9.3 Easements over Common Elements. Declarant, during the Declarant Control Period, and the Association, at any time, may grant easements for utility purposes for the benefit of the Property, including the right to install, lay, maintain, repair and replace water lines; pipes; ducts; sewer lines; and water lines; gas mains; telephone and television or cable television wires, cables and equipment; electrical conduits; fiber optic lines; and other wires over, under, along and on any portion of the Common Elements; and each Owner hereby grants to Declarant or the Association, as applicable, an irrevocable power of attorney to execute, acknowledge and record for and in the name of each Owner such instruments as may be necessary to effectuate the foregoing. During the Declarant Control Period, Declarant shall have an easement over the Common Elements as may be reasonably necessary to complete the construction of the Condominium and the other improvements within the Property.

Section 9.4 Emergency Access. In case of any emergency originating in or threatening any Unit or the Common Elements, regardless of whether the Owner is present at the time of such emergency, the Association, or any other person authorized by it, shall have the right to enter any Unit or its Limited Common Elements for the purpose of remedying or abating the cause of such emergency and making any other necessary repairs not performed by the Owners, and such right of entry shall be immediate.

Section 9.5 Relocation of Boundaries; Subdivision; Partitioning.

(a) Relocation of Boundaries Between Adjoining Units. The boundaries between adjoining Units may be relocated upon application to the Association by the Owners of such adjoining Units ("Adjoining Owners") and upon approval by the Association of such application; provided, however, that no such relocation of boundaries shall be binding upon any Mortgagee holding a Mortgage on any Unit whose boundaries are relocated, unless consented to in writing by such Mortgagee. Any such application to the Association must be in such form and contain such information as may be reasonably required by the Association, and shall be accompanied by, a plat detailing the proposed relocation of boundaries. Unless the Association determines within thirty (30) days after submission to it of the application that the proposed relocation of boundaries

is unreasonable, the application shall be deemed approved. Any relocation of boundaries shall not affect the interests in the Common Elements allocated to each Unit. Upon approval of the proposed relocation of boundaries, the Association shall cause to be prepared and filed, at the Adjoining Owners' expense, an amendment to this Declaration and a plat which identifies the Units involved, describes and depicts the altered boundaries, and gives the dimensions of the altered Units. Such amendment shall also contain operative words of conveyance and be signed by the Adjoining Owners and consented to by their Mortgagees, if any, and shall be indexed by the Register of Deeds in the names of the Adjoining Owners.

(b) Subdivision of Units. Except for subdivision of Units by Declarant in accordance with Section 6.1(f) above, no Unit may be subdivided.

(c) Partitioning. The interests in the Common Elements allocated to each Unit shall not be conveyed, devised, encumbered, partitioned or otherwise dealt with separately from said Unit, and the interests in the Common Elements allocated to each Unit shall be deemed conveyed, devised, encumbered or otherwise included with the Unit even though such interests are not expressly mentioned or described in the instrument conveying, devising, encumbering or otherwise dealing with such Unit. Any conveyance, mortgage or other instrument which purports to grant any right, interest or lien in, to or upon the Unit, shall be null, void and of no effect insofar as the same purports to affect any interest in a Unit's allocated interests in the Common Elements unless the same purports to convey, devise, encumber or otherwise deal with the entire Unit. Any instrument conveying, devising, encumbering or otherwise dealing with any Unit, which describes said Unit by the identifying number assigned thereto on the Plans and herein without limitation or exception shall be deemed and construed to affect the entire Unit and its allocated interest in the Common Elements. Nothing herein contained shall be construed as limiting or preventing ownership of any Unit and its allocated interest in the Common Elements by more than one person or entity as tenants in common, joint tenants, or as tenants by the entirety or any other form permitted by law.

Section 9.6 Conveyance or Encumbrance of Common Elements. While the Property remains subject to this Declaration and to the provisions of the North Carolina Condominium Act, no conveyances of or security interests or liens of any nature shall arise or be created against the Common Elements without the prior written consent of at least eighty percent (80%) of all Owners, including at least eighty percent (80%) of all Owners other than Declarant, and at least eighty percent (80%) of all Mortgagees. Every agreement for the performance of labor or the furnishing of materials to the Common Elements, whether oral or in writing, must provide that it is subject to the provisions of this Declaration and that the right to file a mechanic's lien or other similar lien by reason of labor performed or material furnished is subordinated to this Declaration and to the lien of assessments for Common Expenses provided for in Section 8.2 of this Declaration. Nothing in this Section 9.6 shall be construed to limit the right of any Owner to convey or to encumber his allocated interest in the Common Elements as an appurtenance to and in connection with the conveyance or mortgaging of his Unit.

Section 9.7 Nature of Interest in Unit. Every Unit, together with its allocated interest in the Common Elements, shall for all purposes be and it is hereby declared to be and to constitute

a separate parcel of real property. The Owner of each Unit shall be entitled to the exclusive fee simple ownership and possession of his Unit subject only to the covenants, conditions, restrictions, easements, uses, limitations, obligations, rules and regulations set forth in the Condominium Documents, or adopted by the Executive Board of the Association.

ARTICLE X ASSESSMENTS

Section 10.1 Taxes. Every Unit, together with its allocated interest in the Common Elements, shall be separately assessed and taxed by each assessing authority for all types of taxes authorized by law. Each Owner shall be liable solely for the amount taxed against his individual Unit, provided, however, the Units will not be separately assessed until calendar year 2003 with respect to Mecklenburg County ad valorem property taxes, and any such taxes for calendar year 2002 shall be paid by Declarant (subject to reimbursement from each Owner for its pro rata share at closing).

Section 10.2 Common Expenses. Except as otherwise provided in this Declaration or in the Bylaws, each Owner shall contribute to the Common Expenses, all in accordance with the definition of "Common Expenses" set forth in Section 1.6 above, the Bylaws and the provisions of the North Carolina Condominium Act, a sum determined as follows: (i) an amount equal to \$100.00 per Unit owned, ("Base Annual Assessment") plus, (ii) an amount equal to the excess of Common Expenses over the aggregate of Base Annual Assessments for all Units multiplied by the respective Owner's share of Common Elements Interest. Assessments for all Units shall begin as of the date of the first conveyance of a Unit to a party other than Declarant. Due dates for payment of such Common Expenses shall be established by the Association and shall be collected at least monthly.

Section 10.3 Common Surplus. The term "Common Surplus" means and refers to all funds and other assets of the Association, including excess of receipts of the Association from assessments, rents, profits and revenues from whatever source, over the amount of Common Expenses. The Common Surplus shall be owned by the Owners pro rata, based on each Owner's Common Elements Interest; provided, however, that the Common Surplus shall be held by the Association in the manner and subject to the terms, provisions and conditions of this Declaration imposing certain limitations and restrictions upon the use and distribution thereof. Except for distribution of any insurance proceeds, which shall be made in the manner provided in Section 11.6, or upon termination of the Condominium, any attribution or distribution of Common Surplus which may be made from time to time shall be made to the then Owners, pro rata based on each Owner's Common Elements Interest.

ARTICLE XI INSURANCE

Section 11.1 Property Insurance. The Association shall obtain and maintain at all times a policy of property insurance on the Condominium Building (ISO special form or its equivalent)

in an amount not less than one hundred percent (100%) of the replacement cost of the Condominium Building at the time such insurance is purchased and at the time of each renewal thereof (excluding the cost of foundations and footings, and the cost of any personal property supplied or installed by Owners), with a commercially reasonable deductible not in excess of \$10,000.00. The policy shall be issued by an insurance company properly licensed to do business in the State of North Carolina, with a general policyholder's rating of at least "A-" in the most recent edition of the Best's Key Rating Guide. The policy shall provide that each Owner is an insured person with respect to his Unit and his allocated interest in the Common Elements. The policy shall contain an inflation guard endorsement, if available, an earthquake endorsement and a construction code endorsement, if available, as well as a special condominium endorsement providing as follows: for waiver of subrogation against any Owner, and any Owner's employees or agents; that it may not be canceled or substantially modified without at least thirty (30) days' prior written notice to the Association and all insureds, including all Owners and Mortgagees; that no act or omission by any Owner will preclude recovery upon such policy; and that if, at the time of a loss under the policy, there is other insurance in the name of an Owner covering the same risk covered by the policy, the Association's policy provides primary insurance. Each property insurance policy shall provide that adjustment of loss shall be made by the Association as insurance trustee. Each property insurance policy shall provide for the issuance of certificates or mortgagee endorsements to Mortgagees.

Section 11.2 Liability Insurance. The Association shall obtain and maintain a policy of commercial general liability insurance (current ISO form or its equivalent) in such limits as the Executive Board may, from time to time, determine, covering each member of the Executive Board, the managing agent, if any, and each Owner with respect to liability arising out of the use, ownership, maintenance, or repair of the Common Elements; provided, however, that in no event shall the limits of such policy ever be less than \$5,000,000.00 per occurrence or as otherwise required by the ROA, if higher. The liability insurance policy shall include endorsements covering cross liability claims of one insured against another, including the liability of the Owners as a group to a single Owner, and shall provide that it may not be canceled or substantially modified without at least thirty (30) days' prior written notice to the Association and to all insureds, including all Owners and Mortgagees. The Executive Board shall review such limits annually.

Section 11.3 Fidelity Coverage. The Association may obtain such fidelity coverage against dishonest acts on the part of all persons responsible for handling-funds belonging to or administered by the Association as it may deem necessary. Any such fidelity insurance policy must name the Association as the named insured and shall be written in an amount as may be determined by the Executive Board, but in no event less than the sum of one-half the annual budgeted amount of Common Expenses, plus the amount of any reserves maintained by the Association, or the amount required by any Mortgagee, whichever is greater.

Section 11.4 Other Insurance Policies. The Association shall be authorized to obtain such other insurance coverage, including worker's compensation or employee liability insurance, as the Association shall determine from time to time desirable or necessary.

Section 11.5 Premiums. Premiums upon insurance policies purchased by the Association, and any amounts paid as a result of a deductible, shall be paid by the Association and charged as a Common Expense. Notwithstanding the preceding sentence to the contrary, in the event that a casualty occurs wholly within the boundaries of a Unit and does not affect any other Units or Common Elements, the Owner of such Unit shall be wholly responsible for any deductible amount in such policy of insurance relating to such claims.

Section 11.6 Distribution of Insurance Proceeds. All insurance policies procured by the Association shall provide that all losses shall be adjusted with and all proceeds shall be payable to the Association as insurance trustee. The sole duty of the Association as insurance trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes set forth herein and for the benefit of the Owners and their Mortgagees in the following shares:

(a) Proceeds on account of damage to the Common Elements' shall be held in undivided shares for each Owner and his Mortgagee, if any, each Owner's share to be the same as such Owner's allocated Common Elements Interest.

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

(1) When the damage is to be restored, for the Owners of damaged Units in proportion to the cost of repairing the damage to each such Owner's Unit, which cost shall be determined by the Association.

(2) When the damage is not to be restored, an undivided share for each Owner, such share being the same as each such Owner's allocated Common Elements Interest.

(c) In the event a mortgagee endorsement or certificate has been issued with respect to a Unit, the share of the Owner shall be held in trust for the Mortgagee and the Owner as their respective interests may appear.

(d) Proceeds of insurance policies received by the Association as insurance trustee shall be distributed to or for the benefit of the Owners in the following manner:

(1) If it is determined, as provided in Article XII below, that the damaged property with respect to which the proceeds are paid shall not be reconstructed or repaired,

(a) the proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition compatible with the rest of the Condominium;

(b) the insurance proceeds attributable to damaged Units and Limited Common Elements which are not rebuilt shall be distributed to the Owners of these Units and Units to which those Limited Common Elements were allocated or to their Mortgagees, in proportion to the cost of repairing the damage to such Units and Limited Common Elements as if such repair were to occur, as determined by the Association; and

(c) the remainder of the proceeds shall be distributed to all Owners or Mortgagees, as their interests may appear, in proportion to their respective Common Elements Interest.

(2) If the damage for which the proceeds were paid is to be repaired or reconstructed, the proceeds shall be paid to defray the costs thereof. Any proceeds remaining after payment of such repair costs shall be distributed to the beneficial Owners and their Mortgagees, if any, jointly.

Section 11.7 Insurance Obtained by Owners. Each Owner shall obtain and keep continuously in force additional fire and casualty and extended coverage insurance upon his personal property, public liability insurance, and such other insurance coverage as he may desire. Each Owner shall obtain and maintain public liability insurance coverage in the amount of at least \$100,000.00 for bodily injury, including deaths of persons and property damage, arising out of a single occurrence. Each Owner shall file a copy of each such individual policy with the Association within thirty (30) days after purchase and shall provide, upon renewal, evidence of such renewal

ARTICLE XII DUTY TO REPAIR OR RECONSTRUCT

Section 12.1 Reconstruction and Repair. In the event of damage to or destruction of the Condominium Building as a result of fire or other casualty, the Association shall arrange for the prompt restoration and replacement of the damaged or destroyed Condominium Building unless (1) the Condominium is terminated in accordance with the provisions of Article XIII below, or (2) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or (3) the Owners decide not to rebuild by an eighty percent (80%) vote, including one hundred percent (100%) of Owners of Units not to be rebuilt and one hundred percent (100%) of Owners of Units to which are assigned Limited Common Elements not to be rebuilt. Unless one of the preceding three conditions occurs, and subject to the provisions of the ROA, the Association shall arrange for the prompt repair and restoration of the damaged or destroyed Condominium Building or portion thereof, not including any decoration or covering for walls, ceilings, or floors, or furniture, furnishings, fixtures or equipment (unless the subject insurance policy covers a portion or all of such loss, in which event the Association shall repair or replace such damaged property to the extent of such proceeds), and the Association shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments and in accordance with the provisions of Section 11.6(d)(2) of this

Declaration. Any payment for repair and restoration in excess of the insurance proceeds shall constitute a Common Expense. Any reconstruction or repair shall be in accordance with the Plans. If the Owners vote not to rebuild any Unit, that Unit's allocated Common Elements Interest shall be automatically reallocated upon the vote as if the Unit had been condemned under N.C. Gen. Stat. §47C-1-107(a).

Section 12.2 Obligations of Owners. Each Owner will, at his sole cost and expense, keep and maintain his Unit in good order and repair in accordance with the Plans, and will make no structural addition, alteration or improvement to his Unit without the prior written consent of the Association, except as specifically permitted by this Declaration or authorized under N.C. Gen. Stat. §47C-2-111. Upon the failure of an Owner to so maintain his Unit, the Association shall be authorized to maintain, repair or restore such Unit, and the cost thereof shall be charged to such Owner and constitute a lien on the Unit until paid.

ARTICLE XIII UNITS SUBJECT TO CONDOMINIUM DOCUMENTS AND ROA

All present and future Owners, tenants, and occupants of the Units shall be subject to and shall comply with the provisions of this Declaration, the Bylaws, and any rules and regulations as may be adopted in accordance with the Bylaws, as all of the foregoing may be amended and supplemented from time to time. The acceptance of a deed of conveyance or the entering into of a lease or the entering into occupancy of any Unit shall constitute an agreement that the provisions of this Declaration, the Bylaws and any rules and regulations which may be adopted are accepted and ratified by such Owner, tenant or occupant, and an agreement that such provisions shall be deemed and taken to be covenants running with the Land and shall bind any person having at any time any interest or estate in such Unit as though such provisions were made a part of each and every deed of conveyance or lease. Furthermore, all present and future Owners, tenants and occupants of the Units shall be subject to comply with the provisions of the ROA as such agreement may be amended or supplemented from time to time. The acceptance of a deed of conveyance or the entering into of a lease or the entering into occupancy of any Unit shall constitute an agreement that the provisions of the ROA are accepted and ratified by such Owner, tenant or occupant and an agreement that such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or a stake in such Unit as though such provisions were made a part of each and every deed of conveyance or lease.

ARTICLE XIV AMENDMENT TO AND SUPPLEMENT OF DECLARATION

Except in cases of amendments that may be permitted by N.C. Gen. Stat. §§47C-1-107, 47C-2-112(a) or 47C-2-108(b) or as is otherwise specifically authorized herein, this Declaration may be amended only by the vote of not less than sixty-seven percent (67%) of the votes in the Association, and not less than fifty-one percent (51%) of the Mortgagees, cast in person or by

proxy at a meeting duly held in accordance with the provisions of the Bylaws. Except to the extent expressly permitted by the other provisions of this Declaration, any amendment which amends or alters the Common Elements Interest of any Unit, increases the number of Units, changes the boundaries of any Unit, changes the use to which any Unit is restricted, or modifies the terms of this Article XIV, shall require the written approval of all Owners, together with the consent of all their respective Mortgagees. Except for a Supplementary Declaration recorded in accordance with Section 6.3 of this Declaration no amendment to the Declaration shall be effective until executed on behalf of the Association by any officer designated for that purpose and recorded in the office of the Register of Deeds of Mecklenburg County, North Carolina. During the Declarant Control Period, no amendment to this Declaration shall be effective without the written consent of Declarant.

ARTICLE XV TERMINATION

The Condominium may be terminated and the Property removed from the provisions of the North Carolina Condominium Act only by the vote not less than eighty percent (80%) of the votes in the Association, and not less than eighty percent (80%) of the Mortgagees, cast in person or by proxy at a meeting duly held in accordance with the provisions of the Bylaws, and as evidenced by execution of a termination agreement, or ratification thereof, by the requisite number of Owners and Mortgagees. The termination shall comply with the requirements of N.C. Gen. Stat. §47C-2-118, and must be recorded in the Office of the Register of Deeds for Mecklenburg County before it becomes effective. Following the recordation of the termination agreement, the interests of the Owners and Mortgagees in the Property shall be as provided in N.C. Gen. Stat. §47C-2-118.

ARTICLE XVI MORTGAGEE PROTECTION

Section 16.1 General Provisions. This Article XVI establishes certain standards and covenants for the benefit of Mortgagees. This Article XVI is supplemental to, and not in substitution for, any other provisions of the Condominium Documents, but in the event of any conflict between the provisions of the Condominium Documents and the provisions of this Article XVI, the provisions of this Article XVI shall control.

Section 16.2 Percentage of Mortgagees. Wherever in the Condominium Documents the approval or consent of a specified percentage of Mortgagees is required, it shall mean the approval or consent of Mortgagees holding Mortgages on Units which have allocated to them that specified percentage of votes in the Association, as compared to the total votes in the Association allocated to all Units then subject to Mortgages held by Mortgagees.

Section 16.3 Rights to Examine Books and Records. Any Mortgagee, and any insurer or guarantor of a loan secured by a Mortgage, shall have the right to examine, during normal business hours and upon reasonable notice, the books and records of the Association, including

copies of the Condominium Documents, as amended, and the financial statements of the Association, and to be furnished, upon written request, at least one copy of the annual financial statement and report of the Association, such annual statement and report to be furnished within ninety (90) days following the end of each fiscal year. If any Mortgagee requests, and agrees to pay the cost of the audit, the financial statement shall be audited by an independent certified public accountant.

Section 16.4 Mortgagee's Rights to Notice. Any Mortgagee (including, for purposes of this Section 16.4, any insurer or guarantor of a loan secured by a Mortgage that has notified the Association in writing of its name and address, and that it insures or guarantees a Mortgage) shall have the right to receive from the Association prompt written notice of the following:

(a) Default under any of the terms and provisions of the Condominium Documents by any Owner owning a Unit encumbered by a Mortgage held, insured, or guaranteed by such Mortgagee, which default remains uncured for a period of thirty (30) days.

(b) Any loss or damage to or condemnation or taking of the Common Elements or any loss or damage to or condemnation or taking of a Unit encumbered by a Mortgage held, insured or guaranteed by such Mortgagee.

(c) Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.

(d) Any proposed action by the Association, the Executive Board, or the Owners, which under the terms of the Condominium Documents requires the consent of all or any portion of the Mortgagees.

The failure of any Mortgagee to respond within thirty (30) days to any written request of the Association, sent by registered or certified mail, return receipt requested, for approval of an addition or amendment to the Condominium Documents wherever Mortgagee approval is required shall constitute an implied approval by that Mortgagee of the proposed addition or amendment.

Section 16.5 Consent and Notice Required. Notwithstanding any other provision of this Declaration or the Condominium Documents, no amendment of any material provision of the Condominium Documents described in this Section 16.5 shall be effective without notice to all Mortgagees, as required by Section 16.4, the vote of at least sixty-seven percent (67%) of the Owners (or any greater percentage required by the terms of the Condominium Documents), and the approval of at least fifty-one percent (51%) of the Mortgagees (or any greater percentage required by the terms of the Condominium Documents). A change to any of the following items will be considered material:

(a) Voting rights.

(b) Increases in assessments that raise the previously assessed amount by more than twenty-five percent (25%), assessment liens, or the priority of assessment liens.

(c) Reductions in reserves for maintenance, repair, and replacement of the Common Elements.

(d) Responsibility for maintenance and repairs of the Units, the Limited Common Elements, or the Common Elements.

(e) Except for the development right of Declarant reserved in Section 6.1(f) above, reallocation of interests in the Common Elements or the Limited Common Elements, except that when Limited Common Elements are reallocated by agreement between Owners of Units, then only those Owners and only the Mortgagees holding Mortgages on those Units need approve such reallocations.

(f) Redefinition of boundaries of Units, except that when the boundaries of only adjoining Units are involved, then only the Owners of those Units and the Mortgagees holding Mortgages on those Units must approve such action.

(g) Convertibility of Units into Common Elements, or Common Elements into Units.

(h) The expansion or contraction of Condominium, or the addition, annexation or withdrawal of property to or from the Condominium.

(i) The requirements for insurance and fidelity bonds.

(j) The imposition of any restrictions on the leasing of Units.

(k) The imposition of any restrictions on an Owner's right to sell or transfer his Unit.

(l) The restoration or repair of the Property after casualty damage or partial condemnation in a manner other than that specified in the Condominium Documents.

(m) Any termination of the Condominium after occurrence of substantial destruction or condemnation.

(n) Any provision that expressly benefits the Mortgagees.

Section 16.6 Other Mortgagee Rights. Notwithstanding any other provision of this Declaration or the Bylaws, the Association may not change the period for collection of regularly

budgeted Common Expenses to other than monthly without the consent of all Mortgagees. Any representative of a Mortgagee may attend and address any meeting that an Owner may attend.

Section 16.7 Enforcement. The provisions of this Article XVI are for the benefit of all Mortgagees and their successors, and may be enforced by any of them by any available means.

ARTICLE XVII CONDEMNATION

If all or any part of the Property is taken in condemnation or by eminent domain, the award for such taking shall be distributed in accordance with the procedure set forth in N.C. Gen. Stat. §47C-1-107.

ARTICLE XVIII MISCELLANEOUS PROVISIONS

Section 18.1 Invalid. The invalidity of any provision of this Declaration shall not be deemed to impair or affect in any manner the validity and enforceability of the remainder of this Declaration, and in such event, all the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included herein.

Section 18.2 Waiver. No provisions contained in the Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

Section 18.3 Captions. The captions herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Declaration or the intent of any provision hereof.

Section 18.4 Law Controlling. This Declaration and the Condominium Documents shall be construed and controlled by and under the laws of the State of North Carolina.

Section 18.5 Liberal Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan of condominium ownership as provided in the North Carolina Condominium Act. Throughout this Declaration wherever appropriate, the singular shall include the plural and the masculine gender the feminine or neuter as the context permits or requires.

ARTICLE XIX
ENFORCEMENT; ARBITRATION

Section 19.1 Actions by the Association. The Association, or the Executive Board acting on its behalf, shall have the right, in addition to any other remedies provided for in the Condominium Documents, to bring a civil action against any Owner to enforce any obligation, covenant or restriction set forth in this Declaration or the other Condominium Documents.

Section 19.2 Actions by Owners. Any Owner may also bring a civil action against any other Owner, or against the Association, or against the Executive Board, or any one or more of them, to enforce any obligation, covenant or restriction set forth in this Declaration or the other Condominium Documents.

Section 19.3 Arbitration. Each Owner, by accepting a deed to a Unit, agrees that any Owner may require that any unresolved matter between the Owners or before the Executive Board or before the Association be submitted to binding arbitration pursuant to the Uniform Arbitration Act set forth in N.C. Gen. Stat. §1-567. 1 *et seq.* as the same shall be amended from time to time. The fees and expenses of arbitration shall be paid as set forth in the award and shall not be a Common Expense unless all Owners so agree in writing, or unless such award is to be paid by the Association.


[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, Declarant has executed this Declaration the day and year first above written.

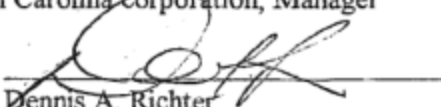
THE RATCLIFFE, LLC,
a North Carolina limited liability company

By: GRUBB/RICHTER, LLC,
a North Carolina limited liability company,
Manager

By: GRUBB PROPERTIES, INC.,
a North Carolina corporation, Manager

By: 
W. Clay Grubb
President

By: RICHTER & ASSOCIATES, INC.,
a North Carolina corporation, Manager

By: 
Dennis A. Richter
President

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

I, Mary Haggerty, a Notary Public of aforesaid County and State, certify that W. Clay Grubb personally came before me this day and acknowledged that he is President of GRUBB PROPERTIES, INC., Manager of GRUBB/RICHTER, LLC, Manager of THE RATCLIFFE, LLC, a North Carolina limited liability company, and that he, as President, being authorized to do so, executed the foregoing on behalf of the corporation as Manager of Grubb/Richter, LLC, a Manager of The Ratcliffe, LLC.

Witness my hand and official seal, this the 23rd day of April, 2002.


NOTARY PUBLIC

My Commission Expires:

5/1/04

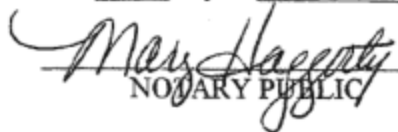
[NOTARIAL SEAL]

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

I, Mary Haggerty, a Notary Public of aforesaid County and State, certify that Dennis A. Richter personally came before me this day and acknowledged that he is President of RICHTER & ASSOCIATES, INC., Manager of GRUBB/RICHTER, LLC, Manager of THE RATCLIFFE, LLC, a North Carolina limited liability company, and that he, as President, being authorized to do so, executed the foregoing on behalf of the corporation as Manager of Grubb/Richter, LLC, Manager of The Ratcliffe, LLC.

Witness my hand and official seal, this the 23rd day of April, 2002.


NOTARY PUBLIC

My Commission Expires:

5/1/04

[NOTARIAL SEAL]