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DECLARATION OF CONDOMINIUM  
ESTABLISHING  
CEDAR POINTE CONDOMINIUM

Unit Ownership File *103*  
In the Office of the Register of Deeds  
of Wake County,  
North Carolina

PRESENTED  
FOR  
REGISTRATION

MAR 21 11 15 AM '86

KENNETH C. WILKINS  
REGISTER OF DEEDS  
WAKE COUNTY, NC

Prepared by and Return to:  
James H. Pardue  
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Suite 102, 113 Edinburgh  
Cary, North Carolina 27511

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DECLARATION OF CONDOMINIUM  
Establishing  
CEDAR POINTE CONDOMINIUM

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The New Fortis Corporation, a North Carolina corporation, hereinafter referred to as "Developer", having a place of business in Wake County, North Carolina, does hereby make, declare and establish this Declaration of Condominium as and for the plan of dwelling ownership of Cedar Pointe Condominium, being the property and improvements hereinafter described.

WHEREAS, Developer is constructing in successive segments (hereinafter referred to as "PHASES") on the parcel of land described in Exhibit A a condominium development consisting of twelve dwelling units (hereinafter referred to as the "PROJECT") established in accordance with the provisions of the Unit Ownership Act and the Project when completed will comprise approximately ninety six (96) units (hereinafter referred to as "DWELLING UNITS" or "UNITS"); and

WHEREAS, it is the desire of Developer to submit a phase of the Project property hereinafter described in Exhibit B together with the improvements thereon constructed to the provisions of the Unit Ownership Act for condominium ownership; and

WHEREAS, Developer also desires herein to provide for the submission of successive phases of the Project to condominium ownership by amending this Declaration as said sections are developed and completed; and

WHEREAS, Developer hereby establishes by this Declaration a plan for the individual ownership of the real property estates consisting of the area or space contained in each of the Dwelling Units and the co-ownership by the the individual and separate owners thereof, as tenants in common of all of the remaining real property which is hereinafter defined and referred to as the "COMMON AREAS AND FACILITIES".

NOW, THEREFORE, Developer hereby declares:

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I.

LEGAL DESCRIPTION OF PROJECT PROPERTY

The overall Cedar Pointe Condominium Project site referred to hereinabove is situated in Cary Township, Wake County, North Carolina, and is described in Exhibit A as the "Project Property".

II.

LEGAL DESCRIPTION OF PHASE OF PROJECT DEDICATED TO CONDOMINIUM OWNERSHIP

The section of the Project Property which is herewith dedicated to condominium or unit ownership is situated in Cary Township, Wake County, North Carolina and described in Exhibit B as the "Condominium Property".

III.

ESTABLISHMENT OF CONDOMINIUM

Developer is the owner of the fee simple title to that certain real property described in Exhibit "B" attached hereto and incorporated herein by reference, and on which property there have been, or will be, constructed six (6) detached buildings containing a total of ninety six (96) condominium living units and their supporting facilities, and other appurtenant improvements. Two Buildings will contain twelve units in each building. Four Buildings will contain eighteen units in each building. Each building consists of three levels of wood frame construction with decorative wood siding, fiberglass shingle roof on a brick and cement block foundation. Developer does hereby submit the above described property and improvements to condominium ownership under the provisions of Chapter 47A of the General Statutes of North Carolina (Unit Ownership Act), and hereby declares the same to be a condominium to be known and identified as "Cedar Pointe Condominium". Hereinafter in this Declaration of Condominium, Cedar Pointe Condominium is also referred to as "Condominium".

IV.

SURVEY AND DESCRIPTION OF IMPROVEMENTS

Annexed hereto and expressly made a part hereof as Exhibit "C", consisting of fifteen (15) pages or as amended pursuant to the provisions of Paragraphs XXX and XXXI, is a Survey of the land and graphic description and plot plans of the improvements constituting the Condominium, identifying the Condominium Units and Common Areas and Facilities, as said terms are hereinafter defined, and their respective locations and approximate dimensions. Each Condominium Unit is identified by specific numerical designation on said Exhibit "C", and no Condominium Unit bears the same designation as any other Condominium Unit. Each designation is a three digit number. The first digit designates the number of the building. The second digit designates the number of the level of the unit. The lowest level is designated "1". The third digit indicates the location of the unit on the designated level beginning on the left side of the building facing the courtyard with the number "1".

V.

DEFINITIONS

The Condominium consists of Condominium Units and Common Areas and Facilities, as said terms are hereinafter defined.

Condominium Units as the term is used herein shall mean Dwelling Units which are designated in Exhibit "C", to this Declaration of Condominium including the air conditioning compressor located on the raised deck and the water heater designated for the unit located in the limited common area below mentioned, excluding, however, all spaces and improvements lying:

1. Beneath the subflooring material of the floors.
2. Beneath the interior surfacing material (sheet rock) of all perimeter walls, interior bearing walls and/or bearing partitions:
3. Above the interior surfacing material (sheet rock) of the ceilings;

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and further excluding all pipes, ducts, wires, conduits and other facilities for the furnishing of utilities and other services to Condominium Units and Common Areas and Facilities up to and including the point of entry of such pipes, ducts, wires, and conduits through the interior surfacing material for walls and ceilings and subflooring surfacing material for floors. All pipes, ducts, wires, conduits and other such facilities shall become a part of the respective Condominium Units at such point of entry. All exterior doors, window frames, panes and screens shall be part of the respective Condominium Units, provided, however, that the exterior decoration and painting of the exterior surface of such doors and window frames shall be the responsibility of the Association, as hereinafter defined.

All portions of the property not encompassed and included within the various Condominium Units are part of the Common Areas and Facilities.

Certain portions of the Common Areas and Facilities are reserved for the use of a particular Condominium Unit or Units to the exclusion of other Units and are designated as "Limited Common Areas and Facilities." The Limited Common Areas and Facilities and the Condominium Unit or Units to which they are reserved are as follows:

1. The porches, balconies, decks and attics which are adjacent to respective Condominium Units and interior access to which can be had only through a Unit are Limited Common Areas and Facilities, and the use of such areas shall be limited to the Unit owner or occupant whose Unit affords interior access to such porch, balconies, decks or attics.
2. The steps and stoops which are a part of each building are Limited Common Areas and Facilities and are reserved for the use of the owners of Units in the respective buildings, their families, guests, invitees and lessees.
3. The chimneys which are a part of each building are Limited Common Areas and Facilities and their use is limited to the respective Owner or Owners of the Condominium Unit with which each chimney is associated.
4. There are air conditioning compressor pads located at ground level. These compressor pads are Limited Common Areas and Facilities and their use is limited to the respective Owner or Owners of the Condominium Unit with which each compressor pad is associated. Each concrete compressor pad is designated as the Unit with which it is associated.

Further, the Property hereinabove described, and any properties hereafter annexed in conformity with the provisions of this Declaration, shall be a part of Edgehill Farm Subdivision as described in the Declaration of Covenants, Conditions and Restrictions for Edgehill Farm, recorded in Book 3422, Page 88, Wake County Registry.

The terms "Association of Unit Owners", "Building", "Common Areas and Facilities" (sometimes herein referred to as "Common Property"), "Common Expenses", "Common Profit", "Condominium", "Declaration", "Majority" or "Majority of Unit Owners", "Person", "Property", "Recordation", "Unit" or "Condominium Unit", "Unit Designation", and "Unit Owner", unless it is plainly evident from the context of this Declaration that a different meaning is intended shall, as used herein, have the meaning set out in Section 3 of Chapter 47A of the General Statutes of North Carolina, known as the Unit Ownership Act.

VI.

OWNERSHIP OF CONDOMINIUM UNITS  
AND  
APPURTENANT INTEREST IN COMMON PROPERTY

Each Condominium Unit shall be conveyed and treated as an individual property capable of independent use and fee simple ownership, and the Owner of each Unit shall also own, as an appurtenance to the ownership of each said Condominium Unit, an undivided interest in the Common Areas and Facilities. At the date of this Declaration and until amended as provided in Paragraphs XXX and XXXI, the undivided interest appurtenant to each Condominium Unit is as set forth in Exhibit "D", attached hereto and made a part hereof. The proportional interest in the Common Property that is appurtenant to each Condominium Unit as shown in said Exhibit has been determined by a ratio formulated upon the approximate relation that the fair market value of each

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Unit at the date of the Declaration or Amendment bears to the aggregate fair market value of all of the Units having an interest in the Common Areas and Facilities.

The approximate fair market value of each Unit and the aggregate fair market value of all of the Units have been determined by the Developer for purposes of this Declaration, and this determination shall be binding upon all Unit Owners, their heirs, successors and assigns.

A copy of the plans for all Units in Phase One is attached as Exhibit "C", and all units of Building 6 are shown thereon as built. As the other Units are completed, Registered Architect or Engineer, will file, as amendments to this Declaration, the verified statements required by North Carolina General Statutes Section 47A-15, certifying that the Units, as built, are fully and accurately depicted in Exhibit "C". At the time the Registered Architect or Engineer files such verified statements, Developer shall also file an amendment to this Declaration stating that the percentage undivided interest in the Common Area appurtenant to each Unit at the time of such filing is as shown in Exhibit "D", or on Exhibit "D" as amended. Each Unit Owner shall be deemed by his acceptance of the deed to a Condominium Unit to have consented to the powers of amendment herein reserved by Developer and to any amendments previously or thereafter executed by Developer pursuant to this Article VI. Further, each Unit Owner and each Institutional Lender, as hereinafter defined, shall be deemed by the Owner's acceptance of a deed to a Condominium Unit to have appointed Developer their attorney-in-fact to give, execute and record the consent of said Owner and Institutional Lender to any and all amendments executed pursuant to this Article. Except as provided herein, the percentage of undivided interest in the Common Property assigned to each Condominium Unit shall not be changed except with the unanimous consent of all of the Owners of all of the Condominium Units acting individually or through their attorney-in-fact as provided in Article XXXI hereof.

VII.

RESTRICTION AGAINST FURTHER SUBDIVIDING OR TIMESHARING OF CONDOMINIUM UNITS AND SEPARATE CONVEYANCE OF APPURTENANT COMMON PROPERTY

No Condominium Unit may be divided or subdivided into a smaller Unit or Units than as shown on Exhibit "C" hereto, nor shall any Condominium Unit or portion thereof be added to or incorporated into any other Condominium Unit. No condominium Unit may be divided or subdivided into time share estates. The undivided interest in the Common Property declared to be an appurtenance to each Condominium Unit shall not be conveyed, devised, encumbered or otherwise dealt with separately from said Condominium Unit, and the undivided interest in Common Property appurtenant to each Condominium Unit shall be deemed conveyed, devised, encumbered or otherwise included with the Condominium Unit even though such undivided interest is not expressly mentioned or described in the instrument conveying, devising, encumbering or otherwise dealing with such Condominium Unit. Any conveyance, mortgage or other instrument which purports to grant any right, interest or lien in, to or upon a Condominium Unit, shall be null, void and of no effect insofar as the same purports to affect any interest in a Condominium Unit and its appurtenant undivided interest in Common Property, unless the same purports to convey, devise, encumber or otherwise trade or deal with the entire Condominium Unit. Any instrument conveying, devising, encumbering, or otherwise dealing with any Condominium Unit, which described said Condominium Unit by the numerical and alphabetical designation assigned thereto in Exhibit "C" without limitation or exception, shall be deemed and construed to affect the entire Condominium Unit and its appurtenant undivided interest in the Common Property. Nothing herein contained shall be construed as limiting or preventing ownership of any Condominium Unit and its appurtenant undivided interest in the Common Property by more than one person or entity as tenants in common, joint tenants, or as tenants by the entirety.

VIII.

THE CONDOMINIUM SUBJECT TO RESTRICTIONS

The Condominium Units, Common Property and Limited Common Areas shall be, and the same are hereby declared to be subject to the restrictions, easements, conditions and covenants prescribed and established herein governing the use of said Condominium Units, Common Property and Limited Common Areas and setting forth the obligations and responsibilities incident to ownership of each Condominium Unit and its appurtenant

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undivided interest in the Common Property, and said Condominium Units, Common Property and Limited Common Areas are further declared to be subject to the restrictions, easements, conditions, and limitations now of record affecting the land and improvements of the Condominium.

IX.

PERPETUAL NONEXCLUSIVE EASEMENT IN COMMON PROPERTY

The Common Property shall be, and the same is hereby declared to be subject to a perpetual non-exclusive easement in favor of all of the Owners of Condominium Units in the Condominium for their use and the use of their immediate families, guests and invitees, tenants and lessees for all proper and normal purposes, and for the furnishing of services and facilities for which the same are reasonably intended, for the enjoyment of said Owners of Condominium Units. Notwithstanding anything above provided in this Article, Cedar Pointe Condominium Association, hereinafter identified, shall have the exclusive right to establish the rules and regulations pursuant to which the Owners of any Condominium Unit, his family, guests and invitees, may be entitled to use the Common Property, including the right to make permanent and temporary assignments of parking spaces, and to establish regulations concerning the use thereof.

The Association has the right to grant permits, licenses and easements over the common property for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance or operation of the condominium and the Edgehill Farm Association.

X.

EASEMENT FOR UNINTENTIONAL AND NON-NEGLIGENT ENCROACHMENTS

In the event that any Condominium Unit shall encroach upon any Common Property, or any other Condominium Unit or Units, for any reason not caused by the purposeful or negligent act of the Condominium Unit Owner, or agents of such Owner, then an easement appurtenant to such Condominium Unit shall exist for the continuance of such encroachment upon the Common Property or upon a Condominium Unit for so long as such encroachment shall naturally exist; and, in the event that any portion of the Common Property shall encroach upon any Condominium Unit, then an easement shall exist for the continuance of such encroachment of the Common Property upon any Condominium Unit for so long as such encroachment shall naturally exist. If any Condominium Unit or Common Property shall be partially or totally destroyed as a result of fire or other casualty, or as a result of condemnation or eminent domain proceedings, and if upon reconstruction of such Unit and/or Common Property in accordance with Article XXV hereof, there exist encroachments of portions of the Common Property upon any Condominium Unit, or of any Condominium Unit upon any other Condominium Unit or upon any portion of the Common Property, then such encroachments shall be permitted and a valid easement for the maintenance thereof shall exist so long as such encroachments shall naturally remain.

XI.

RESTRAINT UPON SEPARATION AND PARTITION OF COMMON PROPERTY

Recognizing that the proper use of a Condominium Unit by an Owner or Owners is dependent upon the use and enjoyment of the Common Property in common with the Owners of all other Condominium Units and that it is in the interest of all Owners that the ownership of the Common Property be retained in common by the Owners, it is hereby declared that the proportional undivided interest in the Common Property appurtenant to each Condominium Unit shall remain undivided and no Unit Owner shall bring or have any right to bring any action for partition or division.

XII.

ADMINISTRATION OF THE CONDOMINIUM BY CEDAR POINTE CONDOMINIUM ASSOCIATION

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To efficiently and effectively provide for the administration of the Condominium by the Owners of the Condominium Units, a non-profit North Carolina corporation known and designated as Cedar Pointe Condominium Association, has been organized, and said corporation shall administer the operation and management of the Condominium and undertake and perform all acts and duties incident thereto in accordance with the terms of its Articles of Incorporation and By-Laws. A true copy of said Articles of Incorporation and By-Laws are annexed hereto and expressly made a part hereof as Exhibits "E" and "F" respectively. The Owner or Owners of each Condominium Unit shall automatically become members of said corporation upon his, their or its acquisition of any ownership interest in title to any Condominium Unit and its appurtenant undivided interest in Common Property, and the membership of such Owners or Owner shall terminate automatically upon such Owner or Owners being divested of such ownership interest in the title to such Condominium Unit, regardless of the means by which such ownership may be divested. No person, firm or corporation holding any lien, mortgage or other encumbrance upon any Condominium Unit shall be entitled, by virtue of such lien, mortgage or other encumbrance, to membership in said corporation or to any of the rights or privileges of such membership. In the administration of the operation and management of the Condominium, Cedar Pointe Condominium Association shall have and is hereby granted the authority and power to enforce the provisions of this Declaration of Condominium, to levy and to collect assessments in the manner hereinafter provided, and to adopt, promulgate and enforce such rules and regulations governing the use of the Condominium Units and Common Property as the Board of Directors of said Association may deem to be in the best interests of the Association. Cedar Pointe Condominium Association is hereinafter referred to as "Association."

XIII.

MEMBERSHIP IN EDGEHILL FARM ASSOCIATION

The Owner or Owners of each Condominium Unit shall automatically become members of the Edgehill Farm Association and shall be subject to the provisions (including but not limited to assessments and liens for nonpayment of assessments) of said declaration for Edgehill and to the By-Laws, rules and regulations of said association, upon his, their or its acquisition of an ownership interest in title to any Condominium Unit and its appurtenant undivided interest in Common Property, and the memberships of such Owners or Owner shall terminate automatically upon such Owner or Owners being divested of such ownership interest in the title to such Condominium Unit, regardless of the means by which such ownership may be divested. No person, firm or corporation holding any lien, mortgage or other encumbrance upon any condominium Unit shall be entitled, by virtue of such lien, mortgage or other encumbrance to membership in said corporation, or to any of the rights or privileges of such membership.

XIV.

RESIDENTIAL USE RESTRICTIONS  
APPLICABLE TO CONDOMINIUM UNITS

Each Condominium Unit is hereby restricted to residential use by the Owner thereof, his immediate family, guests, invitees and lessees. No Owner of any Condominium Unit shall permit the use of his Unit for commercial purposes. Corporate members other than the Developer shall permit the use of a Condominium Unit owned by it only by its principal officers or directors, or other guests, or lessees. Such corporate member shall annually sign and deliver to the Association a written statement designating the name of the party (or parties) entitled to use such Condominium Unit, together with a written covenant of such party in favor of the Association whereby the party agrees to comply with the terms and provisions of this Declaration of Condominium and with the rules and regulations which may be promulgated by the Association from time to time and acknowledging that the party's right to use such Condominium Unit shall exist only so long as the corporation shall continue to be a member of the Association. Upon demand by the Association to any corporate member to remove a party for failure to comply with the terms and provisions of the Declaration of Condominium and/or the rules and regulations of the Association or for any other reason, the corporate member shall forthwith cause such party to be removed, failing which the Association, as agent of the Owner, may take such action as it may deem appropriate to accomplish such removal, and all such action by the Association shall be at the cost and expense of the Owner who shall reimburse the Association therefore

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upon demand together with such attorney's fees as the Association may have incurred in the process of removal.

No Unit Owner may lease less than the entire Unit and all leases shall be in writing. Any lease agreement shall be required to provide that the terms of the lease shall be subject in all respects to the provisions of the Declaration and the By-Laws and any failure of lessee to comply with the terms of such documents shall be a default under the lease.

XV.  
USE OF COMMON PROPERTY SUBJECT TO RULES  
OF THE ASSOCIATION

The use of Common Property, including the Limited Common Areas and Facilities, by the Owner or Owners of all Condominium Units, and all other parties authorized to use the same, shall be at all times subject to such reasonable rules and regulations as may be prescribed and established governing such use, or which may be hereafter prescribed and established by the Association.

XVI.  
THE CONDOMINIUM TO BE USED FOR LAWFUL PURPOSES:  
RESTRICTION AGAINST NUISANCES

No immoral, improper, offensive or unlawful use shall be made of any Condominium Unit or of the Common Property, nor any part thereof and all laws, zoning ordinances and regulations of all governmental authorities having jurisdiction of the Condominium shall be observed. No Owner of any Condominium Unit shall permit or suffer anything to be done or kept in his Condominium Unit, or on the Common Property, which will increase the rate of insurance on the Condominium, or which will obstruct or interfere with the rights of other occupants of the Condominium or annoy them by unreasonable noises, nor shall any Owner undertake any use or practice which shall create and constitute a nuisance to any other Owner of a Condominium Unit, or which interferes with the peaceful possession and proper use of any other Condominium Unit or the Common Property.

XVII.  
RIGHT OF ENTRY INTO CONDOMINIUM UNITS IN EMERGENCIES

In case of any emergency originating in or threatening any Condominium Unit, regardless of whether the Owner is present at the time of such emergency, the Board of Directors of the Association, or any other person authorized by it, or the Managing Agent, shall have the right to enter such Condominium Unit for the purpose of remedying or abating the cause of such emergency, and such right of entry shall be immediate.

XVIII.  
RIGHT OF ENTRY FOR MAINTENANCE OF COMMON PROPERTY

Whenever it may be necessary to enter any Condominium Unit for the purpose of performing any maintenance, alteration or repair to any portion of the Common Property, the Owner of each Condominium Unit shall permit other Owners or their representatives, or the duly constituted and authorized Agent of the Association, to enter such Condominium Unit for such purpose, provided that the entry shall be made only at reasonable times and with reasonable advance notice.

XIX.  
LIMITATION UPON RIGHT OF OWNERS TO  
ALTER AND MODIFY CONDOMINIUM UNITS: NO  
RIGHT TO ALTER COMMON PROPERTY

No Owner of a Condominium Unit shall permit any structural modification or alteration to be made to such Condominium Unit without first obtaining the written consent of the Association, which consent may be withheld in the event that a majority of the Board of Directors of the Association shall determine, in their sole discretion, that such structural modifications or alterations would adversely affect



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or in any manner endanger the Condominium in part or in its entirety. No Owner shall cause any improvements or changes to be made on the exterior of the Condominium (including painting or other decoration, or the installation of electrical wiring, television or radio antennae or any other objects, machines or air conditioning units which may protrude through the walls or roof of the Condominium) or in any manner alter the appearance of the exterior portion of any building without the written consent of the Association being first had and obtained. No Unit Owner shall cause any object to be fixed to the Common Property or to any Limited Common Area (including the location or construction of fences, athletic equipment, the planting or growing of flowers, trees, shrubs or any other vegetation) or in any manner change the appearance of the Common Property or Limited Common Area without the written consent of the Association being first had and obtained.

XX.

RIGHT OF ASSOCIATION TO ALTER AND  
IMPROVE COMMON PROPERTY AND ASSESSMENT THEREFOR

The Association shall have the right to make or cause to be made such alterations or improvements to the Common Property which do not prejudice the rights of the Owner of any Condominium Unit in the use and enjoyment of his Condominium Unit, provided the making of such alterations and improvements are approved by the Board of Directors of the Association, and the cost of such alterations or improvements shall be common expenses to be assessed and collected from all of the Owners of Condominium Units. However, where any alterations and improvements are exclusively or substantially for the benefit of the Owner or Owners of certain Condominium Unit or Units requesting the same, then the cost of such alterations or improvements shall be assessed against and collected solely from the Owner or Owners of the Condominium Unit or Units exclusively or substantially benefitted, the assessment to be levied in such proportion as may be determined by the Board of Directors of the Association.

XXI.

MAINTENANCE AND REPAIR BY OWNERS OF CONDOMINIUM UNITS

Every Owner shall perform promptly all maintenance and repair work within his Condominium Unit which, if omitted, would affect the Condominium, either in its entirety or in a part belonging to other Owners, every Owner being expressly responsible for the damages and liability which his failure to do so may engender. The Owner of each Condominium Unit shall be liable and responsible for the maintenance, repair and replacement, as the case may be, of all air conditioning and heating equipment, stoves, refrigerators, fans, or other appliances or equipment, including any fixtures and/or their connections required to provide water, light, power, telephone, sewage and sanitary service to his Condominium Unit. Such Owner shall further be responsible and liable for the maintenance, repair and replacement of the interior surfaces of any and all walls, ceilings and floors within his Unit including painting, decorating and furnishings, and all other accessories which such Owner may desire to place or maintain in his Condominium Unit. Whenever the maintenance, repair and replacement of any item for which the Owner of a Condominium Unit is obligated to maintain, replace or repair at his own expense is occasioned by any loss or damage which may be covered by any insurance maintained in force by the Association, the proceeds of the insurance received by the Association shall be used for the purpose of making such maintenance, repair or replacement except that the Owner of such Condominium Unit shall be, in said instance, required to pay such portion of the costs of such maintenance, repair and replacement as shall, by reason of the applicability of any deductibility provisions of such insurance exceed the amount of the insurance proceeds applicable to such maintenance, repair or replacement. Except as otherwise provided herein, the Owner of a Condominium Unit who has exclusive use of any Limited Common Area shall maintain such at his own expense. All glass doors, window frames, panes and screens are a part of the respective Condominium Units and shall be maintained by the respective Unit Owners.

The Owner of a Condominium Unit who has exclusive use of a porch, balcony, deck, chimney, attic, compressor pad, storage closet or compartment constituting Limited Common Area shall maintain such balcony, chimney, attic, compressor pad, storage closet or compartment at his own expense. The Limited Common Areas composed of steps and stoops shall be maintained as part of the Common Expense, as hereinafter defined.

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Each unit is served by individual utility connections for electricity and telephone services crossing the common areas from the main or feeder lines of each utility. Should the need arise to inspect, repair, replace or maintain said individual lines between the unit and the common service main lines or feeder lines, then said inspection, repair, replacement or maintenance and the cost thereof and restoring and placing the common area in the same condition as it was in prior to said work and the cost thereof shall be totally the responsibility of the unit owner or owners served by said individual lines.

XXII.

MAINTENANCE AND REPAIR OF COMMON PROPERTY  
BY THE ASSOCIATION

The Association, at its expense, shall be responsible for the maintenance, repair and replacement of all of the Common Property, including those portions thereof which contribute to the support of the buildings, and all conduits, ducts, plumbing, wiring and other facilities located in the Common Property for the furnishing of utility and other services to the Condominium Units and said Common Property, except as provided in Article XXI. Should any incidental damage be caused to any Condominium Unit by virtue of any work which may be done or caused to be done by the Association in the maintenance, repair or replacement of any Common Property, the Association shall, at its expense, repair such incidental damage. Whenever the maintenance, repair and replacement of any item for which the Association is obligated to maintain, replace or repair at its expense is occasioned by any act of a Condominium Unit Owner, his immediate family, guests, tenants, lessees, or invitees, and such loss or damage may be covered by any insurance maintained in force by the Association, the proceeds of the insurance received by Association shall be used for the purpose of making such maintenance, repair or replacement, except that the Unit Owner who is responsible for the act causing the damage (whether done by himself or by his family, guests or invitees) shall be required to pay such portion of the cost of such maintenance, repair and replacement as shall, by reason of the applicability of such deductibility provision of such insurance, exceed the amount of the insurance proceeds applicable to such maintenance, repair or replacement.

XXIII.

INSURANCE, AUTHORITY TO PURCHASE

Insurance policies upon the Property (other than title insurance) shall be purchased by the Association in the name of the Managing Agent or Board of Directors of the Association, as Trustees for the Condominium Unit Owners and their respective mortgagees as their interests may appear, and shall provide for the issuance of certificates of mortgage endorsements to the holders of first mortgages on the Condominium Units or any of them, and if the companies writing such policies will agree, the policies shall provide that the insurer waives its rights of subrogation as to any claims against Condominium Unit Owners, the Association and their respective servants, agents, tenants, lessees, and guests. Each Condominium Unit Owner may obtain insurance at his own expense, affording coverage upon his Condominium Unit, his personal property and for his personal liability and as may be permitted or required by law, but all such insurance shall contain the same waiver of subrogation as that referred to above if the same is available.

XXIV.

INSURANCE COVERAGE TO BE MAINTAINED: USE  
AND DISTRIBUTION OF INSURANCE PROCEEDS

A. The following insurance coverage shall be maintained in full force and effect by the Association covering the operation and management of the Condominium, meaning the Condominium Units and Common Property, to wit:

(1) Casualty insurance covering the buildings and all improvements upon the land and all personal property included within the Common Areas and Facilities and Limited Common Areas and fixtures, cabinets, and wall and floor coverings of the Units, building service equipment, and any fixtures, equipment alterations and improvements within the Units and owned by the unit owners, shall be procured in an amount equal to the maximum insurable replacement value thereof (exclusive of exca-

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vation and foundations) as determined annually by the insurance company affording such coverage. Such coverage shall afford protection against: (a) loss or damage by fire and other hazards covered by the standard extended coverage endorsement; (b) such other risks as from time to time customarily shall be covered with respect to buildings similar in construction, location and use, including, but not limited to, vandalism, malicious mischief, and windstorm damage.

(2) Public liability and property damage insurance in such amounts and in such forms as shall be required by the Association or the Federal National Mortgage Association (FNMA), including but not limiting the same to legal liability, hired automobile, non-owned automobile and off-premises employee coverages.

(3) All liability insurance shall contain cross-liability endorsements to cover liabilities of the Condominium Unit Owners as a group to a Condominium Unit Owner.

(4) Blanket fidelity bonds shall be maintained for anyone who either handles or is responsible for funds held or administered by the Association. Such fidelity bond coverage must at least equal the sum of three months' assessments on all units in the project plus the Association's reserve funds.

B. Premiums upon insurance policies purchased by the Association shall be paid by the Association as common expenses to be assessed and collected from all of the Owners of Condominium Units.

C. All insurance policies purchased by the Association shall be for the benefit of the Association and the Condominium Unit Owners and their mortgagees, as their respective interests may appear, and shall provide that all proceeds payable as a result of casualty losses shall be paid to the Association. The Association shall hold such proceeds in trust for the benefit of the Association, the Condominium Unit Owners and their respective mortgagees in the following shares:

(1) Proceeds on account of damage to Common Property: in undivided shares for each Condominium Unit Owner and his mortgagee, if any, which shares as to each Condominium Unit are shown in Exhibit "p" attached hereto.

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

(a) Partial destruction when the Condominium is to be restored: for the Owners of damaged Condominium Units in proportion to the costs of repairing the damage suffered by each damaged Condominium Unit.

(b) Total destruction of the Condominium or where the Condominium is not to be restored: for all Condominium Unit Owners, the share of each being set forth in Exhibit "p".

D. In the event a mortgagee endorsement has been issued as to a Condominium Unit, the share of the Condominium Unit Owner shall be held for the mortgagee and the Condominium Unit Owners as their interests may appear, but nothing herein contained shall be construed so as to give any mortgagee the right to determine or participate in the determination of reconstruction or repair.

E. Proceeds of insurance policies received by the Association shall be distributed to or for the benefit of the beneficiary Condominium Unit Owners in the following manner:

(1) 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 as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the beneficial Condominium Unit Owners, all remittances to Condominium Unit Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a Condominium Unit and may be enforced by him.

(2) If it is determined in the manner elsewhere provided that the damage for which the proceeds are paid shall not be reconstructed or repaired, the proceeds shall be distributed to the beneficial Condominium Unit Owners, remittances to Condominium Unit Owners and their mortgagees being payable jointly to them. This is a

covenant for the benefit of any mortgagee of a Condominium Unit and may be enforced by him.

XXV.

RECONSTRUCTION OR REPAIR OF CASUALTY DAMAGE;  
DAMAGE TO COMMON PROPERTY; DAMAGE TO  
CONDOMINIUM UNITS

A. If any part of the Common Property shall be damaged by casualty, the determination of whether or not to reconstruct or repair the same shall be made as follows:

(1) Partial destruction shall be deemed to mean destruction which renders less than two-thirds (2/3) of the Condominium Units untenable. In the event of partial destruction, the Common Property shall be reconstructed or repaired unless this Declaration is terminated by the unanimous vote of all of the Condominium Unit Owners at a meeting of the members of the Association called and held prior to commencement of such reconstruction or repair.

(2) Total destruction shall be deemed to mean destruction which renders two-thirds (2/3) or more of the Condominium Units untenable. In the event of total destruction, the Common Property shall not be reconstructed or repaired if, at a meeting which shall be called within thirty (30) days after the occurrence of the casualty, or if by such date the insurance loss has not been finally adjusted, then within thirty (30) days after such adjustment, Condominium Unit Owners who in the aggregate own seventy-five (75%) percent or more of the Condominium Units vote against reconstruction or repair.

(3) Any such reconstruction or repair shall be substantially in accordance with the plans and specifications contained herein and on file with and approved by Wake County.

B. If the damage is only to those parts of one or more Condominium Units for which the responsibility for maintenance and repair is that of the Condominium Unit Owner, then the Condominium 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 as follows:

(1) Immediately after the casualty causing damage to property for which the Association has the responsibility for maintenance and repair, the Association shall obtain reliable and detailed estimates of the cost to place the damaged property in condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board of Directors deems necessary or appropriate.

(2) When the damage is to both Common Property and Condominium Units, the insurance proceeds shall be applied first to the costs of repairing the Common Property and the balance to the Condominium Units.

C. Each Condominium Unit Owner shall be deemed to have delegated to the Board of Directors of the Association his right to adjust with insurance companies all losses under policies purchased by the Association, except in any case where the damage is restricted to one Condominium Unit.

XXVI.

ASSOCIATION TO MAINTAIN REGISTER  
OF OWNERS AND MORTGAGEES

The Association shall at all times maintain a Register setting forth the names of the Owners of all of the Condominium Units. In the event of the sale or transfer of any Condominium Unit to a third party, the purchaser or transferee shall notify the Association in writing of his interest in such Condominium Unit, together with such recording information as shall be pertinent to identify the instrument by which such purchaser or transferee has acquired his interest in any Condominium Unit. Further, the Owner of each Condominium Unit shall notify the Association of the names of the parties holding any mortgage or mortgages on any Condominium Unit, the amount of such mortgage or mortgages and the recording information which shall be pertinent to

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Identify the mortgage or mortgages. The holder of any mortgage or mortgages upon any Condominium Unit may, if he so desires, notify the Association of the existence of any mortgage or mortgages held by such party on any Condominium Unit and, upon receipt of such notice, the Association shall register in its records all pertinent information relating thereto.

XXVII.

ASSESSMENTS: LIABILITY, LIEN AND ENFORCEMENT

The Association is given the authority to administer the operation and management of the Condominium, it being recognized that the delegation of such duties to one entity is in the best interest of the Owners of all Condominium Units. To properly administer the operation and management of the Condominium, the Association will incur for the mutual benefit of all of the Owners of Condominium Units, costs and expenses which are sometimes herein referred to as "common expense". To provide the funds necessary for such proper operation, management and capital improvement, the Association has heretofore been granted the right to make, levy and collect assessments against the Unit Owners and their Condominium Units. In furtherance of this grant of authority to the Association to make, levy and collect assessments to pay the costs and expenses for the operation, management of and capital improvements to the Condominium, the following provisions shall be operative and binding upon the owners of all Condominium Units:

A. The monthly assessment for each Unit for 1986 shall be (i) \$4.00 per unit (the monthly per unit assessment for the Edgehill Farm Association) plus (ii) an amount arrived at by multiplying \$68.00 (hereinafter called "Assessment Base Figure") by the number of Units subject to this Declaration and the result by the Percentage Interest of that Unit in decimal form.

For calendar years after 1986, the monthly per unit assessment shall be computed as aforesaid, subject to the following provisions:

(i) The monthly per Unit assessment for the calendar year as established by the Edgehill Farm Association shall be substituted for the \$4.00 amount set forth above.

(ii) The Assessment Base Figure may be increased by the Board, without a vote of the members, to an amount not more than 10% in excess of the Assessment Base Figure for 1986 or the Assessment Base Figure as increased for the previous year for any year after 1986.

(iii) The Assessment Base Figure may be increased above the increase allowed in subsection (ii) of this Paragraph B by a vote of a majority of the Members who are voting in person or by proxy at a meeting called for this purpose, written notice of which shall be sent to all Members not less than thirty (30) days, nor more than sixty (60) days, in advance of the meeting setting forth the purpose of the meeting.

(iv) The Board of Directors may fix the annual assessment at any amount not in excess of the maximum stated above.

B. All assessments hereby levied against the Unit Owner and their Condominium Units shall be uniform and, unless specifically otherwise provided for in this Declaration of Condominium, all assessments made by the Association shall be in such an amount that any assessment levied against a Unit Owner and his Condominium Unit shall bear the same ratio to the total assessment made against all Unit Owners and their Condominium Units as the undivided interest in Common Property appurtenant to each Condominium Unit at the time such assessment is levied bears to the total undivided interest in Common Property appurtenant to all Condominium Units as shown on Exhibit "D" attached hereto. Should the Association be the Owner of a Condominium Unit or Units, the assessment which would otherwise be due and payable to the Association by the Owner of such Unit or Units, reduced by the amount of income which may be derived from the leasing of such Unit or Units by the Association, shall be apportioned and assessment therefor levied ratably among the Owners of all Units which are not owned by the Association, based upon their proportionate interests in Common Property exclusive of the interests therein appurtenant to any Unit or Units owned by the Association.

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C. Assessments provided for herein shall be payable in monthly installments. Such assessments shall commence for each Unit on the first day of the second month following the recordation of this Declaration.

D. The Board of Directors of the Association shall establish an Annual Budget in advance for each fiscal year (which shall correspond to the calendar year, except that in the initial year of operation of the Condominium, the fiscal year shall commence with the closing of the sale of the first Condominium Unit). Such budget shall project all expenses for the forthcoming year which may be required for the proper operation, management and maintenance of the Condominium, including a reasonable allowance for contingencies and reserves, such budget to take into account projected anticipated income which is to be applied in reduction of the amounts required to be collected as an assessment each year. The Board of Directors shall keep separate, in accordance with Paragraph "D" hereof, items relating to operation and maintenance from items relating to capital improvements. Upon adoption of such Annual Budget by the Board of Directors of the Association, copies of said Budget shall be delivered to each Owner of a Condominium Unit and the assessment for said year shall be established based upon such Budget, although the delivery of a copy of said Budget to each Owner shall not affect the liability of any Owner for such assessment. Should the Board of Directors at any time determine, in its sole discretion, that the assessments levied are or may prove to be insufficient to pay the costs of operation and management of the Condominium, or in the event of emergencies, the Board of Directors shall have the authority to levy such additional assessment or assessments it may deem to be necessary.

E. The Board of Directors of the Association, in establishing the Annual Budget for operation, management and maintenance of the Condominium, shall designate therein a sum to be collected and maintained as a reserve fund for replacement of and capital improvements to the Common Property, which Capital Improvement and Replacement Fund shall be for the purpose of enabling the Association to replace structural elements and mechanical equipment constituting a part of the Common Property, as well as the replacement of personal property which may constitute a portion of the Common Property held for the joint use and benefit of the Owners of Condominium Units. The amount to be allocated to such Capital Improvement Fund may be established by said Board of Directors so as to collect and maintain a sum reasonably necessary to anticipate the need for replacement of Common Property. The amount collected for the Capital Improvement Fund shall be maintained in a separate account by the Association and such monies shall be used only to make capital improvements to Common Property. Any interest earned on monies in the Capital Improvement Fund may, in the discretion of the Board of Directors of the Association, be expended for current operation and maintenance. Each Unit Owner shall be deemed to own a portion of the Capital Improvement Fund equal to his proportionate interest in the Common Property as shown on Exhibit "C". However, such balance shall not be subject to withdrawal by a Unit Owner.

F. A working capital fund shall be maintained for the initial months of the project's operation equal to at least two month's assessments for each Unit. Each Unit's share of the working capital fund shall be collected and transferred to the Association at the closing of the sale of each Unit. Amounts paid into the fund are not to be considered as advance payments of regular assessments.

G. All monies collected by the Association shall be treated as the separate property of the Association, and, subject to the limitations set forth in Paragraph "D" above, such monies may be applied by the Association to the payment of any expense of operating and managing the Condominium, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration of Condominium, the Articles of Incorporation and Bylaws of the Association. As monies for any assessment are paid unto the Association by any Owner of a Condominium Unit, the same may be co-mingled with monies paid to the Association by the other Owners of Condominium Units. Although all funds and common surplus, including other assets of the Association, and any increments thereto or profits derived therefrom or from the leasing or use of Common Property, shall be held for the benefit of the members of the Association, no member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his Condominium Unit. When the Owner of a Condominium Unit shall cease to be a member of the Association by reason of his divestment of ownership of such Condominium Unit, by whatever means, the Association shall not be required to account to such Owner for any share of the fund or assets of the Association, or

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which may have been paid to the Association by such Owner, as all monies which any Owner has paid to the Association shall be and constitute an asset of the Association which may be used in the operation and management of the Condominium.

H. The payment of any assessment or installment thereof shall be in default if any such assessment or installment is not paid to the Association within thirty (30) days of the due date for such payment. When in default, the delinquent assessment or delinquent installment thereof due to Association shall bear interest at the highest rate allowed by law until such delinquent assessment or installment thereof, and all interest due thereon, has been paid in full to Association. All monies owing to Association shall be due and payable at the main office of Association in the State of North Carolina.

I. The Owner or Owners of each Condominium unit shall be personally liable, jointly and severally, to the Association for the payment of all assessments, regular or special, which may be levied by the Association against such Condominium Unit while such party or parties are Owner or Owners of a Condominium Unit. In the event that any Unit Owner or Owners are in default in payment of any assessment or installment thereof owed to the Association, such Unit Owner or Owners shall be personally liable, jointly and severally, for interest on such delinquent assessment or installment thereof as above provided, and for all costs of collecting such assessment or installment thereof and interest thereon, including a reasonable attorneys' fee, whether suit be brought or not.

J. No Owner of a Condominium Unit may exempt himself from liability for any assessment levied against him or his Condominium Unit by waiver of the use or enjoyment of any of the Common Property, or by abandonment of the Condominium Unit or in any other way.

K. Recognizing that proper operation and management of the Condominium requires the continuing payment of costs and expenses therefor, and that such proper operation and maintenance results in benefit to all of the Owners of Condominium Units, and that the payment of such common expenses represented by the assessments levied and collected by Association is necessary in order to preserve and protect the investment of each Unit Owner, the Association is hereby granted a lien upon each Condominium Unit and its appurtenant undivided interest in Common Property, which lien shall secure and does secure the monies due for all assessments now or hereafter levied against the Owner of each such Condominium Units, which lien shall also secure interest, if any, which may be due on the amount of any delinquent assessments owing to the Association, and which lien shall also secure all costs and expenses, including a reasonable attorneys' fee, which may be incurred by the Association in enforcing this lien upon said Condominium Unit and its appurtenant undivided interest in Common Property. The lien granted to the Association may be foreclosed in the same manner that real estate deeds of trust and mortgages may be foreclosed in the State of North Carolina, and in any suit for the foreclosure of said lien, the Association shall be entitled to a reasonable rental from the Owner of any Condominium Unit from the date on which the payment of any assessment or installment thereof became delinquent, and shall be entitled to the appointment of a Receiver for said Condominium Unit, without notice to the Owner of such Condominium Unit. The lien granted to the Association shall further secure such advances for taxes, and payments on account of superior mortgages, liens or encumbrances which may be required to be advanced by the Association in order to preserve and protect its lien, and the Association shall further be entitled to interest at the highest rate allowed by law on any such advances made for such purpose. All persons, firms or corporations who shall acquire, by whatever means, any interest in the ownership of any Condominium Unit, or who may be given or acquire a mortgage, lien or other encumbrance thereon, are hereby placed on notice of the lien rights granted to the Association, and shall acquire such interest in any Condominium Unit expressly subject to such lien rights.

L. The lien herein granted unto the Association shall be enforceable from and after the time of recording a claim of lien in the Public Records of Wake County, North Carolina, which claim shall state the description of the Condominium Unit encumbered thereby, the name of the record owner, the amount due and the date when due. The claim of lien shall be recordable any time after default and the lien shall continue in effect until all sums secured by said lien as herein provided shall have been fully paid. Such claims of lien shall include only assessments which are due and payable when the claim of lien is recorded, plus interest, costs, attorneys' fees, advances to pay taxes and prior encumbrances and interest thereon, all as above

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provided. Such claims of lien shall be signed and verified by an officer or agent of the Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record.

The lien provided for herein shall be subordinate to the lien of any first mortgage or deed of trust and any person, firm or corporation acquiring title to any Condominium Unit and its appurtenant undivided interest in Common Property by virtue of any foreclosure, a judicial sale, or a deed in lieu of foreclosure, shall be liable and obligated only for assessments as shall accrue and become due and payable for said Condominium Unit and its appurtenant undivided interest in Common Property subsequent to the date of acquisition of such title, and it shall not be liable for the payment of any assessments which were in default and delinquent at the time it acquired such title. In the event of the acquisition of title to a Condominium Unit by foreclosure or judicial sale, any assessment or assessments as to which the party so acquiring title shall not be liable shall be absorbed and paid by all Owners of all Condominium Units as a part of the common expense, although nothing herein contained shall be construed as releasing the party liable for such delinquent assessment from the payment thereof or the enforcement of collection of such payment by means other than foreclosure.

M. Whenever any Condominium Unit may be leased, sold or mortgaged by the Owner thereof, the Association, upon written request of the Unit Owner, shall furnish to the proposed lessee, purchaser or mortgagee, a statement verifying the status of payment of any assessment which shall be due and payable to the Association by such Unit. Such statement shall be executed by any officer of the Association, and any lessee, purchaser or mortgagee may rely upon such statement in concluding the proposed lease, purchase or mortgage transaction, and the Association shall be bound by such statement.

In the event that a Condominium Unit is to be leased, sold or mortgaged at the time when payment of any assessment against the Owner of said Condominium Unit and such Condominium Unit due to the Association shall be in default (whether or not a claim of lien has been recorded by the Association), then the rent, proceeds of such purchase or mortgage proceeds, shall be applied by the lessee, purchaser or mortgagee first to payment of any then delinquent assessment or installments thereof due to the Association before the payment of any rent, proceeds of purchase or mortgage proceeds to the Owner of any Condominium Unit who is responsible for payment of such delinquent assessment.

In any voluntary conveyance of a Condominium Unit (other than by deed in lieu of foreclosure), the Purchaser thereof shall be jointly and severally liable with Seller for all unpaid assessments against Seller made prior to the time of such voluntary conveyance, without prejudice to the rights of the Purchaser to recover from Seller the amounts paid by Purchaser therefor.

Institution of suit at law to attempt to effect collection of the payment of any delinquent assessment shall not be deemed to be an election by the Association which shall prevent it from thereafter seeking, by foreclosure action, enforcement of the collection of any sums remaining owing to it, nor shall proceeding by foreclosure to attempt such collection be deemed to be an election precluding the institution of a suit at law to collect any sum then remaining owing to Association.

XVIII.

COMMON SURPLUS

"Common Surplus", meaning all funds and other assets of the Association (including excess of receipts of the Association, including but not limited to assessments, rents, profits, and revenues from whatever source over amount of the common expense), shall be owned by the Owners of all Condominium Units in the same proportion that the undivided interest in Common Property appurtenant to each Owner's Condominium Unit bears to the total of all undivided interest in Common Property appurtenant to all Condominium Unit as shown on Exhibit "C", as the case may be provided, however, that said 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 indemnity herein provided, or upon termination of the Condominium, any attribution or distribution of common surplus which may



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be made from time to time shall be made to the then Owners of Condominium Units in accordance with their percentage interest in common surplus as declared herein.

XXIX.

TERMINATION

The Condominium shall be terminated, if at all, in the following manner:

A. The termination of the Condominium may be effected only by the unanimous agreement of all Condominium Unit Owners expressed in an instrument to that effect duly recorded; and, provided, that the holders of all liens affecting any of the Condominium Units consent thereto, or agree, in either case by instrument duly recorded, that their liens be transferred to the percentage of the undivided interest of the Condominium Unit Owner in the Property as provided in Subparagraph "D" below. The termination shall become effective when such agreement has been recorded in the public records of Wake County, North Carolina.

B. If it is determined in the manner elsewhere provided that the Condominium shall not be reconstructed after casualty, the Condominium plan of ownership shall be terminated and the Declaration of Condominium revoked. The determination not to reconstruct after casualty shall be evidenced by a Certificate of the Association certifying as to the facts effecting the termination, which Certificate shall become effective upon being recorded in the public records of Wake County, North Carolina.

C. After termination of the Condominium, the Condominium Unit Owners shall own the Property as tenants in common in undivided shares and the holders or mortgages and liens against the Condominium Unit or Units formerly owned by such Condominium Unit Owners shall have mortgages and liens upon the respective undivided shares of the Condominium Unit Owners. The undivided share or interest owned as tenants in common shall be that percentage of the undivided interest in the Common Area and Facilities previously owned by each Unit Owner. All funds held by the Association and insurance proceeds, if any, shall be and continue to be held for the Unit Owners in the same proportion. The costs incurred by the Association in connection with the termination shall be a Common Expense.

D. Following termination, the property shall be subject to an action for sale for partition at the suit of any Condominium Unit Owner.

E. The members of the Board of Directors acting collectively as agent for all Condominium Unit Owners, shall continue to have such powers as in this Article are granted, notwithstanding the fact that the Association itself may be dissolved upon a termination.

XXX.

ADDITIONS TO CONDOMINIUM PROPERTY

As Developer completes additional phases of the Project, said stages will become part of the Condominium Property by amendment to this Declaration and the Unit Owners of the Dwelling Units constructed on the additional phases will become members of the Association, to the same extent as if their Units were originally a part of the Units covered by this Declaration. Developer, therefore, hereby reserves the right at any time within a period of five (5) years, commencing on the date this Declaration is filed for record, that Developer determines to take the action so contemplated (i) to submit from time to time phases of the Project Property, together with the Buildings thereon, and all articles of personal property existing for the common use of the Unit Owners to the provisions of this Declaration and the Unit Ownership Act, and (ii) to amend this Declaration, in the manner provided in Paragraph XXXI, hereof, in such respects as Developer may deem advisable in order to effectuate such submission or submissions, including, without limiting the generality of the foregoing, the

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right to amend this Declaration so as (a) from time to time within said five (5) year period to include phases of the Project Property and the improvements constructed thereon as part of the Condominium Property, (b) from time to time to include descriptions of Buildings constructed on said phases of the Project Property in this Declaration and to add Drawings thereon to Exhibit C hereto, and (c) to provide that the owners of Units in the Buildings will have an interest in the Common Areas and Facilities of the Condominium Property and to amend Paragraph VI and Exhibit D hereof so as to establish the percentage of interest in the Common Areas and Facilities which the owners of all Units within the Buildings on the Condominium Property will have at the time of such amendment or amendments, which percentage shall be, with respect to each Unit, in the proportion that the fair market value of each Unit at the date said amendment is filed for record bears to the then aggregate value of all the Units within the Buildings on the Condominium Property, which determination shall be made by Developer and shall be conclusive and binding upon all Unit Owners. Developer expressly agrees, however, that there will not be constructed on the Condominium Property more than a total of 96 Dwelling Units, and that the buildings and Dwelling Units constructed in any subsequent phase shall be architecturally compatible with the existing buildings and Dwelling Units. Developer, on its own behalf as the owner of all Units in the Condominium Property and on behalf of all subsequent Unit Owners, hereby consents and approves, and each Unit Owner and his mortgagees by acceptance of a deed conveying such Ownership Interest or a mortgage encumbering such Ownership Interest, as the case may be, thereby consents to and approves, the provisions of this Paragraph XXX, including without limiting the generality of the foregoing, the amendment of this Declaration by Developer in the manner provided in Paragraph XXXI hereof and all such Unit Owners and their mortgagees, upon request of Developer shall execute and deliver from time to time all such instruments and perform all such acts as may be deemed by Developer to be necessary or proper to effectuate said provisions.

XXXI.

AMENDMENT OF DECLARATION OF CONDOMINIUM

The Declaration of Condominium may be amended in the following manner:

A. An Amendment or Amendments to this Declaration of Condominium may be proposed by the Board of Directors of the Association acting upon a vote of a majority of the Directors, or by the members of the Association owning a majority of the Condominium Units, whether meeting as members or by instrument in writing signed by them. Upon any Amendment or Amendments to this Declaration of Condominium being proposed by said Board of Directors or members, such proposed Amendment or Amendments shall be transmitted to the President of the Association, or other officer of the Association in the absence of the President, who shall thereupon call a Special Meeting of the Members of the Association for a date not sooner than twenty (20) days nor later than sixty (60) days from receipt by him of the proposed Amendment or Amendments. It shall be the duty of the Secretary to give each member written or printed notice of such Special Meeting, stating the time and place thereof, and reciting the proposed Amendment or Amendments in reasonably detailed form, which notice shall be mailed not less than ten (10) days nor more than thirty (30) days before the date set for such Special Meeting. If mailed, such notice shall be deemed to be properly given when deposited in the United States Mail addressed to the member at his Post Office address as it appears on the records of the Association, the postage thereon prepaid. Any member may, by written waiver of notice signed by such member, waive such notice, and such waiver, when filed in the records of the Association, whether before or after the holding of the meeting, shall be deemed equivalent to the giving of notice to such member. At the meeting, the Amendment or Amendments proposed must be approved by an affirmative vote of seventy-five (75%) percent of the members owning Units in the Condominium in order for such Amendment or Amendments to become effective. Thereupon such Amendment or Amendments of this Declaration of Condominium shall be transcribed and certified by the President and Secretary of the Association as having been duly adopted. The original or an executed copy of such Amendment or Amendments, so certified and executed with the same formalities as a Deed, shall be recorded in the Public Records of Wake County, North Carolina, within ten (10) days from the date on which the same became effective, such Amendment or Amendments to specifically refer to the recording date identifying the Declaration of Condominium.

Thereafter, a copy of said Amendment or Amendments in the form in which the same were placed of record by the Officers of Association shall be delivered to the Owners of all Condominium Units, but delivery of a copy thereof shall not be a condition

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precedent to the effectiveness of such Amendment or Amendments. At any meeting held to consider such Amendment or Amendments, the written vote of any member of the Association shall be recognized if such member is not in attendance at such meeting or represented thereat by proxy, provided such written vote is delivered to the Secretary of the Association prior to such meeting or at such meeting.

B. Developer shall have the right to amend this Declaration at any time prior to five (5) years from the date of recording this Declaration without the further consent of the Unit Owners, to incorporate into the Property (i) the additional land described in Exhibit "A" attached hereto and incorporated herein by reference and (ii) the additional dwelling Units to be constructed upon such additional land by Developer. In the event that this Declaration is so amended, the term "Property" as used herein shall be deemed to mean and include the property described in Exhibit "A" and in Exhibit "B" and all improvements and structures now or hereafter placed by Developer thereon, all easements, rights and appurtenances thereto, and all articles of personal property provided by Developer and intended for use in connection therewith. Upon such Amendment the undivided interest appurtenant to each Condominium Unit shall be as set out in Exhibit "D", attached hereto and made a part hereof or as amended. The materials used in the construction of the additional units shall be of comparable quality as those used in the original units, and the architectural style of the additional units shall be substantially the same as, or compatible with, the original units. No amendment made by Developer in accordance with this Paragraph shall divest an Owner of any portion of his Dwelling Unit without the consent of such Owner and no such amendment shall materially alter the plan of development set forth herein without the consent of all Owners affected thereby. Each Unit Owner shall be deemed by his acceptance of a deed to a Condominium Unit to have consented to the powers of amendment herein reserved by Developer and to any amendments previously or thereafter executed by Developer pursuant thereto. Each Unit Owner and each Institutional Lender shall further be deemed by the Owner's acceptance of a deed to a Condominium Unit to have appointed Developer their attorney-in-fact to give, execute and record the consent of said Owner and said Institutional Lender to any and all amendments to this Declaration which Developer may wish to execute pursuant to the powers herein reserved. Except as provided in this Paragraph B of Article XXXI, the condominium regime created hereby may not be amended or merged with another condominium regime without the prior written consent of the Veterans Administration.

C. Except as expressly set out in this Declaration, no alteration in the percentage of ownership in Common Property appurtenant to each Condominium Unit, or alteration of the basis for sharing common expenses and other apportionment of assessments which may be levied by the Association in accordance with the provisions hereof, or alteration of basis of ownership of Common Surplus, shall be made without written consent of all of the owners of all Condominium Units and their respective mortgagees, being first had and obtained.

D. No alteration, amendment or modification of the rights and privileges granted and reserved hereunder in favor of an Institutional Lender or Institutional Lenders shall be made without written consent of all Institutional Lenders holding mortgages on Condominium Units in the Condominium being first had and obtained.

E. No alteration, amendment or modification of the rights and privileges granted and reserved hereunder in favor of Developer shall be made without the written consent of said party being first had and obtained.

XXII.

REMEDIES IN EVENT OF DEFAULT

The Owner or Owners of each Condominium Unit shall be governed by and shall comply with the provisions of this Declaration of Condominium, and the Articles of Incorporation and By-Laws of the Association, as any of the same are now constituted or as they may be amended from time to time. A default by the Owner of any Condominium Unit shall entitle the Association or the Owner of other Condominium Units to the following relief:

A. Failure to comply with any of the terms of this Declaration of Condominium or other restrictions and regulations contained in the Articles of Incorporation or By-Laws of the Association, or which may be adopted pursuant thereto, shall be grounds for relief including without limitation an action to recover sums due for damages,

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injunctive relief, foreclosure of lien, or any combination thereof. Such relief may be sought by the Association or, if appropriate, by an aggrieved Unit Owner.

B. Each Unit Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness, or by that of any member of his family, or his or their guests, employees, agents or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy or abandonment of a Condominium Unit or its appurtenances. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation.

C. In any proceeding arising because of an alleged default by a Unit Owner, the Association, if successful, shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be determined by the Court, but in no event shall any Unit Owner be entitled to such attorneys' fees.

D. The failure of the Association of any Unit Owner to enforce any right, provision, covenant or condition which may be granted by this Declaration of Condominium or the other above-mentioned documents shall not constitute a waiver of the right of the Association or of the Unit Owner to enforce such right, provision, covenant or condition in the future.

E. All rights, remedies and privileges granted to the Association or the Owner or Owners of a Condominium Unit pursuant to any terms, provisions, covenants or conditions of the Declaration of Condominium or other above-mentioned documents, shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be available to such party at law or in equity.

F. The failure of Developer to enforce any right, privilege, covenant or condition which may be granted to it by this Declaration of Condominium or other above-mentioned document shall not constitute a waiver of the right of Developer to thereafter enforce such right, provision, covenant or condition in the future.

G. The failure of an Institutional Lender or Institutional Lenders, as said term is herein defined, to enforce any right, provision, privilege, covenant or condition which may be granted to it or them by this Declaration of Condominium or other above-mentioned documents, shall not constitute a waiver of the right of said party or parties to thereafter enforce such right, privilege, covenant or condition in the future.

XXXIII.

RIGHTS RESERVED UNTO INSTITUTIONAL LENDERS

"Institutional Lender" or "Institutional Lenders", as the terms are used herein, shall mean and refer to banks, savings and loan associations, insurance companies, or other reputable mortgage lenders. So long as any Institutional Lender of Institutional Lenders shall hold any mortgage upon any Condominium Unit or Units, or shall be the owner of any Condominium Unit or Units, such Institutional Lender or Institutional Lenders shall have the following rights, to-wit:

- A. To approve the company or companies with whom casualty insurance is placed.
- B. To be furnished with at least one copy of the Annual Financial Statement and Report of the Association, prepared by an Accountant designated by the Association, such Financial Statement and Report to be furnished by April 15 of each calendar year.

Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor and the unit number or address, any such eligible mortgage holder or eligible insurer or guarantor will be entitled to timely written notice of:

- A. Any condemnation loss or any casualty loss which affects a material portion of the project or any unit on which there is a first mortgage held, insured or

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guaranteed by such eligible mortgage holder or eligible insurer or guarantor, as applicable;

B. Any delinquency in the payment of assessments or charges owed by an owner of a unit subject to a first mortgage held, insured or guaranteed by such eligible holder or eligible insurer or guarantor, which remains uncured for a period of 60 days;

C. Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;

D. Any proposed action which would require the consent of a specified percentage of mortgage holders.

E. The call of any meeting of the membership to be held for the purpose of considering any proposed Amendment to this Declaration of Condominium, or the Articles of Incorporation and By-Laws of the Association, which notice shall state the nature of the Amendment being proposed.

XXXIV.

RIGHT OF DEVELOPER TO REPRESENTATION ON BOARD OF DIRECTORS OF THE ASSOCIATION

Until such time as the first of the following events occurs: (a) The expiration of five (5) years after the conveyance of the first Unit; (b) four months after the date as of which Units of which seventy-five percent (75%) of the total undivided interest appertain shall have been conveyed to Unit Owners; or (c) The surrender by the Developer of the authority to appoint and remove members of the Board of Directors by an express amendment to the Declaration executed and recorded by the Developer, the Developer shall have the right to designate and select a majority of the persons who shall serve as members of each Board of Directors of the Corporation. The Developer may designate and select the person or persons to serve as a member or members of each said Board of Directors in the manner provided in the ByLaws of the Corporation, and such person or persons so designated and selected need not be a resident of the Condominium.

In the event of dissolution of Developer at a time when it is the Owner of a Condominium Unit, then the rights of the Developer shall pass to and may be exercised by its successors receiving ownership of any such Condominium Unit in dissolution.

Whenever Developer shall be entitled to designate and select any person or persons to serve on any Board of Directors of the Association, the manner in which such person or persons shall be designated shall be as provided in the Articles of Incorporation and/or By-Laws of the Association, and Developer shall have the right to remove any person or persons selected by it to act and serve on said Board of Directors and to replace such person or persons with another person or other persons to act and serve in the place of any Director or Directors so removed for the remainder of the unexpired term of any Director or Directors so removed. Any Director designated and selected by Developer need not be a resident in the Condominium. However, Developer shall be responsible, pursuant to the provisions of Article XXVII, for the payment of any assessments which may be levied by the Association against any Condominium Unit or Units owned by the said Developer, and for complying with the remaining terms and provisions hereof in the same manner as any other Owner of a Condominium Unit or Units. Any representative of Developer serving on the Board of Directors of Association, shall not be required to disqualify himself from any vote upon any management contract or other contract, or lease between Developer and the Association where said Developer may have a pecuniary or other interest. Similarly, Developer as a member of the Association, shall not be required to disqualify itself in any vote which may come before the membership of the Association upon any management contract or other contract or lease between Developer and Association, where the said Developer may have a pecuniary or other interest.

XXXV.

INFORMATION

The Association shall make available to Condominium Unit owners and lenders, and

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to holders, insurers or guarantors of any first mortgage, current copies of the declaration, other rules concerning the project and the books, records and financial statements of the Association. "Available" means available for inspection, upon request, during normal business hours or under other reasonable circumstances.

XXXVI.

UTILITY EASEMENT RESERVATION

Developer reserves the right to subject the property to a contract with Carolina Power and Light Company for the installation of underground electric cables and/or the installation of street lighting, either or both of which may require an initial payment and/or a continuing monthly payment to Carolina Power and Light Company by the Association and/or Owner of each unit.

XXXVII.

SEVERABILITY

In the event that any of the terms, provisions or covenants of this Declaration of Condominium are held to be partially or wholly invalid or unenforceable for any reason whatsoever, such holding shall not affect, alter, modify or impair in any manner whatsoever any of the other terms, provisions or covenants hereof or the remaining portions of any terms, provisions or covenants held to be partially invalid or unenforceable.

XXXVIII.

LIBERAL CONSTRUCTION

The provisions of this Declaration of Condominium shall be liberally construed to effectuate its purpose of creating a uniform plan of Condominium ownership. Throughout this Declaration wherever appropriate the singular shall include the plural and the masculine gender the feminine or neuter. The Article headings are for convenience of reference only and shall not be considered terms of this Declaration.

XXXIX.

DECLARATION OF CONDOMINIUM BINDING ON ASSIGNS, AND SUBSEQUENT OWNERS

The restrictions and burdens imposed by the covenants of this Declaration of Condominium are intended to and shall constitute covenants running with the land, and shall constitute an equitable servitude upon each Condominium Unit and its appurtenant undivided interest in Common Property. This Declaration of Condominium shall be binding upon Developer, its successors and assigns, and upon all parties who may subsequently become Owners of Condominium Units in the Condominium, and their respective heirs, legal representatives, successors, and assigns.

XXXX.

AGENT FOR SERVICE OF PROCESS

The following named individual is designated as the person to receive service of process for the Association: Jeff Swain, 117 Long Shadow Lane, Cary, Wake County, North Carolina 27511.

IN WITNESS WHEREOF, The New Fortis Corporation has caused this Declaration to be executed in its name by its President and its corporate seal to be hereunto affixed,

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attested by its Secretary, by authority of its Board of Directors, this 19 day of March, 1986.



THE NEW FORTIS CORPORATION

By: James M. Nicholas  
President

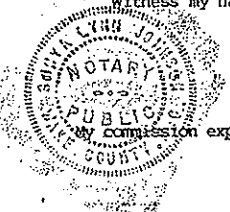
Shirley A. Sadors  
Asst. Secretary

NORTH CAROLINA

WAKE COUNTY

This is to certify that on the 19 day of March, 1986, before me personally appeared Shirley A. Sadors with whom I am personally acquainted, who, being by me duly sworn, says that James M. Nicholas is the President, and he is the Secretary of The New Fortis Corporation, the corporation described in and which executed the foregoing instrument; that he knows the common seal of said corporation; that the seal affixed to the foregoing instrument is said common seal, and the name of the corporation was subscribed thereto by the said President, and that the said President and Secretary subscribed their names thereto, and said common seal was affixed, all by order of the Board of Directors of said corporation, and that the said instrument is the act and deed of said corporation.

Witness my hand and official seal this 19 day of March, 1986.



Susan Lynn Johnson  
Notary Public

My commission expires: 7.25.89

NORTH CAROLINA - WAKE COUNTY

The foregoing certificate of \_\_\_\_\_  
Susan Lynn Johnson  
Notary Public is

(are) certified to be correct. This instrument and this certificate are duly registered at the date and time and in the book and page shown on the first page hereof.

KENNETH C. WILKINS, Register of Deeds

By: James S. Johnson  
Deputy Register of Deeds

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AS-BUILT VERIFICATION  
Cedar Pointe Condominium - Phase I

I, Jefferson C. Woodall, a North Carolina Registered Architect, certify that the plans attached to the Declaration of Condominium fully depict the layout, ceiling and floor elevations, unit numbers and dimensions of the units as built.

Witness my hand and seal, this the 19 day of March, 1986.

(Seal)



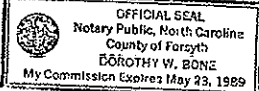
*Jefferson C. Woodall*  
Registered Architect

North Carolina  
Forsyth County

I, Dorothy W. Bone, a Notary Public of said county and state, do hereby certify that Jefferson C. Woodall personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal, this 19 day of March 1986.

(Seal)



*Dorothy W. Bone*  
Notary Public

My commission expires: May 23, 1989

Gas-built



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EXHIBIT A

lying and being in Cary Township, Wake County, North Carolina, and BEGINNING at a point located at North Carolina Grid Coordinates N=740,146.859 and E=2,057,561.711, said point of beginning being also located South 04 degrees 47-minutes 48 seconds West 24.79 feet from the southern right of way line of H1 House Road, and from said point of beginning the following courses and distances: South 04 degrees 47 minutes 48 seconds West 61.91 feet to a point; South 37 degrees 05 minutes 28 seconds West 57.98 feet to a point; South 03 degrees 18 minutes 39 seconds East 216.43 feet to a point; South 17 degrees 40 minutes 25 seconds East 85.98 feet to a point; South 50 degrees 18 minutes 06 seconds East 124.92 feet to a point; South 37 degrees 22 minutes 40 seconds East 184.45 feet to a point; South 26 degrees 28 minutes 41 seconds East 102.34 feet to a point; South 17 degrees 06 minutes 55 seconds West 78.23 feet to a point; North 86 degrees 51 minutes 57 seconds West 84.75 feet to a point; South 37 degrees 51 minutes 55 seconds West 154.92 feet to a point; South 06 degrees 40 minutes 11 seconds East 59.52 feet to a point; thence along a curve to the left having a radius of 139.62, a length of 23.15 feet, a chord distance of 23.12, and a chord bearing of South 78 degrees 34 minutes 49 seconds West to a point; South 73 degrees 49 minutes 49 seconds West 57.00 feet to a point; thence along a curve to the right having a radius of 64.61, a length of 67.05 feet, a chord distance of 64.08 and a chord bearing of North 76 degrees 26 minutes 29 seconds West to a point; North 46 degrees 42 minutes 47 seconds West 50.06 feet to a point located in the eastern right of way line of the Edgehill Parkway; thence along and with the eastern right of way line of the Edgehill Parkway in a curve to the left having a radius of 120.00, a length of 90.99 feet, a chord distance of 88.82, and a chord bearing of North 10 degrees 34 minutes 56 seconds East to a point; continuing along the eastern right of way line of Edgehill Parkway North 11 degrees 08 minutes 22 seconds West 217.00 feet to a point; thence continuing along the eastern right of way line of Edgehill Parkway in a curve to the left having a radius of 291.70, a length of 85.28 feet, a chord distance of 84.97 and a chord bearing of North 19 degrees 30 minutes 52 seconds West to a point; continuing along the eastern right of way line of Edgehill Parkway North 27 degrees 53 minutes 22 seconds West 388.36 feet to a point; thence continuing along the eastern right of way line of Edgehill Parkway in a curve to the right having a radius of 1862.96, a length of 59.36 feet, a chord distance of 59.36, and a chord bearing of North 26 degrees 58 minutes 36 seconds West to a point; North 26 degrees 03 minutes 50 seconds West 52.28 feet to a point; thence along a curve to the right having a radius of 30.00, a length of 48.40 feet, a chord distance of 43.32 and a chord bearing of North 20 degrees 09 minutes 28 seconds East to a point; thence North 66 degrees 22 minutes 46 seconds East 71.34 feet to a point; thence along a curve to the right having a radius of 671.20, a length of 332.89 feet, a chord distance of 329.49 and a chord bearing of North 80 degrees 35 minutes 17 seconds East to the POINT OF BEGINNING, and being 6.687 acres as shown on that certain map entitled "Easement Plat Of MF 2 and 3, Edgehill Farm Subdivision, Cary Township, Wake County, North Carolina" dated December 18, 1985 and prepared by Baseline Land Surveying of Apex, North Carolina for The New Fortis Corporation, Owner.

(descrip

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EXHIBIT B

BEGINNING at a point having North Carolina Grid Coordinates N=739,171.40 and E=2,057,618.06; thence in a westerly direction along a curve to the left having a radius of 139.62 feet, a chord bearing and distance of South 78 deg. 34 min. 49 sec. West 23.12 feet an arc distance of 23.15 feet to a point; thence South 73 deg. 49 min. 49 sec. West 57.00 feet to a point; thence in a westerly direction along a curve to the right having a radius of 64.61 feet a chord bearing and distance of North 76 deg. 26 min. 29 sec. West 64.08 feet, an arc distance of 67.05 feet to a point; thence North 46 deg. 42 min. 47 sec. West 50.06 feet to a point; thence along and with the southeastern right of way line of Edgehill Parkway in a northeasterly direction along a curve to the left having a radius of 120.00 feet, a chord bearing and distance of North 10 deg. 34 min. 56 sec. East 88.82 feet, an arc distance of 90.99 feet to a point; thence continuing along and with the eastern right of way line of Edgehill Parkway North 11 deg. 08 min. 22 sec. West 47.00 feet to a point; thence leaving the eastern right of way line of Edgehill Parkway North 78 deg. 51 min. 38 sec. East 45.00 feet to a point; thence North 44 deg. 47 min. 06 sec. East 61.56 feet to a point; thence North 88 deg. 25 min. 00 sec. East 25.00 feet to a point; thence South 52 deg. 08 min. 05 sec. East 135.00 feet to a point; thence South 37 deg. 51 min. 55 sec. West 93.00 feet to a point; thence South 06 deg. 40 min. 11 sec. East 59.52 feet to the POINT AND PLACE OF BEGINNING, and being all of Phase One - Cedar Pointe Condominium - Edgehill Farm Subdivision, as shown on a survey prepared by Baseline Land Surveying dated January 9, 1986.

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EXHIBIT C

See Plans for Cedar Pointe Condominium filed herewith in  
Condominium File 103, Wake County Registry, which is incorporated herein by  
reference.

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EXHIBIT D

Percentage of undivided interest in common areas and facilities (until amended).

Unit No.	Percentage
611	8.1406%
612	8.1406%
613	8.1406%
614	8.1406%
621	8.1406%
622	8.1406%
623	8.1406%
624	8.1406%
631	8.7188%
632	8.7188%
633	8.7188%
634	8.7188%

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EXHIBIT E

Attached hereto and incorporated herein by reference is a copy of the Articles of Incorporation of Cedar Pointe Condominium Association.