



THE CEDARS  

---

OF CHAPEL HILL

**SUPPLEMENTAL DOCUMENTS**

# **CONDOMINIUM DOCUMENTS**

## **THE CEDARS OF CHAPEL HILL CONDOMINIUM ASSOCIATION**

**100 Cedar Club Circle  
Chapel Hill, North Carolina 27517  
(919) 929-1995**

### **EXHIBITS**

- A. Articles of Incorporation
- B. Declaration of Condominium and Amendments
- C. Bylaws of Association and Rules of Conduct
- D. Management Agreement Between The Cedars of Chapel Hill  
Condominium Association and The Cedars of Chapel Hill Club,  
Inc.
- E. Management Agreement Between The Cedars of Chapel Hill  
Club, Inc. and The Cedars of Chapel Hill, LLC.



**EXHIBIT A**

**ARTICLES OF INCORPORATION**





# NORTH CAROLINA

## Department of The Secretary of State

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To all whom these presents shall come, Greetings:

I, **ELAINE F. MARSHALL**, Secretary of State of the State of North Carolina, do hereby certify the following and hereto attached to be a true copy of

### ARTICLES OF INCORPORATION

OF

### THE CEDARS OF CHAPEL HILL CONDOMINIUM ASSOCIATION

the original of which was filed in this office on the 7th day of December, 2001.



IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at the City of Raleigh, this 7th day of December, 2001

*Elaine F. Marshall*

Secretary of State

ARTICLES OF INCORPORATION

21 338 5005

OF

THE CEDARS OF CHAPEL HILL

CONDOMINIUM ASSOCIATION

*A Nonprofit Corporation*

PREAMBLE:

The Cedars of Chapel Hill, L.L.C., hereinafter referred to as Declarant, owns or will own certain property in Orange and Durham Counties, North Carolina. Declarant intends to record a Declaration of Condominium for The Cedars of Chapel Hill Condominium (the "Declaration") which will affect the property. This Association is being formed to administer the Declaration and to perform, among other things, the duties and exercise the powers pursuant to the Declaration, as and when the Declaration is recorded in the Public Records of Orange and Durham Counties, North Carolina. All of the definitions contained in the Declaration shall apply to these Articles, and to the Bylaws of the Association. Until such time as the Declaration is so recorded, the incorporator shall be the sole member of the Association.

The undersigned hereby submits these Articles of Incorporation for the purpose of forming a nonprofit corporation under the laws of the State of North Carolina.

ARTICLE I

The name of the corporation is The Cedars of Chapel Hill Condominium Association (hereinafter called the "Association").

ARTICLE II

The street and mailing address of the initial registered office of the Association in the State of North Carolina is: 190 Finley Golf Course Rd., Chapel Hill, Orange County, North Carolina 27514. The Association's initial registered agent at such address is: Robert E. Woodruff.

ARTICLE III

The name and address of the incorporator are as follows:

James R. Easthom  
Newsom Graham Hedrick & Kennon  
3100 Tower Boulevard

Suite 1200  
Durham, NC 27707

#### ARTICLE IV

The Association will have members, the designations, qualifications, rights and obligations of whom are set forth in or authorized by the bylaws of the Association (the "Bylaws"). The members of the Association shall be limited solely to the owners of units in The Cedars of Chapel Hill Condominium (the "Condominium"). Membership shall be automatically established by acquisition of fee title to a Condominium unit whether by conveyance, devise, descent, judicial decree, foreclosure or deed in lieu of foreclosure. A new owner designated in such deed or other instrument shall thereupon become a member of the Association, and the membership of the prior owner as to a designated Condominium unit shall be terminated. Each new owner shall deliver to the Association a true copy of such deed or instrument of acquisition of title.

Neither one's membership in the Association nor a member's share in the funds and assets of the Association may be assigned, hypothecated or transferred in any manner except as an appurtenance to the Condominium unit.

#### ARTICLE V

The purposes and powers for which the Association is organized are as follows:

- a. To operate and manage a condominium known as THE CEDARS OF CHAPEL HILL CONDOMINIUM ASSOCIATION organized pursuant to Chapter 47C of the North Carolina General Statutes and located in Chapel Hill, Orange and Durham Counties, North Carolina.
- b. To undertake the performance of, and carry out the acts and duties incident to the administration of the operation and management of the Association in accordance with the terms, provisions, conditions and authorizations contained in both these Articles and in the Declaration of Condominium for The Cedars of Chapel Hill Condominium (the "Declaration") which shall be recorded in the Orange County and Durham County Public Registry at such time as the real property and the improvements thereon are submitted to the Declaration;
- c. To make, establish and enforce reasonable rules and regulations governing the use of the common elements, land, and other real and personal property which may be owned by the Association itself;
- d. To make, levy and collect assessments against condominium unit owners; to provide the funds to pay for common expenses of the Association as provided in the Declaration and to use and expend the proceeds of assessments in the exercise of the



powers and duties of the Association; to use said assessments to promote the acquisition, improvement and maintenance of the common elements, services and facilities devoted to this purpose and related to the use and enjoyment of the common elements, including, but not limited to, the cost of repair, replacement and additions thereto, the cost of labor, equipment, materials, management, supervision thereof, the maintenance of insurance in accordance with the Bylaws, including the employment of attorneys to represent the Association when necessary for such other needs as may arise.

- e. To maintain, repair, replace, and operate the properties for which the Association is responsible;
- f. To enforce by any legal means, the provisions of the Declaration, the Bylaws and the rules and regulations for the use of the Association property;
- g. To delegate to such manager or managers powers and duties of the Association except those powers and duties which are specifically required to have approval of the Association's Board of Directors or the membership of the Association.
- h. To have all of the common law and statutory powers of a non-profit corporation and also those powers as set out in the Declaration and all powers reasonably necessary to implement the purposes of the Association.

## ARTICLE VI

Upon dissolution of the Association, the assets thereof, both real and personal, shall, after all liabilities and obligations of the Association have been paid, or adequate provision made therefor, in the manner set forth in the Declaration, be dedicated to a public body, or conveyed to a nonprofit corporation or organization with purposes similar to those set forth hereinabove. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization, to be devoted to purposes as nearly as practicable to those to which they were required to be devoted by the Association.

No part of the net earnings or assets of the Association shall inure to the benefit of or be distributed, upon dissolution or otherwise, to any Member of the Association, director, officers or other private person. The Association may enter into contracts with the Declarant or with any other person (including any Member, officer, or director), and may pay compensation in reasonable amounts for services rendered.

Notwithstanding anything herein contained to the contrary, these Articles of Incorporation, their enforcement and interpretation shall be subject to the Town of Chapel Hill ordinances and regulations and the General Statutes of the State of North Carolina.

## ARTICLE VII

The street and mailing address and county of the principal office of the Association is: 190 Finley Golf Course Rd., Chapel Hill, Orange County, North Carolina 27514.

## ARTICLE VIII

The Association shall have a board of directors (hereinafter the "Board of Directors") whose number and manner of election shall be fixed by the Bylaws; provided, however, the number of members of the Board of Directors shall not be less than three (3). All corporate powers of the Association shall be exercised by or under the authority of, and the affairs of the Association managed under the direction of its Board of Directors. Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the units in the Condominium (including units which may later be created pursuant to special Declarant rights) to unit owners other than Declarant, at least one member and not less than twenty-five percent (25%) of the members of the Board of Directors shall be elected by unit owners other than the Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the units (including units which may be created pursuant to special Declarant rights) to unit owners other than Declarant, not less than thirty-three percent (33%) of the members of the Board of Directors shall be elected by unit owners other than the Declarant. Not later than the termination of the Period of Declarant Control (as defined in the Declaration), the unit owners shall elect a Board of Directors of at least three (3) members, a majority of whom must be unit owners. Thereafter, the election of members of the Board of Directors shall take place at the annual meeting of the members as provided in the Bylaws.

## ARTICLE IX

The Association shall have all the powers granted non-profit corporations under the laws of the State of North Carolina. Notwithstanding any other provision of these Articles, the Association may elect tax status under Section 528 of the Internal Revenue Code of 1986. The Association shall not carry on any activities prohibited by a corporation electing tax status under Section 528, or any corresponding sections or provisions of the Internal Revenue Code. It is further provided that no distributions of income of the Association are to be made to members, directors or officers of the Association; provided, however, that members of the Association may receive a rebate of any excess dues and assessments previously paid.

## ARTICLE X

No director of the Association shall be personally liable for monetary damages for breach of any duty as a director arising out of an action whether by or in the right of the Association or otherwise, except with respect to (i) acts or omissions that the director at the time of such breach knew or believed were clearly in conflict with the best interests of the Association; (ii) any liability

under G.S. 55A-8-32 or G.S. 55A-8-33; (iii) any transaction from which the director derived an improper personal benefit; or, (iv) acts or omissions occurring prior to the date on which this provision became effective. As used herein, the term "improper personal benefit" does not include a director's reasonable compensation or other incidental benefit for or on account of his service as a director, officer, employee, independent contractor, attorney, or consultant of the Association. No amendment or repeal of this Article, nor the adoption of any other amendment to these Articles of Incorporation inconsistent with this Article, shall eliminate or reduce the protection granted herein with respect to any matter that occurred prior to such amendment, repeal, or adoption. The provisions of this Article shall not be deemed to limit or preclude indemnification of a director by the Association.

#### ARTICLE XI

The number of Directors constituting the initial Board of Directors shall be three (3); the names and addresses of the persons who are to serve as the initial directors are as follows:

<u>Name</u>	<u>Address</u>
Roger L. Perry	190 Finley Golf Course Road Chapel Hill , NC 27514
Robert E. Woodruff	190 Finley Golf Course Road Chapel Hill, NC 27514
David Anna	111 Cloister Ct., Suite 200 Chapel Hill, North Carolina 27514

#### ARTICLE XII

To the extent provided by law, the Association may participate in mergers and consolidations with other condominium associations organized for the same or similar purpose, provided, however, that any such merger or consolidation shall require approval by the affirmative vote of at least that percentage of votes held by members which is necessary to terminate the Condominium. Such vote shall take place at a meeting of the members duly called for such purpose. Notwithstanding the foregoing, Declarant shall have the right, but not the obligation, until such time as Declarant no longer elects a majority of the Board of Directors of the Association, to merge or consolidate this Association with any other property owners association.

#### ARTICLE XIII

Amendment to these Articles of Incorporation shall be made upon the affirmative vote of members to whom at least sixty-seven percent (67%) of the votes in the Association are allocated. Any such vote shall take place at a meeting of the members duly called for that particular purpose.

Furthermore no amendment shall make any changes which would in any way affect any of the rights, privilege powers or options herein provided in favor of, or reserved to, Declarant, unless Declarant joins in the creation of the Amendment. In addition to the foregoing, so long as Declarant has the right to appoint the majority of the members of the Board of Directors of the Association, Declarant shall be entitled to unilaterally amend these Articles of Incorporation and the Bylaws.

#### ARTICLE XIV

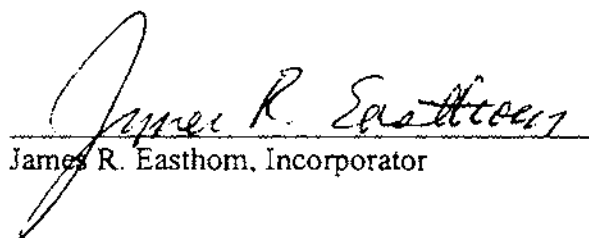
For so long as the Declarant appoints the majority of the members of the Board of Directors of the Association, the annexation of additional properties, the mortgaging of any part of the Common Elements, any amendment to these Articles of Incorporation, the merger or consolidation of the Association with other condominium associations, and the dissolution of the Association shall require the prior written approval of the Federal Home Administration ("FHA") and the Veterans' Administration ("VA"), if the FHA or VA is the insurer of any mortgage encumbering any unit within the Condominium.

#### ARTICLE XV

If not defined herein, capitalized terms shall have the meaning as set forth in the Declaration.

These articles will be effective upon filing.

This is the 3rd day of December, 2001.

  
James R. Easthom, Incorporator



**EXHIBIT B**

**DECLARATION OF CONDOMINIUM**

**AND**

**AMENDMENTS**





FOR REGISTRATION REGISTER OF DEEDS  
Willie L. Covington  
DURHAM COUNTY, NC  
2004 JUL 27 12:03:28 PM  
BK: 4483 PG: 1-107 FEE: \$329.00  
NS: \$25.00  
INSTRUMENT # 2004039101

# DECLARATION OF CONDOMINIUM

THE CEDARS OF CHAPEL HILL  
BY  
THE CEDARS OF CHAPEL HILL, L.L.C.  
A NORTH CAROLINA LIMITED LIABILITY COMPANY

July 22, 2004

This Document is the Property of:

The Cedars of Chapel Hill, L.L.C.  
a North Carolina limited liability company

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The Cedars of Chapel Hill, L.L.C.

Prepared by:

Cary S. Griffin, Esq.  
and  
Kennon, Craver, Belo, Craig & McKee, PLLC

Return to William A. Anderson, III, P.O. Box 51579, Durham, NC 27717-1579



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STATE OF NORTH CAROLINA )  
 )  
 )  
 )  
COUNTIES OF ORANGE AND )  
DURHAM )

DECLARATION OF CONDOMINIUM  
FOR  
THE CEDARS OF CHAPEL HILL  
CONDOMINIUM

This Declaration of Condominium is made this 22<sup>nd</sup> day of July, 2004 by The Cedars of Chapel Hill, L.L.C., a limited liability company organized under the laws of North Carolina, (hereinafter referred to as "Declarant"). Declarant does hereby state and declare as follows:

**WITNESSETH:**

**WHEREAS**, Declarant is the Owner of certain real property located in Chapel Hill, Orange and Durham Counties, North Carolina, more particularly described on Exhibit "A" attached hereto upon which is situated multiple Buildings containing residential condominium units, an office condominium unit, and certain other improvements including two (2) multi-purpose buildings known as the Health Care Center and the Clubhouse; and

**WHEREAS**, Declarant desires to submit the real property and the improvements located thereon (collectively, the "Property") to the terms and provisions of the North Carolina Condominium Act and by so doing intends to protect the value and the desirability of the Property, further a plan for the condominium ownership of the Property, create a harmonious and attractive development, and promote and safeguard the health, comfort, safety, convenience and welfare of the owners of condominium units.

**NOW, THEREFORE**, Declarant hereby declares that all of the Property shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which shall run with the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

**ARTICLE I**  
**DEFINITIONS**

The terms used in this Declaration and in the Exhibits thereto shall have the meanings stated in the North Carolina Condominium Act and as follows, unless the context otherwise required:

1.1 Act or North Carolina Condominium Act means the North Carolina Condominium Act as currently set forth in N.C.G.S., Chapter 47C, Articles 1 through 4, as amended.

1.2 Assessment means a Unit Owner's pro rata share of the common expenses which from time to time as assessed against a Unit Owner by the Association.

1.3 Association means the Unit Owners' Association as defined by the Act, and also means The Cedars of Chapel Hill Condominium Association, the corporate form by which the Unit Owners' Association shall operate the Condominium.

1.4 Board or Executive Board means the group of persons selected, authorized and directed to operate the Association as provided by the Act, this Declaration and the Bylaws.

1.5 Building means a structure or structures, containing one or more Units and/or Common Elements, including the Club Facilities, comprising a part of the Property.

1.6 Club or The Club means The Cedars of Chapel Hill Club, Inc., a North Carolina not-for-profit corporation created to serve as the membership entity to carry out and perpetuate the plan for Membership as hereinafter set forth.

1.7 Club Facilities means the Clubhouse and the Health Care Center which are or will be a part of The Cedars.

1.8 Common Elements means both the general and Limited Common Elements, as defined herein in ARTICLE V and in the Act, and in general, all portions of the Condominium real estate other than the Units.

1.9 Common Expenses means the expenses for which the Unit Owners are liable to the Association consisting of expenditures made by or financial liabilities of the Association, together with allocations to reserves, and includes, among other things:

- (a) Expenses of administration, maintenance, insurance, operations, repair or replacement of the Common Elements including allocations to reserves, and of the portions of Units which are the responsibility of the Association; and
- (b) Expenses declared Common Expenses by provisions of this Declaration.

1.10 Co-owner means a person or persons, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof, which owns a Unit. The term "Owner" or "Co-owner" shall have the same connotation as the term "Unit Owner" as used in the Act.

1.11 Condominium means the real estate described in Exhibit "A," portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the Owners of those portions.

1.12 Cottage Unit means one of the several designs of free-standing Cottage-style Units within the Property which are more particularly described in ARTICLE III and Exhibits "A" and "F" hereof.

1.13 The Cedars of Chapel Hill or The Cedars means The Cedars of Chapel Hill, a continuing care retirement community located in Chapel Hill, North Carolina consisting of The Cedars of Chapel Hill Condominium and The Club with its Club Facilities.

1.14 The Cedars of Chapel Hill Membership Agreement or Membership Agreement means that certain Agreement executed by the Declarant, The Club and all Unit Owners and/or Members which outlines the services, rights, privileges and obligations of Membership in The Club, a specimen copy of the current version of which is attached hereto as Exhibit "E."

1.15 Declarant means The Cedars of Chapel Hill, L.L.C., a North Carolina limited liability company with its principal place of business located in Chapel Hill, North Carolina, and its successors and assigns.

1.16 Declaration means this Declaration of Condominium establishing and recording the Property of The Cedars of Chapel Hill Condominium and all exhibits attached hereto, as it may be amended from time to time.

1.17 Designated Member means a Member who is not a Unit Owner but who has been designated by a Unit Owner to enjoy the use of a Unit in a manner and under terms, circumstances and conditions as are permitted and described in The Cedars of Chapel Hill Membership Agreement and in this Declaration.

1.18 Future Phase Property or Future Phase Units shall refer to the additional real property upon which Declarant may construct improvements and may annex such improvements into the Condominium pursuant to its reserved Declarant's rights.

1.19 Member means a person who has acquired Membership (as hereinafter defined) pursuant to the terms of The Cedars of Chapel Hill Membership Agreement and is therefore eligible for all rights of access to The Club.

1.20 Membership shall mean and refer to that certain license or collection of rights, coupled with the corresponding responsibilities and obligations, embodied in The Cedars of Chapel Hill Club, Inc. and which is available to persons who meet the requirements set forth in The Cedars of Chapel Hill Membership Agreement.

1.21 Owner or Unit Owner has the same definition as Co-owner as set forth in Paragraph 1.10 of this ARTICLE I.

1.22 Plat means the survey prepared by Ballentine Associates, P.A., certified July 20, 2004, consisting of Sheets 1-3 of 180, together with the architectural plans for the Condominium prepared by Calloway, Johnson, Moore and West, said plans consisting of Sheets 4-180 of 180 recorded in the Orange and Durham County Registers of Deeds. The Plat is recorded in Condominium Plat Book 6 7, Pages 48 1 through 399 184, Durham County Registry, and Condominium Plat Book 94 95, Pages 172 1 through 200 151, Orange County Registry, and is hereby incorporated herein by reference as if the same were attached hereto.

1.23 Period of Declarant Control means the period commencing on the date hereof and continuing until the earlier of (i) 120 days after conveyance of seventy-five percent (75%) of the Units (including Future Phase Units) to Unit Owners other than Declarant; (ii) two years after Declarant has either ceased to offer Units for sale in the ordinary course of business or two years after any development right was exercised to add Future Phase Units; or (iii) the date upon which Declarant voluntarily surrenders control of the Condominium to the Association.

1.24 Phase means a period of development of the Property or of the Future Phase Property.

1.25 Property means and includes the real property (as defined in Exhibit "A" hereof, and as it may be hereinafter amended), the Buildings, all improvements and structures thereon, and all easements, rights and appurtenances belonging thereto.

1.26 Special Declarant Rights means the rights as defined in the Act, including, e.g., and not necessarily limited to, the right to add the Future Phase Property to the Condominium; the rights during the Period of Declarant Control; and the reserved development rights as described in Articles II, VI, VII, etc.

1.27 Veranda Home, Villa Home, Clubhouse Villa or Cottage Home as used herein has the same connotation as the term "Unit" as used in the Act and used in this Declaration and means a physical portion of the Condominium designated for any independent residential use including (i) one or more rooms or enclosed spaces located on one or more floors (or parts thereof) in a Building, and with a direct exit to a public street or highway, or to a Common Element or area leading to such street or highway and (ii) detached cottages consisting of separate free-standing dwellings designed for independent residential use with a direct access to a public street or highway or to a Common Element or area leading to such street or highway. Reference is made to Article III below for further description of the Unit.

The use of the designation "Marketing Office Unit" for the office described herein shall also have the same connotation as the term "Unit" as used in the Act and used in this Declaration except that no residential use is intended or allowed.

Notwithstanding the foregoing definitions, all definitions set forth in N.C.G.S. § 47C-1-103 are hereby incorporated by reference and the terms defined therein shall have the meanings set forth therein when used in this Declaration or in other related documents, unless the applicable terms are expressly defined otherwise in this Declaration or such other related documents or unless the context otherwise plainly requires a different meaning.

## **ARTICLE II**

### **SUBMISSION OF PROPERTY TO CONDOMINIUM ACT**

2.1 Declarant hereby submits the Property to the provisions of the Act. The Property will be administered in accordance with the provisions of the Act, the Declaration, the Bylaws, the Membership Agreement, and the other related documents as applicable.

2.2 The name of the Condominium is "The Cedars of Chapel Hill Condominium".

2.3 The Property is located in Chapel Hill, Orange and Durham Counties, North Carolina (the bulk of the Property being in Durham County). Attached hereto as Exhibit "A" is a legal description of the Property, which Property is more particularly shown on a survey thereof, said survey being prepared by Kevin C. Piver of Ballentine Associates, P.A., a registered land surveyor, License No. 3919, and recorded as part of the Plat in the Offices of the Registers of Deeds for Orange and Durham Counties, North Carolina. The improvements on the Property have been constructed in accordance with floor plans prepared by Allan L. Moore of Calloway Johnson Moore & West, a registered architect, License No. 3105. Said floor plans (Sheets 4-180 of 180) are filed as part of the Plat and a summary of the floor plans is referenced on Exhibit "H" attached hereto and incorporated herein. Included on the Plat is a Certificate by said architectural firm that the Condominium Units constructed on the Property were constructed substantially in compliance with said plans and comply with the statutory requirements of the Act.

2.4 Declarant hereby establishes within the Property the 192 residential Units (15 of which are to be completed as a later part of Phase I) and Marketing Office Unit shown on the Plat and does hereby designate all such Units for separate ownership. Reference is hereby made to the Plat for separate description of the boundaries of each Unit identified by number. Declarant reserves the right to create a maximum of an additional 133 Units (plus the 14 Units to be added as a later portion of Phase I) and additional Common Elements on the Property and on the Future Phase Property as described hereinbelow in Articles VI, VII and VIII, and Exhibit "B," meaning that the total number of Units could reach 326.

2.5 Each Owner shall be a member of the Association. An Owner shall be entitled to a percentage interest vote in the Association for each Unit owned consistent with the statutory percentages set forth in Exhibit "F" attached hereto with further conditions as to said voting rights as set forth in Section 5, Article IV of the Bylaws.

2.6 Other than those portions of Common Elements allocated by operation of N.C.G.S. §47C-2-102(2) or (4) or otherwise specified in the Act, there are no additional Limited Common Elements, with the exception of those Limited Common Elements created under Section 5.2 below.

2.7 Declarant reserves all Special Declarant Rights for the Property and Future Phase Property, including the following:

- (a) To complete any and all improvements indicated on the Plat.
- (b) To construct and maintain any sales office, management office, or model, or guest rooms in any of the Units, not to exceed 6 Units, or on any of the Common Elements shown on the Plat.

- (c) To alter the size of any Unit, combine or merge two or more Units, and subdivide any Unit.
- (d) During the Period of Declarant Control, to appoint and remove any Executive Board Members; provided, however, that: (i) not later than sixty (60) days after the conveyance of 25% of the Units (including Future Phase Units) to Owners other than Declarant, at least 25% of the Members of the Executive Board shall be elected by Owners other than Declarant; and (ii) not later than sixty (60) days after conveyance of 50% of the Units (including Future Phase Units) to Owners other than Declarant, not less than 33% of the members of the Executive Board shall be elected by Owners other than Declarant.
- (e) To further amend this Declaration to annex additional property (both Units and Common Elements) to this Declaration all as more fully described in Articles V, VI, VII and VIII below.
- (f) Those development rights described below in Article XIV.
- (g) Those reserved approval rights regarding alterations to Units and Common Elements, contained in Sections 3.10 and 5.3.
- (h) Those easements through the Common Elements which are reasonably necessary for the purpose of making any improvement indicated on the Plat, or necessary for the exercise of these Special Declaration Rights or otherwise discharging its obligations or rights hereunder.
- (i) To place "For Sale" signs advertising Units on any part of the Common Elements or within the Units still owned by Declarant.

Except as set forth in subparagraph (d) above, these Special Declarant Rights enumerated in this Article shall expire on December 31, 2025.

2.8 Reference is made to Exhibit "F" attached hereto and incorporated herein and as more fully described in Article IX below for the allocated interest in the Common Elements of each Unit.

2.9 Reference is made to Article III below for restrictions and covenants applicable to use, occupancy and/or alienation of the Units.

2.10 Reference is made to Exhibit "A" for a legal description of the Property and the recording data for any recorded easements, licenses and other exceptions which are included with the Condominium or to which any portion of the Condominium is or may be subject. Also reference is made to Exhibit "B" for the legal description of Future Phase Property as referenced in Article VI below.

### ARTICLE III

#### **DESCRIPTION OF UNITS; USE; REPAIRS; RESTRICTIONS; DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

3.1 General Description of Units and Use. Phase I of the Property includes 49 Cottage Units located in 49 separate Buildings, 45 Veranda Homes located in 4 separate three (3) story Buildings, and 96 Villa Units located in 3 separate four (4) story Buildings and two (2) Clubhouse Villa Units in the Clubhouse, all of which are to be used for residential purposes only. Phase I also includes the one Marketing Office Unit located in the Clubhouse which is to be used for sales/administrative purposes only. All of the Units are capable of individual utilization on account of having their own exits to the Common Elements of the Property and have a particular and exclusive

property right thereto, and also have an undivided interest in the Common Elements of the Property, as hereinafter described in this Declaration, necessary for their adequate use and enjoyment of all of the above in accordance with the Act.

3.2 Individual Units. There are four (4) basic types of residential Units in the initial Phase I of The Cedars of Chapel Hill Condominium, to wit: Villa, Cottage, Veranda and Clubhouse Villa and there are floor plan variations within these unit types, i.e. seventeen (17) different floor plans of Villa Units; eight (8) different floor plans of Cottage Units; five (5) different floor plans for Veranda Units; and one (1) floor plan for the Clubhouse Villa Units. These Unit floor plans are briefly described on Exhibit "H" attached hereto and incorporated herein.

The Buildings and the Villa, Veranda, Cottage and Clubhouse Villa Unit types for Future Phases if and as applicable, of The Cedars of Chapel Hill Condominium may vary from the description as set forth in ARTICLE VI and Exhibit "H" and on the Plat referenced herein and any such variation shall be set forth in the amendment by which such subsequent phases are brought into the Declaration as herein provided.

All of the aforementioned Phase I Units are more particularly shown on the plans thereof filed with the Plat, which plans are incorporated herein in the same manner as if expressly set forth in this Section 3.2 and said plans, together with the Unit numbers and square footage of area in each Unit, and likewise together with the description of Unit boundaries as hereinafter set forth in Section 3.3, shall constitute a complete description of the Units within the Condominium. Reference is made to Exhibit "H" attached hereto for a listing of the plans filed with the Plat. Also, reference is made to Exhibit "F" attached hereto which contains a listing of each Unit by type, official address, statutory value and percentage interest.

### 3.3 Boundaries; General Rule.

- (a) The upper and lower boundaries of each Unit shall consist of the unfinished perimeter walls, floors and ceilings as more particularly described on the Plat. More specifically, the horizontal plane of the bottom surface of the wallboard in the ceilings of the top floor level within a Unit shall be the upper boundary thereof and the horizontal plane of the top surface of the sub-flooring of each Unit shall be the lower boundary thereof. All lath, furrowing wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and other materials constituting any part of the finished flooring and any other materials constituting any part of the finished surfaces thereof shall be a part of the Unit. All other portions of such walls, floors, or ceilings are a part of the Common Elements. All interior walls, partitions, fixtures, appliances, cabinets and other facilities and other improvements lying completely within the boundaries of a Unit shall be part of such Unit.
- (b) In the event a Unit contains more than one level connected by interior or exterior stairwells, the definition of upper and lower boundaries set forth above applies with respect to each level within that Unit. The top surface of the sub-flooring of the lowest level within the Unit shall constitute the lower boundary of the Unit even though the Units may have varying foundation plans, to wit, slab on grade, crawl space, deep foundations and pilings.
- (c) The garages which are attached to the Cottage Units are a part of the Unit.
- (d) The disappearing stairway, if any, leading to the attic space above the ceilings of the garage in the Cottage Units, being installed within the ceiling, shall be a part of the Unit. The attic space above the ceiling in either the garage and/or the residential parts of the Cottage Units, and any equipment located in the attic space, shall be a Limited Common Element, exclusively for the use of the Unit above which it is situate.

### 3.4 Responsibilities for Maintenance and Repair.

- (a) While generally a Unit Owner or Designated Member is responsible for the maintenance and repair of the area described above in Section 3.3 as being included in a Unit, (including by way of example, and not by way of limitation, all flooring, floor covering, carpeting, appliances, cabinetry, countertops, and pantry), notwithstanding the generality of the foregoing description of Unit boundaries, the monthly payment paid by each Unit Owner or Designated Member pursuant to the provisions of Article VII, Section 1 of the Bylaws shall include the routine maintenance and repair (but not replacement) of the following, whether it shall be defined as within a Unit or not:

The doorways, windows, vents and other structural elements in the walls, floors, and ceilings of the Unit which are regarded as enclosures of space;

(i) The doors opening into the Unit and into any mechanical area integral to the Unit, including the frames, casings, hinges, handles, and other fixtures which are part of the doors;

(ii) The window glasses, screens, frames, wells, and casings which are part of the windows opening from the Unit;

(iii) The metal flue and the plumbing and mechanical vents which exclusively serve the Unit;

(iv) The standard appliances, air conditioning and heat pump units and condensers, hot water heaters, lavatories, bath tubs, toilets, trim, ceilings, walls, insulation, and other fixtures, furnishings, and building materials which are part of the Unit at the time of initial closing from Declarant to the Unit Owner, and, except for appliances, any subsequent replacements thereof, [it being intended that replacements of appliances shall be Owner's responsibility].

(v) All pipes, wires, ducts, and other plumbing, mechanical, and electrical appurtenances which are integral and exclusive to the Unit, including lamps attached to the exterior of the Unit;

(vi) The disappearing stairways located within the ceilings of either the garage or residential portions of the Cottage Units;

- (b) Notwithstanding the foregoing, the Unit Owner shall individually be responsible for any damage to the Unit itself or to a contiguous Unit caused by a careless, accidental or negligent action or inaction within the Owner's Unit (i.e., actions other than what is customarily considered normal wear and tear), damage attributable to keeping pets, smoking, and similar kinds of activity, which directly or indirectly causes damage to a contiguous Unit, or a Unit above or below the subject Unit, or to the Unit itself or to any of the Common Elements; and

- (c) A number of the Units have had certain custom changes accomplished by arrangement of the applicable Unit Owner, such as use of non-standard and upgraded appliances (such as JennAire, Thermador, etc.), the inclusion of interior or exterior pools, upgraded carpet and/or vinyl, substitution of wood flooring for carpet, upgraded ceramic tile, additional appliances or plumbing facilities, addition of bath tub enclosure, (herein collectively referred to as



"custom changes"). The Unit Owner will be responsible for reimbursing the Association for any amounts expended to insure, repair or maintain such custom changes added to the Unit and any amounts expended to insure, repair, maintain or replace same to the extent that such insurance, repair, maintenance or replacement (if applicable) expense exceeds the amount that would have been applicable to the standard Unit fixtures, etc.

- (d) In the event that the Association determines that any Unit Owner or Designated Member has failed or refused to discharge properly his obligations with respect to the maintenance, cleaning, repair, or replacement of items for which he is responsible under this Declaration, then, in that event, the Association, except in the event of an emergency situation, shall give such Unit Owner or Designated Member written notice of the Association's intent to provide such necessary maintenance, cleaning, repair, or replacement at such Unit Owner's or Designated Member's sole cost and expense, and setting forth with reasonable particularity the maintenance, cleaning, repair, or replacement deemed necessary. Except in the event of emergency situations, such Unit Owner or Designated Member shall have fifteen (15) days in which to complete said maintenance, cleaning, repair, or replacement in a good and workmanlike manner, or in the event that such maintenance, cleaning repair, or replacement is not capable of completion within said fifteen (15) day period, to commence said maintenance, cleaning, repair, or replacement in a good and workmanlike manner within fifteen (15) days and diligently pursue completion. In the event of emergency situations or the failure of any Unit Owner or Designated Member to comply with the provisions hereof after such notice, the Association may provide any such maintenance, cleaning, repair, or replacement at such Unit Owner's sole cost and expense, and said cost shall be added to and become a part of the assessment to which such Unit Owner and his Unit are subject and shall become a lien against such Unit as provided herein.

### 3.5 Uses of Units; Use Restrictions.

- (a) Each Unit is restricted as to use by the Owner or Owners thereof, their invitees, Designated Members and, to the extent leasing is permitted as herein provided, to their lessees, it being the intent of the Declarant that the Unit be used for residential purposes only which are consistent with and appropriate to the design of the Unit and the terms of The Cedars of Chapel Hill Membership Agreement, a specimen copy of which is attached to and incorporated herein as Exhibit "E."
- (b) The Condominium is a continuing care retirement community. Membership in the Club and residency in the Units is restricted to individuals who are 62 and older (or with couples with one spouse aged 62 and over) and who otherwise meet the requirements set forth in the Membership Agreement.
- (c) No Unit Owner or Designated Member shall do, suffer, or permit to be done, anything in his Unit which would impair the soundness or safety of the Condominium, or which would be noxious or offensive or an interference with the peaceful possession and proper use of other Units, or which would require any alteration of or addition to any of the Common Elements to be in compliance with any applicable law or regulation, or which would otherwise be in violation of law.
- (d) In case of any emergency originating in or threatening any Unit, or any portion of the Common Elements, regardless of whether the Owner or his invitee or Designated Member, if any, is present at the time of such emergency, the Association's Board of Directors and all

managerial personnel shall have the right to authorize access to such Unit for the purpose of remedying or abating the cause of such emergency, and such right of entry shall be immediate. To facilitate entry in the event of any such emergency, the Owner of each Unit, if required by the Association, shall deposit a key to such Unit under the control of the Association.

- (e) The provisions dealing with the conditions and limitations regarding leasing of the Unit are set forth in Section 3.8 hereinafter.
- (f) No commercial sign, including "for rent" or "for sale" and other similar signs, shall be erected or maintained on any Villa or Cottage Unit by anyone, including but not limited to the owner, a realtor, a contractor or subcontractor, except as may be required by legal proceedings. This sign restriction is not intended to prevent signage approval by Declarant for the various facilities which are part of the Common Elements and/or Club Facilities or prevent Declarant's placement of signage pursuant to Section 2.7(i) above.
- (g) Except as permitted by applicable law, including the regulations of the Federal Communications Commission, no television antenna, dish, radio receiver or sender or other similar device shall be attached to or installed on the exterior portion of any Unit without the express permission of Declarant which consent shall be discretionary; provided, however, that the provisions of this paragraph shall not apply to the Declarant or the Club for the installation of equipment necessary for a master antenna system, or centralized antenna system for community members, or cable television satellite receiver and mobile radio systems or other similar systems within The Cedars.
- (h) Garbage receptacles and other such items must be screened or kept in the garage.
- (i) The Declarant or the Association may effect changes in any Unit or in the Common Elements in The Cedars at any time to meet mandatory requirements of applicable law. The Owner agrees to temporarily relocate to other facilities provided by the Club at its cost if it becomes necessary to vacate the Unit in order to make such changes.
- (j) Pets may be permitted but only as provided in the Membership Agreement.
- (k) The Declarant hereby declares and affirms that the use restrictions described herein shall be deemed restrictive covenants running with the land and are imposed as a limitation and burden upon each Unit and upon the Declarant and upon all future owners of Units.

3.6 Deeds to Units. On the transfer of a Unit, the deed effecting that transfer conveys all the seller's interests in that specific Unit to the purchaser, including the seller's interest in the real and personal Property of the Association, as it is applicable to that Unit, reserve accounts applicable to that Unit, if any such exist, and in any cause of action or chose in action either of the Association or arising out of ownership of that Unit, whether or not those interests are expressly described in the deed.

3.7 Assessments for Common Expenses; Responsibilities for Maintenance. The obligations of all Unit Owners and/or Designated Members with regard to assessments for Common Expenses, payment of fees arising from the Membership Agreement, and the maintenance and repair of the individual Units shall be as provided in the Bylaws of the Association which are attached hereto as Exhibit "D."

3.8 Limitations on Leasing Units. Units may be leased by the Unit Owners only under the following circumstances and subject to the conditions as herein provided:

- (a) Declarant shall have the rights to lease Units as provided in ARTICLE XIV hereof and for use in the manner contemplated by The Cedars of Chapel Hill Membership Agreement.
- (b) All other Unit Owners shall not have the right to lease their Units unless the lessee is a family member of the Owner. Declarant expressly reserves the right, in its sole discretion, to modify this lease restriction. Anyone occupying a Unit pursuant to this provision must meet the residency requirements of The Cedars of Chapel Hill as set forth in the applicable Membership Agreement and must execute a Membership Agreement and become a Designated Member of The Club. Each Designated Member shall execute a guaranty agreement in a form approved by Declarant evidencing the joint and several responsibility of the Owner and the Designated Member for the Condominium fees and the cost of services of The Club. Moreover, in the event there is a written lease document, such lease permitting such occupancy shall expressly provide that occupancy thereunder must be in a manner consistent with the Bylaws and Membership Agreement and shall likewise provide that the terms and conditions of the Declaration and all exhibits thereto shall be complied with by the lessee. Such lease shall further provide that the Association shall have the right to terminate the lease and to bring summary ejectment proceedings in the name of the lessor to evict the lessee in the event of default by the lessee in the performance or observance of any of the required provisions of the lease or any of the provisions of this Section 3.8. Any lease entered into by a Unit Owner pursuant to the provisions of this paragraph shall be deemed to contain the requirements set forth herein whether or not they are actually contained therein and the lessor and the lessee of any such lease shall be bound by these provisions.

3.9 Right of First Refusal. In consideration of the affirmative obligations of and benefits to all Owners provided by the Declarant under this Declaration, when any Unit is offered for sale by successors in title to the Declarant, the Declarant shall have the exclusive option to purchase such Unit at the price and on the terms of any bona fide offer for such Unit made in writing to the Owner at such time and submitted to Declarant for verification.

Each Owner shall notify Declarant of its intent to sell its Unit with such notice setting forth in full the certified terms and conditions of the sale, and including the full name and primary address of the prospective true buyer (as distinguished from agents and intermediaries). Declarant shall have thirty (30) days after presentation of such notice to Declarant to exercise this purchase option. If Declarant has not executed a contract for purchase during this period, the record Owner may freely convey the Unit to the prospective buyer, subject, however, to all covenants and limitations herein contained and all limitations as outlined in the Membership Agreement which is incorporated herein by reference, at a price not lower than that at which it was offered to the Declarant. Should, however, such sale to a third party not be consummated within four (4) months of the date the offer is transmitted to Declarant at the price and on the terms offered or a price more favorable to the Seller, the terms and limitations of this Section shall again be imposed upon any sale by the Owner.

If Declarant elects to purchase such Unit, the transaction shall be consummated on the terms offered; provided, however, that Declarant shall have a minimum of thirty (30) days from the delivery of notice to consummate the transaction.

The provisions of this Section 3.9 shall not apply to sales under powers contained in deeds of trust and similar security instruments. Further, the provisions of this Section 3.9 are subject to any overall term limitation in effect under North Carolina law.

3.10 Alteration in the Units.

- (a) After approval by the Declarant, an Owner may make improvements or alterations to his Unit that do not impair the structural integrity or mechanical systems or lessen the support of any portion of the Building.
- (b) Except as hereinafter permitted in this Declaration, no Owner may change the appearance of the Common Elements or the exterior appearance of a Unit, or anything which results in changes visible from outside the Unit, e.g., paint color, awnings, exterior lining of window coverings (other than white), etc., without permission of the Declarant.
- (c) In a situation where a Unit Owner owns adjoining Villa Units in a Building, after giving notice to the Declarant, an Owner may alter the partition wall between such adjoining Villa Units owned by him to create an opening in that wall. Such an alteration does not constitute a relocation of boundaries between Units and the Units will continue to be considered separate and distinct for purposes of this Declaration.
- (d) The above prohibition of alteration of the exterior appearance of a Unit is not intended to prevent a Cottage Owner from seeking authorization to modify his Cottage Unit. Provided, however, that the Declarant shall have the sole right of approval over any proposed alterations. Any Owner altering a Unit pursuant to this Section shall be required to submit a written request to the Declarant, or its successors, setting forth his intention to alter the Unit and also submit proposed plans for the alteration which would conform with the applicable provisions of the Act showing the proposed relocated boundaries of the Unit. In each such case with respect to every alteration to a Unit which would result from the proposed work, adequate provision must be made for any required fire and emergency exits, mechanical and support systems of the Building, utilities as well as assurance that there is no impairment of the structural integrity of the Unit and/or Building. Within sixty (60) days after receipt of a request from an Owner pursuant to this Section the Declarant, or its successors, shall:
- (e) Cause an Amendment to the Declaration to be prepared which conforms to this Declaration and the Act, together with a certified Amendment to the Plans which conforms to the requirements of the Act. Subject to the requirements of the Act, the Amendment to the Declaration shall reallocate the assigned appurtenant interest among all the Units resulting from the alteration of the Unit; and
- (f) Upon payment by the affected Unit Owner of all permit, recording, legal, architectural and other fees incurred by the Declarant and/or the Association, the Declarant and an officer of the Association shall execute the Amendment to Declaration and record same including the Plats and plans depicting the alteration of the Unit and showing the alternate boundaries of the Unit and their dimensions and identifying numbers; and
- (g) The Amendment to Declaration and plans to reallocate Units are only effective when executed in the manner required by this Section and by the Act and recorded. The consents to the Amendment by mortgagees of the affected Units shall also be recorded.
- (h) Any Unit Owner altering a Unit pursuant to this Section, upon request by Declarant, shall:
- (i) Provide for waivers of all mechanics lien rights which may arise as a result of the alteration;

- (j) Provide certificates of insurance insuring against all losses commonly insured against arising out of the work naming the Declarant and the Association as additional insureds;
- (k) Indemnify and hold the Declarant, the Association and other Unit Owners harmless from the effect of the work;
- (l) Minimize the disturbance to other Unit Owners during the work; and
- (m) Reimburse the Declarant and the Association for any expenses incurred by each, including but not limited to legal and other consulting fees.
- (n) When the alterations approved by the Declarant are completed, the affected Unit Owner shall deliver to the Declarant a copy of the "As Built" plans and Specifications certified to by an architect licensed to practice in North Carolina.
- (o) The rights of approval in this Section 3.10 are reserved to Declarant. Declarant may assign these approval functions to the Association at any time, and upon the expiration of the applicable Special Declarant Rights, these approval rights shall be automatically transferred to the Association.

#### **ARTICLE IV AREA COMPRISING PROPERTY**

That the Phase I Property as originally constructed will contain approximately 40.15 acres, more or less, on which is situate 49 Cottage Units located in 49 separate Buildings occupying, 45 Veranda Units in 4 Buildings square feet, 96 Villa Units in 3 Buildings, 2 Clubhouse Villa Units and the Marketing Office Unit in the Clubhouse, said Units occupying the square feet as shown on the Plat. The square footage not occupied by Units is made up of parking, sidewalks, outside landscaped areas and other Common Elements, including the two (2) buildings known as the Clubhouse and the Health Care Center.

#### **ARTICLE V COMMON ELEMENTS**

The Common Elements of the Property are as follows:

##### 5.1 The Common Elements Are as Follows:

- (a) The Property, excluding the Limited Common Elements and the Units, and including, but not limited to the land on which the Units are constructed, the foundations, (including all of the varying foundations of the Cottage Units) stairways, exterior portions of perimeter walls, roofs, common walls separating Units, load-bearing columns or walls, slabs, public utility lines; and pipes, wires or conduits located within slabs or elsewhere in the Buildings other than those described as part of a Unit in Section 3.3. In each instance there shall also be included the space actually occupied by the above.
- (b) Uncovered parking facilities located on the Property, which are shown on the Plat.
- (c) All roads and all walkways, paths, fountains, trees, shrubs, yards, lawns (except such as are designated as Limited Common Elements, if any) gardens, planter areas, fountains, etc.

- (d) All installations, and area occupying same, outside of the Units for services such as power, light, telephone, television, water and other similar utilities.
- (e) All sewer, drainage and irrigation pipes, excluding those which are the Property of the utility company.
- (f) The elevators and elevator shafts in the Buildings, the trash receptacle areas, the mail box areas and all appurtenances thereof.
- (g) Such easements through the Units for pipes, ducts, plumbing, wiring and other facilities for the furnishing of utility services to Units, general Common Elements and Limited Common Elements and easements for access, maintenance, repair, reconstruction or replacement of structural members, equipment, installations and appurtenances, and for all other services necessary or convenient to the existence, maintenance, safety and use of the Property, whether or not such easements are created during construction of the condominium Property or during re-construction of all or any part thereof, except such easements as may be defined as "Limited Common Elements."
- (h) All areas not designated as a Limited Common Element and not described as lying within the boundary of a Unit as described in Section 3.3 hereof and all other elements of the Property constructed or to be constructed on the Property, rationally of common use or necessary to the existence, upkeep and safety of the Property and in general all other devices or installations existing for common use.
- (i) The covered parking space areas outside the Buildings ("Covered Parking Spaces") which are divided into individual numbered parking spaces, some (or all) of which have been, or will be, assigned to some of the Unit Owners pursuant to separate contractual arrangements, shall be Common Elements subject to the right of regulation of use by the Association pursuant to N.C.G.S. 47C-3-102. These covered parking spaces shall be for the exclusive use of the Unit Owners who have contracted with Declarant or the Association for the use rights of same. Such Owners shall have those rights with respect to such Covered Parking Spaces as are set forth in the Covered Parking Space Agreement granted to such subscribing Unit Owners, including the right to assign such use rights to another Unit Owner. For that reason, these rights are considered personal property rights and shall be considered severable from the condominium Unit and shall not pass automatically upon the conveyance of the Unit but only upon the assignment of rights in accordance with the procedures established in the Covered Parking Spaces Agreement. All Unit Owners who have entered into Covered Parking Space Agreements shall be responsible for an additional annual assessment to cover the actual pro rata costs of maintenance and repair of the Covered Parking Space or spaces held by each such Unit Owner. The Management Agent, as named in the Bylaws, shall coordinate all matters with respect to these covered parking spaces, including, but not limited to, maintaining a roster of assigned spaces and adopting enforcement procedures as necessary.
- (j) The Clubhouse, an approximate 45,000 square foot three level building consisting of a community hall, kitchen and dining areas, living, game, crafts and reading rooms, exercise rooms, pool, limited offices and commercial leasable areas, the operation and management of which shall be by the Club. [Note: the Clubhouse also includes the two Clubhouse Villa

Units on the 3rd floor; and the Marketing Office Unit on the main level (2<sup>nd</sup> floor), all as described above].

- (k) The Health Care Facility (sometimes referred to as the "Health Care Center"), an approximate 23,000 square foot one level building consisting of 36 beds, assisted living and nursing care facilities, the operation and management of which shall be by the Club.

Those specific improvements constructed on and forming a part of the Property consisting of the two (2) Buildings generally known as the Clubhouse and the Health Care Center, and referenced in subparagraphs (i) and (j) above, have been constructed in accordance with the plot plan and floor plans filed with the Plat. Said plans are certified by Allan L. Moore, of Calloway Johnson Moore & West, an architect duly licensed to practice in the State of North Carolina, N.C. License No. 3105.

In addition to all of the rights reserved to Declarant hereunder, Declarant specifically reserves the right to improve, upgrade, expand, modify, enlarge and otherwise add to the Common Elements described above, including the construction of a maintenance building, and including the addition of certain easement rights which may be considered Common Elements. In addition, Declarant reserves the right to allow a Cottage Unit Owner to improve the Limited Common Elements immediately adjacent to the Cottage Unit, to wit, the area that would be considered a front, side, or rear yard, subject to the provisions of Section 5.3.

5.2 The Limited Common Elements Are as Follows:

- (a) The space lying between the upper boundary of each Unit as described in Article III and the floor or roof above such Unit, subject to easements for utilizing service as previously described, including but by no means limited to, the attic space above the Cottage Units.
- (b) The front, side and rear yards of each Cottage Unit.
- (c) The porches, patios, stoops and courtyard areas of each Cottage Unit.
- (d) The balcony or porch of each Villa or Veranda Unit.

5.3 Alterations/Improvements to Certain Common Elements.

This Section 5.3 pertains to alterations or improvements to certain Limited Common Elements, immediately adjacent to Cottage Units such as the front, side and rear yards and is intended to supplement the provisions of the Act.

- (a) Subject to the provisions of this Declaration and other provisions of law, a Cottage Unit Owner may improve such Limited Common Elements so long as the procedures described below in this Section 5.3 are followed, if required by Declarant.
- (b) Any horizontal improvements, such as landscaping, ground level decking or patio stones, etc., and all vertical improvements such as elevated decking, statuary, and other similar facilities may be made by an Owner to these Limited Common Element areas, subject however to the requirement that such improvements be consistent with the overall aesthetic theme of The Cedars of Chapel Hill project and shall be subject to architectural review approval by the Declarant. The process to be used by an Owner to obtain approval is as follows:

(i) The Owner of a Cottage Unit may, at any time, deliver a letter to the Declarant stating their intentions to improve these Limited Common Elements, together with a plan of the improvement showing the proposed improvement. In such case, with respect to every proposed improvement:

(A) the proposed improvement shall conform with the overall architectural scheme of The Cedars of Chapel Hill, as determined in the reasonable discretion of the Declarant;

(B) the Owner of the Unit shall demonstrate the feasibility of completion of the proposed improvements;

(ii) Upon request of Declarant the Owner of the Unit shall execute an indemnity agreement, provided by the Declarant, whereby the Unit Owner agrees to indemnify and hold the Declarant, the Association and other Unit Owners harmless from any and all damage to any building, Common Element, Limited Common Element, and/or other property located within the Condominium, resulting from the construction of the improvement and from the effect of the work and the acts or omissions of anyone under such Unit Owner's direction or control;

(iii) Upon request of Declarant the Owner of the Unit shall: (i) provide for waivers of all mechanics lien rights which may arise as a result of the improvement; (ii) provide certificates of insurance insuring against all losses commonly insured against arising out of the work naming the Association as an additional insured; (iii) minimize the disturbance of other Unit Owners during the work; and (iv) reimburse the Declarant and/or the Association for any expenses incurred, including but not limited to legal, architectural and other consulting fees;

(iv) Each improvement must comply with all applicable laws, rules, regulations, codes and/or ordinances, including, but not limited to, those relating to health, fire and safety, and adequate provision must be made for any required mechanical and support systems of the improvement, utilities, as well as assurance that there is no impairment of the structural integrity of the Cottage Unit;

(v) When any alterations or improvements approved by the Declarant are completed, the Declarant, in its reasonable discretion, may require the Unit Owner to deliver a copy of the 'as built' plans and specifications;

(vi) Any such improvement will still be considered a limited Common Element, provided that in no event shall the Owner(s) of the other Units within the Condominium be responsible for the costs of operation, maintenance, repair or replacement of any such altered or improved Limited Common Element; and

(vii) In the event of any alteration to the Limited Common elements per this Section 5.3, the Unit Owner will be responsible for reimbursing the Association for any amounts expended by the Association to repair or maintain such changes added and any amounts expended to repair, maintain or replace upgraded or substituted features of the Common Elements to the extent that such repair, maintenance or replacement expense exceeds the amount that would have been applicable to the standard Unit finish or similar feature. By way of example, if the Association's master insurance policy is affected by virtue of the installation of an improvement, then the Unit Owner will be responsible for the excess



amount over the normal premium. The Declarant shall have the responsibility and authority to compute these amounts and add such amount to the Unit Owner's Assessment.

5.4 Conveyance or Encumbrance of Common Elements. Except for the specific situation of the Covered Parking Space Agreements referenced above, no Common Elements may be conveyed or subjected to a security interest by the Association without a unanimous consent of all Unit Owners.

## **ARTICLE VI**

### **RESERVED DEVELOPMENT RIGHTS; GENERAL PLAN OF DEVELOPMENT**

6.1 General. The Declarant has (or will have) constructed the Property described herein (which shall sometimes be referred to as The Phase I Property) and further intends to complete construction of Property contiguous to, and nearby, the Property which is the subject of this Condominium. The additional Property shall be referred to generally as "Future Phase" Property. The Future Phase Property, as and if applicable, is described in Exhibit "B" attached hereto and made a part hereof and is shown on the Plat. Declarant expressly reserves the right, to construct the additions to the Property in more than one phase.

6.2 Additional Common Elements; Modification to Common Elements; Easements Over Same. The proposed Future Phase Property may consist of additional Common Elements in the form of additional (e.g. Maintenance building) or expanded Club Facilities (e.g. expansion of Health Care Center). Declarant reserves the right to amend the Declaration so as to improve, expand, and modify said Club Facilities and to make such modifications an integral part of the Condominium. Specifically, Declarant reserves the right to expand the Health Care Center in the specific area shown on the Plat which area is reserved and designated as a portion of the Future Phase Property. Declarant reserves an easement of access to, and use of, the Clubhouse and Health Care Center Buildings for administrative and management purposes for itself and for the Club, consistent with the terms of the Membership Agreement attached to and made a part of this Declaration, which may be reasonably necessary for the purpose of discharging the obligations of the Declarant and/or the Club for the management of the affairs of the Club and the Association.

6.3 Future Amendments. With regard to the Future Phase Property herein referred to, Declarant reserves the right, in the manner more particularly hereinafter set forth, to cause the Future Phase Property to become an integral part of The Cedars of Chapel Hill Condominium once an appropriate amendment to this Declaration has been filed as hereinafter provided. The Future Phases will likely be developed in stages, to be known as Phase II, III, etc. Each stage will consist of a certain number of Units. Each phase may consist of one or more Villa-style or Veranda Home-style Buildings, Cottage-type Units or some other form of Unit. Said Phases shall be of similar general valuation as the Units which were constructed on Phase I Property. Nonetheless, it is understood that floor plans and other design criteria may be modified by Declarant, or its successors in so long as the total number of additional Units in the Future Phases does not exceed one hundred thirty three (133). Notwithstanding the foregoing, the total number of residential Units to be made a part of the Condominium is limited to three hundred twenty five (325). Declarant specifically reserves the right to modify floor plans under the design criteria with respect to the Future Phases.

6.4 Miscellaneous. Reference is made to Exhibit "B" attached hereto for a legal description of all of the Future Phase Property. It is noted that the Future Phase Property is shown combined within one single perimetric boundary only since the location of the phase lines has not been determined. Declarant, its successors and assigns, expressly reserves the right to establish the location of said phase lines prior to or simultaneously with the annexation of the Future Phases; however, no assurances are made as to the location of said boundaries or the order in which the various parcels are to be annexed. Further, the annexation of a portion of the Future Phase Property will not subject the Declarant to annex any other Future Phase Property in any particular time, manner, size or order.

6.5 Special Use Permit. Declarant reserves the exclusive right for itself or any assignee to which the right is expressly assigned in writing, including Meadowmont Retirement Community, LLC, to apply for any modification or amendment to that certain Special Use Permit applicable to the Property issued by the Town of Chapel Hill, which modification or amendment is necessary to exercise reserved development rights as to the Future Phase Property.

**ARTICLE VII**  
**RESERVATION OF DEVELOPMENT RIGHTS**  
**OF DECLARANT FOR FUTURE PHASES**

Declarant, its successors and assigns, hereby expressly reserves the right, to be exercised in its sole discretion, to submit the Future Phase Property and all sub-phases or stages of said Phases, (all such phases hereinafter collectively and individually referred to as the "Future Phase Property"), or any one of them, and in any order of priority to the provisions of this Declaration and thereby cause the Future Phase Property to become and forever be a part of The Cedars of Chapel Hill Condominium in the same manner as if made a part thereof in every particular upon the initial execution and filing of this Declaration. This right may be exercised by Declarant, its successors, grantees and assigns only upon the execution by it or them of an amendment or amendments to this Declaration, which amendments shall be filed in the Office of the Registers of Deeds for Orange and Durham Counties, North Carolina, not later than December 31, 2025. Any such amendments shall conform to the various provisions and conditions precedent established in this Declaration and shall expressly submit the Future Phase Property, as applicable, to all of the provisions of this Declaration and the Bylaws of The Cedars of Chapel Hill Condominium, a copy of which Bylaws is attached hereto as Exhibit "D" and made a part hereof, as either or both may be amended between the date of said Declaration and Bylaws, and the filing of said Amendment to this Declaration to include the Future Phase Property. Upon the exercise, if any, of this right to include the Future Phase Property, as applicable, as a part of this Condominium, the provisions of this Declaration and all exhibits hereto shall then be understood and construed as embracing the Phase I Property (the basic "Property" herein defined) and the applicable Future Phase Property together with all improvements then constructed thereon. Should this right of inclusion or annexation not be exercised within the time herein prescribed and in the manner herein prescribed, such right shall in all respects expire and be of no further force or effect.

**ARTICLE VIII**  
**REVOCATION AND AMENDMENT**

The dedication of the Property to the Condominium herein shall not be revoked, or the Property removed from the Act or this Declaration amended in any way, unless all of the Unit Owners and the mortgagees of all the mortgages covering the Units unanimously agree to such revocation, or amendment, or removal of the Property from the Declaration by duly recorded instrument; **provided, however**, that without the consent of the Unit Owners or Mortgagees, the Declarant, or its successors in title to all or any portion of the Future Phase Property may at any time prior to the termination of the reservation of rights period specified in ARTICLE VII herein, amend this Declaration in the manner set forth in ARTICLES VI and VII so as to subject the Future Phase Property to the provisions of this Declaration and the Act so as to make the Future Phase Property an integral part of The Cedars of Chapel Hill Condominium. Any such amendment shall, when read in concert with this Declaration, contain all of the particulars required by the said Act as the same is now constituted or may hereafter be amended and from and after the recording of such amendment The Cedars of Chapel Hill Condominium shall include all of the said Future Phase Property, as appropriate. The Units to be constructed on the Future Phase Property are to be as described in ARTICLES VI and VII. The designation of each Unit in the Future Phases by Unit type as currently known and the methodology of determining its proportionate interest in the Common Elements is set forth in Exhibit "F", which exhibit is attached hereto and made a part hereof. If Declarant elects to make the Future Phase Property a part of this Condominium as herein provided, Declarant shall cause to be prepared and made a part of the Amendment by

which the Future Phase Property is incorporated into The Cedars of Chapel Hill Condominium a schedule designating Unit types, reflecting each Unit's proportionate interest in the Common Elements, which schedule shall be similar in content and format to the Exhibit "F" schedule, prepared using the requirements and guidelines set forth in ARTICLES VI and VII hereof. Upon the recordation of the Amendments to make the Future Phase Property a part of The Cedars of Chapel Hill Condominium, the provisions regarding revocation and amendment set forth in this ARTICLE VIII shall have equal application thereto.

#### **ARTICLE IX** **PERCENTAGE OF INTEREST OF UNITS**

The percentage of title and interest appurtenant to each Unit and the Unit Owner's title and interest in the Common Elements of the Property and the proportionate share in the revenues, if any, and common monthly expenses as well as the proportionate representation for voting purposes in meetings of the Association is based on the proportionate value of each Unit to the value of the total Property as set forth in Exhibit "F" attached hereto and make a part hereof. The formula for calculating the statutory percentage interest is "V/A = P", i.e. the valuation (V) of the Unit Type divided by the aggregate value (A) of all Units existing in the Condominium equals the resulting percentage interest (P). The proportionate representation for voting purpose and the percentage of the undivided interest in the Common Elements provided in this ARTICLE and in Exhibit "F" shall not be altered without the acquiescence of the Unit Owners representing all of the Units expressed in an amendment to this Declaration duly recorded as required by ARTICLE VII hereof or except as provided in ARTICLES VI, VII, and VIII with regard to the amendment of the Declaration to admit Future Phase Property.

#### **ARTICLE X** **ADMINISTRATION AND BYLAWS**

10.1 Association; Bylaws. As noted above, Declarant has caused to be incorporated under the laws of the State of North Carolina a corporation known as The Cedars of Chapel Hill Condominium Association. Each Unit Owner shall have voting rights in said Association in the same percentage as the percentage of interest his Unit has in the Common Elements. The administration of the Condominium, and consequently of the Association, consisting as aforesaid of the Property described above, shall be in accordance with the provisions of the Bylaws which are incorporated herein, made a part hereof and are attached hereto as Exhibit "D."

10.2 Automatic Membership in Association. Each Unit Owner shall automatically become and be a member of the Association so long as he continues to be a Unit Owner and shall exercise such percentage of vote in all matters as shown upon Exhibit "F" attached hereto. In the event that a Unit is owned by more than one person, the person entitled to cast the vote for the Unit shall be designated by a certificate signed by all the record Owners of the said Unit and filed with the Secretary of the Association. Further, should such Unit Owner be a corporation, the person entitled to cast the vote for the Unit shall be designated by a certificate signed by the President or Vice President of the corporation and attested by the Secretary or Assistant Secretary of the corporation and filed with the Secretary of the Association. All such certificates shall be valid until revoked, superseded by a subsequent certificate, or until there has been a change in ownership of the Unit concerned.

#### **ARTICLE XI** **GENERAL CONDITIONS/MISCELLANEOUS MATTERS**

11.1 Common Elements Not Partitioned. Except as provided, the Common Elements shall remain undivided and no Unit Owner shall bring any action for partition and/or division of same.

11.2 Common Elements Not Severable from Units. The undivided interest in the Common Elements shall not be separated from the Unit to which it appertains and shall be deemed conveyed or encumbered with the Unit even though such interest is not expressly mentioned or described in the conveyance or other instrument.

11.3 Provisions and Covenants Applicable to Units. Each Unit Owner or Designated Member shall comply with the provisions of:

- (a) This Declaration, all exhibits hereto, and authorized amendments thereto;
- (b) The Cedars of Chapel Hill Membership Agreement.

The failure to comply with such provisions, decisions, or resolutions shall be grounds for an action to recover sums due for damages or for injunctive relief. The Units shall also be conveyed subject to the recorded Plat and plans for the Property and amendments thereto. The acceptance of a deed of conveyance or the entering into of a lease or the entering into occupancy of any Unit shall constitute an agreement that the provisions of this Declaration, the Bylaws and any rules and regulations which may be adopted are accepted and ratified by such Owner, tenant or occupant, and an agreement that such provisions shall be deemed and taken to be covenants running with the Land and shall bind any person having at any time any interest or estate in such Unit as though such provisions were made a part of each and every deed of conveyance or lease.

11.4 Nonuse Not Exemption of Liability for Common Expenses. No Unit Owner or Designated Member may exempt himself from liability for his contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Elements or by the abandonment of his Unit.

11.5 All Users of Property Subject to Declaration. All present or future Unit Owners and Designated Members and any other person that might use the facilities of the Property in any manner, including those who may lease a Unit from the Declarant, are subject to the provisions of this Declaration and any authorized amendments thereto, and the mere acquisition or rental of any of the Units shall signify that the provisions of this Declaration and any authorized amendment thereto are accepted and ratified.

11.6 Assessments Subordinate to Mortgagee Taking Title. Where a mortgagee or other purchaser of a Unit obtains title by reason of foreclosure or deed in lieu of foreclosure of a mortgage covering a Unit, such acquirer of title, his or its heirs, successors, assigns or grantees, shall not be liable for assessments by the Association which became due prior to the acquisition of title by such acquirer, it being understood, however, that the above shall not be construed to prevent the Association from filing and claiming liens for such assessments and enforcing same as provided by law, and provided that such assessment shall be subordinate to such mortgage.

11.7 Condemnation. In the event of an action for eminent domain or a condemnation of all or a portion of the Property which is subject to this Condominium, the award for such taking shall be distributed in accordance with the procedure set forth in N.C.G.S. § 47C-1-107.

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

11.9 Gender and Number. The use of the masculine gender in this Declaration shall be deemed to refer to the feminine and neuter gender, and the use of the singular shall be deemed to refer to the plural, and vice versa, whenever the context so requires.

11.10 Applicable Law/Interpretation. This Declaration is set forth to comply with the requirements of the Act as presently constituted or as hereafter amended. In case any of the provisions stated above conflict with the

provisions of said statute, the provisions of said statute shall control. In all cases, the provisions of this Declaration shall be given that reasonable interpretation or construction which will best effect consummation of the general plan of land use restrictions and affirmative obligations of the Property, which will carry out the intent of the Declarant as expressed herein, and which will preserve the Property as a site for an attractive, well maintained, retirement community.

Should any provision of this Declaration or any section, paragraph, sentence, clause, phrase or term in this Declaration be declared to be void, invalid, illegal, or unenforceable for any reason by the adjudication of the highest court or other tribunal which considers such matters and has jurisdiction over the parties hereto and the subject matter hereof, such judgment shall in no way affect the other provisions hereof which are hereby declared to be severable.

Contrary to the restrictive common law rule of construction, this Declaration shall by this covenant be interpreted broadly to touch and concern the Property with recognition of modern economic, land use planning and real estate finance and development principles, theories and practices. It is the Declarant's intent, and all Owners who take subject to the Declaration, to covenant and agree, and are thereby estopped to deny, that any reserved right or function of the Declarant and/or Association, and any other covenant condition, restriction or obligation within this Declaration is intended to promote the use and enjoyment of the Property, is intended to foster the creation, preservation or enhancement of economic or intangible values associated with the Property, and does touch and concern, benefit and burden and run with the Property.

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

11.12 Exhibits. All exhibits to this Declaration of Condominium shall be an integral part of this instrument.

## **ARTICLE XII** **INSURANCE AND RECONSTRUCTION/REPAIR**

12.1 Insurance. The Management Agent, on behalf of the Board of Directors of the Association shall be required to obtain and maintain those types and forms of insurance as are required by the Bylaws set forth in Exhibit "D" attached hereto and made a part hereof.

12.2 Insurance Obtained by Owners. Each Owner shall obtain and keep continuously in force additional fire and casualty and extended coverage insurance upon his personal property, including any personal motorized vehicle, such as wheelchairs, public liability insurance, and such other insurance coverage as he may desire. Each Owner shall obtain and maintain public liability insurance coverage in the amount of at least \$100,000 for bodily injury, including deaths of persons and property damage, arising out of a single occurrence. Each Owner shall certify at closing that such an individual policy has been obtained.

12.3 Reconstruction. In the event of casualty loss or damage to the Property the provisions of N.C.G.S. § 47C-3-113(h) shall govern all matters pertaining to reconstruction and repair.

## **ARTICLE XIII** **EASEMENTS**

13.1 Reserved Easements. The Declarant expressly reserves such easements through the Common Elements as described in N.C.G.S. 47C-2-116. The Association reserves at any time, the right to grant easements for utility purposes for the benefit of the Property, including the right to install, lay, maintain, repair and replace

water lines, pipes, ducts, sewer lines, gas mains, telephone and television or cable television wires, cables and equipment, electrical conduits, and wires over, under, along and on any portion of the Common Elements. Easements for installation and maintenance of utilities and drainage facilities, if any, are also reserved as shown on the Plat. Within these easements no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation and maintenance of utilities, or which may obstruct or change the flow of drainage channels in the easements.

13.2 Easement for Encroachment. If any portion of the Common Elements now encroaches upon any Unit or if any Unit now encroaches upon any other Unit or upon any portion of the Common Elements, or if any such encroachment shall occur hereafter as a result of: (a) settling of the Building; (b) alteration or repair to the Common Elements made by or with consent of the Board or; (c) as a result of repair or restoration of the Building or any Unit made necessary because of damage by fire or other casualty; or (d) as a result of condemnation or eminent domain proceedings, a valid easement shall exist for such encroachment and for the maintenance of the same so long as the Building or Buildings stand.

13.3 Other Condominium Easements. Each Unit Owner shall have an easement in common with the Owners of all other Units to use all pipes, wires, ducts, flues, cables, conduits, public utility lines and other Common Elements, if any, located in any of the other Units and serving his Unit. Each Unit shall be subject to an easement in favor of the Owners of all other Units to use the pipes, wires, ducts, flues, cables, conduits, public utility lines and other Common Elements serving such other Units and located in such Unit. The Board shall have the right of access to each Unit to inspect the same to remove violations therefrom and to maintain, repair or replace Common Elements contained therein or elsewhere in the building.

13.4 Construction Easement. Declarant shall have a reasonable construction easement across the Common Elements for the purpose of constructing improvements on or within the Units, as well as on the Future Phase Property. Declarant shall also have such easements through the Common Elements as may be reasonably necessary for the purpose of discharging the Declarant's obligations or exercising Special Declarant Rights as provided herein.

13.5 Emergency Repair. The Association and the Declarant shall have a right of entry upon the Units and any Limited Common Elements to effect emergency repairs, and a reasonable right of entry upon the Units to effect other repairs, improvements, replacement or maintenance is made for the benefit of the Unit entered or another Unit.

13.6 Administrative Use. As referenced above in Section 6.2, Declarant shall have an easement over access to, and use of, the Common Elements, including the Health Care Center and Clubhouse Buildings, for administrative and management purposes of the affairs of the Association and of the Club.

13.7 Appurtenant. All easements granted herein are perpetual, and are appurtenant to and shall run with the land, and shall inure to the benefit of and be binding upon the Declarant, the Association, Owners, occupants, and mortgage holders, and any other person or entity having an interest in the Condominium.

**ARTICLE XIV**  
**DECLARANT SUBJECT TO CONDOMINIUM;**  
**DECLARANT USE; CONTINUING RELATIONSHIP**

14.1 General. So long as the Declarant owns one or more of the Units, the Declarant shall be subject to the provisions of this Declaration and the exhibits attached hereto and the Declarant covenants to take no action which will adversely affect the rights of the Condominium by reason of the establishment of said Condominium. Notwithstanding the foregoing, even after Declarant no longer owns one or more of the Units, Declarant will still have an ongoing relationship with the Condominium. Declarant's original intention in developing The Cedars of Chapel Hill was to create a retirement home community with first-class and uniform continuing care and

management. Further, Declarant, in an attempt to provide fee simple ownership benefits to individual Owners who would become residents of The Cedars of Chapel Hill community, determined to utilize the condominium form of ownership. Typically in a condominium development the developer creates the condominium, constructs and sells the condominium units and, within an identifiable period of time is normally no longer involved with the project. To the contrary, in the instant situation, Declarant will be involved on a long-term basis with The Cedars from not only a development perspective with regard to the Future Phase Property, but also from a management perspective of the Club as well as from a financial perspective relating to payments to be made to Declarant. Further, Declarant will have certain obligations to provide Services as set forth in the Membership Agreement, which the Declarant will execute with each and every Member. The overall relationship of Declarant with the Condominium and the Club is not intended to be burdensome in any way to any of the Owners but is intended to present a fair economic return to Declarant for the development efforts and risks of Declarant. It is for that reason that there are certain reserved rights of Declarant set forth in this Declaration as well as in the accompanying exhibits to the Declaration, some of which are specifically set forth in this ARTICLE XIV. One of the purposes of this ARTICLE XIV is disclosure to the Unit Owner of this overall long term relationship.

14.2 Declarant Rights to Lease Units. Declarant shall have the absolute right and privilege of leasing any or all of the Units owned by it on a short or long term basis for use in the manner contemplated by the Membership Agreement and for the uses permitted by this Condominium, and that Declarant's lessees, invitees, guests, etc., (a) shall be obligated to make all requisite payments for the Services set forth in the Membership Agreement; (b) shall be entitled to all of the privileges and rights, and (c) shall be subject to the requirements prescribed hereunder of a Unit Owner with respect to the use of the Property, excluding voting rights which shall remain with the Declarant.

14.3 Declarant Use as Sales Model, Etc. Declarant, and its successors and assigns, shall be entitled to use one or more of the Units as models for purposes of a sales model and/or office and/or guest accommodations, it being the intent of Declarant that said reserved rights do not conflict with the residential use restriction described hereinabove.

14.4 Specific Reservation Regarding Clubhouse and Health Care Center Facilities. Declarant reserves the right to grant access and use privileges to the Health Care Facilities and to the Clubhouse to non-Owners consistent with the terms of the Declarant's Certificate of Need ("CON") on file with the Department of Human Resources ("Dept."). It is further recognized and Declarant expressly reserves, the right to grant access to said Health Care Center to members of the public for the purposes of outpatient services on a daily basis and also extended care treatment and services, it being understood that the beds within said Health Care Center may be deemed public. To the extent required therefore Declarant reserves the express right to grant access and use of said Health Care Center. Further, with respect to the Clubhouse as said facility will be utilized by Declarant and by Club and for the reason that there will be certain public and commercial activities taking place within said Clubhouse, such activities consisting of, for example, public lectures and/or presentations, a beauty salon, banking facilities and the like, Declarant reserves the sole and exclusive right to lease space and to grant access and use privileges of the Clubhouse for uses generally consistent with the overall plan of The Cedars. Included in this reservation is the right of Declarant to use the Clubhouse and the Health Care Center for purposes of sales activity for remaining inventory of Declarant, the Future Phase Property, as well as for future resales, as well as for administrative and management purposes. (NOTE: It is recognized that the Association and the Club, on its own behalf and as Management Agent, will also occupy and use significant areas in the Clubhouse and Health Care Center for purposes of operations, management and administrative functions. It is also noted that Declarant retains ownership of the Marketing Office Unit in the Clubhouse for these purposes.)

14.5 Financial Inter-relationship. After creation of the Condominium and the Club, Declarant will have a continuing financial relationship in two primary areas:

- (a) The right to receive an annual corporate overhead payment substantially equivalent to ten percent (10%) of the actual total annual operating and administrative costs of the Club, or its successors and assigns, and the Condominium, including the Common Facilities, pursuant to the respective budgets of the Club, or its successors and assigns, and of the Condominium (the "Overhead Payment"). (It is noted that this payment is to be considered "net" and that any expenses incurred by Declarant or any other management agent in performing any management functions might well be part of the Condominium fee and/or Services Fee which comprise a part of the Monthly Payment as more particularly defined in Membership Agreement);
- (b) The right to assess and collect a Membership Fee for all memberships acquired in connection with The Cedars. It is understood that memberships in The Cedars are non-transferable and upon the sale of a Unit by an Owner, as stated in The Cedars of Chapel Hill Membership Agreement, the cost of membership to be paid by the new buyer shall be ten percent (10%) of the purchase price and is payable to the Declarant at closing on the purchase of any Unit. Declarant's right to collect ten (10%) percent of the purchase price of each Unit shall survive the termination of the Club's management rights and the Club's dissolution.

14.6 Assignment of Reserved Rights. Declarant reserves the right to assign, collaterally or otherwise, in whole or in part, to its successors in title to any portion of the Future Phase Property or to any of Declarant's Units hereunder, or to its agent, or to an independent third party, or to the Club or any successor to the Club, or to the Association, any of the rights reserved in this Declaration, including the special Declarant Rights. All references to Declarant and Declarant's rights hereunder shall be deemed to include any specific assignee of Declarant.

14.7 Membership Agreement. For purposes of ample and full disclosure to all present and future Owners of Units within the Condominium, attached hereto and made a part of this Condominium as Exhibit "E" is a specimen Membership Agreement. Copies of the Club Management Agreement by and between Declarant and the Club relating to the Club operations and the Condominium Management Agreement whereby the Club is managing the affairs of the Condominium are available at the administrative offices of The Club. All such Agreements are subject to modification from time to time.

## **ARTICLE XV** **WARRANTIES**

The following language is taken from the Purchase Agreement form used by and between Declarant and all initial purchasers of Units within the Condominium and the purpose of reproducing said language relating to warranties herein in this Condominium is to provide actual notice to any and all successors-in-title to original Unit purchasers:

"At closing, Seller shall transfer to Purchaser all of Seller's right, title and interest in and to any manufacturer's warranty furnished to Seller covering any equipment or appliance installed in the Property, and Seller makes no warranty or agreement of any kind with respect to any such equipment or appliance. If written notice is given to Seller by Purchaser within thirty (30) days of discovery of any defects not caused by Purchaser, his agents, guests, or invitees, then Seller will, at no cost to the Purchaser for a period of one (1) year from the date of closing, repair, replace, the defective portion of the Property. At the end of the warranty period, the Condominium and The Club will assume the obligation for repair in their respective areas of responsibility. Seller's warranty shall not apply to fixtures and appliances covered by a warranty of a manufacturer or dealer, for which defects the Purchaser shall have such rights as are defined in the applicable warranty documents. Seller shall not be responsible for any incidental or consequential damages arising from any defect. This



warranty is personal to Purchaser, and shall automatically terminate and be of no further force or effect upon Purchaser's sale, transfer or conveyance of the Property. SELLER MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED AS TO THE FITNESS, DESIGN OR CONDITION OF ITEMS OF TANGIBLE PERSONAL PROPERTY OR FIXTURES, THEIR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE."

#### **ARTICLE XVI** **TERMINATION**

The Condominium may be terminated and the Property removed from the provisions of the North Carolina Condominium Act by the agreement of all of the Unit Owners as evidenced by execution of a termination agreement, or ratification thereof, by such Owners, provided that all the Mortgagees of the Units consent thereto or agree, in either case by instruments duly recorded, that their liens be transferred to the percentage of undivided interest of the Owners who shall own the Property as tenants in common following such termination, which shall be the percentage of undivided interest of such Owner in the Common Elements. The procedures of termination as set forth in the Act shall control in all respects.

#### **ARTICLE XVII** **LENDER CONSENT**

The Land and the Buildings are currently encumbered by the lien of a Deed of Trust (with Construction Loan Provisions), Assignment of Rents, Security Agreement and Financing Statement dated December 17, 2002, as amended, executed and delivered by Declarant to Southland Associates, Inc., as Trustee, for the benefit of BNP Paribas, Sovereign Bank, Allfirst Bank (now Manufacturers and Traders Trust Company), and Central Carolina Bank, a division of National Bank of Commerce. A Consent/Joinder of Lender executed by said Trustee and said banks consenting to the execution and recordation of this Declaration is attached hereto and made a part of this Declaration.

#### **ARTICLE XVIII** **ASSOCIATION/GENERAL**

18.1 All powers granted in the Declaration or the Bylaws to the Association shall be exercisable by the Executive Board, except as otherwise expressly provided in the Declaration, the Bylaws, or N.C.G.S. § 47C.

18.2 The Association may adopt and enforce reasonable rules and regulations not in conflict with the Declaration and supplementary thereto, as more fully provided in the Bylaws.

18.3 The Association shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, the Bylaws and Articles of Incorporation of the Association. Failure by the Association to enforce any covenant or restrictions therein shall in no event be deemed a waiver of the right to do so thereafter.

Upon notice to the Association of a violation hereunder and a failure of the Association to take action upon said violation within ninety (90) days, any Owner, or other holder of an interest in the Condominium may undertake the enforcement of the provisions of the Declaration at his own expense.

Declarant has caused this Declaration to be duly executed the day and year first above written.

THE CEDARS OF CHAPEL HILL, L.L.C., a North Carolina limited liability company

By its Manager,  
THE CEDARS OF CHAPEL HILL DEVELOPMENT COMPANY, L.L.C., a North Carolina limited liability company

By its Manager,  
THE CEDARS OF CHAPEL HILL INVESTOR GROUP, L.L.C., a North Carolina limited liability company

By its Manager,  
MEADOWMONT RETIREMENT COMMUNITY, LLC, a North Carolina limited liability company

By: *Robert E. Woodruff* (SEAL)  
Robert E. Woodruff, Manager

STATE OF NORTH CAROLINA  
COUNTY OF Alamance

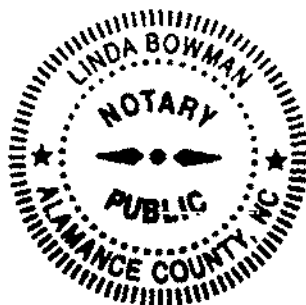
I, *Linda Bowman*, a Notary Public of the County and State aforesaid, certify that Robert E. Woodruff personally came before me this day in his capacity as the Manager of Meadowmont Retirement Community, L.L.C., which is the Manager of the Cedars of Chapel Hill Investor Group, L.L.C., which is the Manager of The Cedars of Chapel Hill Development Company, L.L.C., which is the Manager of The Cedars of Chapel Hill, L.L.C., all North Carolina limited liability companies, and being first duly sworn, and acting in such capacity and on behalf of such entities, acknowledged the execution of the foregoing instrument on behalf of the company.

WITNESS my hand and notarial seal, this the 22 day of July, 2004.

*Linda Bowman*  
Notary Public

My Commission Expires: 11/26/08

[notary seal]





**INDEX TO EXHIBITS**  
**THE CEDARS OF CHAPEL HILL**  
**DECLARATION OF CONDOMINIUM**

Exhibit "A" -	Description of Land (Phase I Property including Permitted Encumbrances)
Exhibit "B" -	Legal Description Future Phase Property
Exhibit "C" -	Articles of Incorporation - The Cedars of Chapel Hill Condominium Association
Exhibit "D" -	Bylaws of The Cedars of Chapel Hill Condominium Association and Rules of Conduct
Exhibit "E" -	Specimen Form of Current Membership Agreement
Exhibit "F" -	Statutory Percentage of Ownership Applicable to Units
Exhibit "G" -	Consent/Joinder of Lender
Exhibit "H" -	Schedule of Floor Plans filed with the Plat



**EXHIBIT "A"**  
**TO**  
**DECLARATION OF CONDOMINIUM**  
**THE CEDARS OF CHAPEL HILL**

**DESCRIPTION OF PROPERTY (INCLUDING PERMITTED ENCUMBRANCES)**

**BEING** all that certain piece, parcel or tract of land lying and being in the Town of Chapel Hill, Counties of Durham and Orange, State of North Carolina, comprised of Tract 1 containing 45.02 acres, more or less, and Tract 2 containing 2.09 acres, more or less, both Tracts being shown and described on that certain plat entitled "Condominium Plat of The Cedars of Chapel Hill" prepared by Kevin C. Piver of Ballentine Associates, P.A. (North Carolina R.L.S. No. 3919) and recorded with the architectural plans for The Cedars of Chapel Hill as the first three pages of the 180 sheet series recorded in Condominium Plat Book 6 7, Pages 48 1 through 399 184, Durham County Registry, and in Condominium Plat Book 94 95, Pages 172 1 through 200 151, Orange County Registry (the entire series being hereinafter collectively referred to as the "Plat");

**SAVING AND EXCEPTING THEREFROM**, those certain pieces, parcels or tracts of land lying and being in the Town of Chapel Hill, Counties of Durham and Orange, State of North Carolina, being hereinafter referred to as the "Excepted Parcels" and more particularly described as follows:

- (a) Lot 2A containing 1.09 acres, more or less, as shown on the Plat;
- (b) Lot 2B containing 1.11 acres, more or less, as shown on the Plat;
- (c) Lot 2C containing .68 acres, more or less, as shown on the Plat;
- (d) Lot 2D containing 2.00 acres, more or less, as shown on the Plat;
- (e) Lot 3 containing 2.06 acres, more or less, as shown on the Plat; and
- (f) The footprints of those fifteen (15) Cottage Units shown and labeled and described as "Must Be Built" as shown on the Plat.

**AND FURTHER SAVING AND EXCEPTING THEREFROM**, the right of ingress and egress over and across all roads and walkways shown on the Plat, said reservation being unto the Declarant herein, its successors and assigns and grantees, said reserved easement expressly for, but not limited to:

- (a) the purpose of construction of the Future Phase Property whether or not said Property becomes a part of the Condominium; and

(b) the right of access to the Health Care Center and Clubhouse constructed in conjunction with the Property.

**FURTHER**, the above Land (excluding the Excepted Parcels) is submitted to the Condominium subject to all easements as shown on the above plat of record and to all existing utility easements, or easements to be granted, in favor of the Town of Chapel Hill or other applicable utility companies of record in the Office of the Register of Deeds for Orange and/or Durham Counties, North Carolina.

**FURTHER**, the above Land (excluding the Excepted Parcels) is submitted to the Condominium subject to the contractual rights of those purchasers pertaining to covered parking spaces which are Common Elements per Article V of the Declaration, and Declarant expressly reserves the right to enter into covered parking space agreements with purchasers of Phase I Units in The Cedars which agreements will delineate the terms and condition of possession of those Common Elements.

**FURTHER**, the above Land (excluding the Excepted Parcels) is submitted to The Condominium subject to the following exceptions to title, all of which shall be deemed to be "permitted encumbrances":

1. Taxes and assessments for the year 2004 and subsequent years, which are a lien, but are not yet due and payable.
2. All easements as shown on plats of record and the terms, conditions, easements, reserved rights, and other provisions of the Declaration of Condominium for The Cedars of Chapel Hill Condominium, and all exhibits thereto, dated July 22, 2004, to which this Exhibit is attached.
3. Easement in favor of Duke Power Company of record in Deed Book 199, Page 205, Durham County Registry.
4. Easement in favor of the University of North Carolina at Chapel Hill of record in Deed Book 215, Page 235, Durham County Registry.
5. Special Use Permit for Meadowmont Development Infrastructure Plan of record in Deed Book 2570, Page 981, Durham County Registry, and Deed Book 1842, Page 9, Orange County Registry.
6. Master Land Use Plan recorded in Deed Book 2570, Page 996, Durham County Registry, and Deed Book 1842, Page 24, Orange County Registry.

7. Declaration of Rights, Restrictions, Affirmative Obligations and Conditions Applicable to all Property in Meadowmont recorded in Deed Book 2643, Page 381, Durham County Registry, and Deed Book 1919, Page 87, Orange County Registry.
8. Declaration of Covenants and Restrictions of the Meadowmont Community Association, Inc. and Meadowmont Development Company, a North Carolina Joint Venture recorded in Deed Book 2643, Page 414 Durham County Registry, and Deed Book 1919, Page 121, Orange County Registry.
9. Special Use Permit for The Cedars of Chapel Hill Retirement Center at Meadowmont of record in Deed Book 3505, Page 471, Durham County Registry, Deed Book 2126, Page 441, Orange County Registry.
10. Easement in favor of Duke Power Company of record in Deed Book 2194, Page 152, Orange County Registry.
11. Easement to Business Telecom, Inc. of record in Deed Book 2847, Page 566, Durham County Registry.
12. Easement to Orange Water and Sewer Authority of record in Deed Book 2852, Page 349, Durham County Registry.
13. Plat of record at Plat Book 132, Page 193, Durham County Registry, and Plat Book 72, Page 189, Orange County Registry.
14. Plats of record at Plat Book 146, Pages 109 and 115, Durham County Registry, and Plat Book 85, Pages 62 and 65, Orange County Registry.
15. Plats of record at Plat Book 146, Page 155, 157 and 159, Durham County Registry, and Plat Book 85, Pages 78, 79 and 80, Orange County Registry.
16. Plats of record at Plat Book 148, Pages 47 and 49, Durham County Registry, and Plat Book 85, Pages 178 and 179, Orange County Registry.
17. Plats of record at Plat Book 153, Pages 207 and 209, Durham County Registry, and Plat Book 88, Pages 172 and 174, Orange County Registry.
18. Plats of record at Plat Book 158, Page 111, Durham County Registry, and Plat Book 92, Page 17, Orange County Registry.
19. Common Area Maintenance Agreement of record in Deed Book 3814, Page 142, Durham County Registry, and Deed Book 2929, Page 113, Orange County Registry.



20. Easement to Public Service Company of North Carolina of record in Deed Book 3246, Page 65, Orange County Registry.
21. Easements to Duke Power of record in Deed Book 4247, Page 794 and Deed Book 4247, Page 799, both of Durham County Registry.
22. Easements to Capital Infrastructure, LLC of record in Deed Book 4308, Page 387, Durham County Registry, and Deed Book 3350, Page 410, Orange County Registry.
23. Stormwater Operations and Maintenance Plan of record in Deed Book 4475, Page 932, Durham County Registry, and Deed Book 3503, Page 94, Orange County Registry.
24. Plats of record at Plat Book 162, Pages 234-240, Durham County Registry, and Plat Book 94, Pages 169-171, Orange County Registry.
25. Easement to Orange County Water and Sewer recorded in Deed Book 4482, Page 939, Durham County Registry, and Deed Book 3509, Page 50, Orange County Registry.
26. Encroachments, overlaps, boundary line disputes, and any other matters which would be disclosed by an accurate survey and inspection of the premises.
27. Any applicable zoning and/or development laws and ordinances, including those of Orange and Durham Counties.
28. All easements reserved and described in the North Carolina Condominium Act.

The Land described above is a portion of the property conveyed to The Cedars of Chapel Hill, L.L.C. by that instrument recorded in Deed Book 3609, Page 297, Durham County Registry, and Deed Book 2745 at Page 329, Orange County Registry.

**EXHIBIT "B"**  
**TO**  
**DECLARATION OF CONDOMINIUM**  
**THE CEDARS OF CHAPEL HILL**

**LEGAL DESCRIPTION - FUTURE PHASE PROPERTY**

**BEING** all of those certain pieces, parcels or tracts of land lying and being in the Town of Chapel Hill, Counties of Durham and Orange, State of North Carolina, all as shown and described on that certain plat entitled "Condominium Plat of The Cedars of Chapel Hill" prepared by Kevin C. Piver of Ballentine Associates, P.A. (North Carolina R.L.S. No. 3919) and recorded with the architectural plans for The Cedars of Chapel Hill as the first three pages of the 180 sheet series recorded in Condominium Plat Book 6 7, Pages 48 1 through 399 184, Durham County Registry, and in Condominium Plat Book 94 95, Pages 172 1 through 200 157, Orange County Registry, (the entire series being hereinafter collectively referred to as the "Plat"), and more particularly described as follows:

- (a) Lot 2A containing 1.09 acres, more or less, as shown on the Plat;
- (b) Lot 2B containing 1.11 acres, more or less, as shown on the Plat;
- (c) Lot 2C containing .68 acres, more or less, as shown on the Plat;
- (d) Lot 2D containing 2.00 acres, more or less, as shown on the Plat;
- (e) Lot 3 containing 2.06 acres, more or less, as shown on the Plat; and
- (f) The footprints of those fifteen (15) Cottage Units shown and labeled and described as "Must Be Built" as shown on the Plat.

**LEGAL ADDRESSES**  
**AND**  
**PERCENTAGE OF UNDIVIDED INTEREST IN THE COMMON ELEMENTS**  
**AND VALUE FOR NORTH CAROLINA STATUTORY PURPOSES**

I. **LEGAL ADDRESSES.** Legal addresses for the various Units in Phase I are as follows:

<b><u>Unit Type</u></b>	<b><u>Legal Address</u></b>
Clubhouse Villas	100 Cedar Club Circle, Units 121 and Unit 122
Marketing Office	100 Cedar Club Circle, Unit 110
Veranda Building A	500 Cedar Berry Lane, Units 511-534
Veranda Building B	400 Cedar Berry Lane, Units 411-434
Veranda Building C	300 Cedar Berry Lane, Units 311-334
Veranda Building E	200 Cedar Breeze Lane, Units 211-233
Villa Building A	200 Cedar Club Circle, Units 211-249
Villa Building B	400 Cedar Club Circle, Units 411-449
Villa Building C	600 Cedar Club Circle, Units 611-649

Each Veranda and Villa Unit has a separate legal address, e.g., Unit 411 of Veranda Building B is 411 Cedar Berry Lane.

Each Cottage Unit has a separate legal address as follows:

<b><u>Cottages</u></b>			<b><u>Cottages</u></b>		
<b><u>Unit</u></b>			<b><u>Unit</u></b>	<b><u>Unit</u></b>	
<b><u>Number</u></b>	<b><u>Unit Type</u></b>	<b><u>Legal Address</u></b>	<b><u>Number</u></b>	<b><u>Type</u></b>	<b><u>Legal Address</u></b>
1	Franklin 2	102 Cedar Berry Lane	26	Calloway 1	108 Cedar Pond Lane
2	Franklin 1	100 Cedar Berry Lane	27	Calloway 2	106 Cedar Pond Lane
3	Franklin 1	201 Cedar Berry Lane	28	Evergreen	104 Cedar Pond Lane
4	Franklin 2	203 Cedar Berry Lane	29	Calloway 1	102 Cedar Pond Lane
5	Dogwood 2	205 Cedar Berry Lane	30	Evergreen	100 Cedar Pond Lane
6	Evergreen	207 Cedar Berry Lane	31	Evergreen	101 Cedar Pond Lane
7	Carolina	209 Cedar Berry Lane	32	Dogwood 1	103 Cedar Pond Lane
8	Calloway 1	211 Cedar Berry Lane	33	Evergreen	105 Cedar Pond Lane
9	Franklin 1	213 Cedar Berry Lane	34	Calloway 2	107 Cedar Pond Lane
10	Franklin 2	215 Cedar Berry Lane	35	Dogwood 1	109 Cedar Pond Lane
11	Dogwood 1	217 Cedar Berry Lane	36	Benton	106 Cedar Meadows Lane
12	Carolina	219 Cedar Berry Lane	37	Badin	104 Cedar Meadows Lane
13	Dogwood 1	221 Cedar Berry Lane	38	Carolina	102 Cedar Meadows Lane

14	Dogwood 1	223 Cedar Berry Lane	39	Franklin 2	100 Cedar Meadows Lane
15	Carolina	225 Cedar Berry Lane	40	Dogwood 1	201 Cedar Meadows Lane
16	Calloway 2	227 Cedar Berry Lane	41	Calloway 3	203 Cedar Meadows Lane
17	Calloway 1	229 Cedar Berry Lane	42	Carolina	205 Cedar Meadows Lane
18	Carolina	231 Cedar Berry Lane	43	Calloway 3	207 Cedar Meadows Lane
19	Calloway 3	233 Cedar Berry Lane	44	Evergreen	209 Cedar Meadows Lane
20	Franklin 1	235 Cedar Berry Lane	45	Archdale	204 Cedar Meadows Lane
21	Dogwood 2	204 Cedar Pond Lane	46	Archdale	202 Cedar Meadows Lane
22	Calloway 1	202 Cedar Pond Lane	47	Archdale	200 Cedar Meadows Lane
23	Calloway 1	200 Cedar Pond Lane	48	Badin	101 Cedar Meadows Lane
24	No Cottage		49	Benton	103 Cedar Meadows Lane
25	Calloway 2	110 Cedar Pond Lane	50	Evergreen	105 Cedar Meadows Lane

## II. STATUTORY VALUES

Reference is made to Article IX to the Declaration of The Cedars of Chapel Hill Condominium and to Section 47C-2-107 North Carolina General Statutes. It is noted that the percentage interests, for purposes of the North Carolina Condominium Act, appurtenant to each Unit of the Condominium shall be established in accordance with the following formula:

$$\frac{V}{A} = P$$

- “P”                    Percentage Interest of each Unit.
- “V”                    Valuation of the respective Unit Types as set forth herein.
- “A”                    Aggregate valuation of all Units existing in the Condominium and added to the Condominium as provided by the Declaration.

Set forth below on Exhibit F, pages 3 to 6, are three Charts depicting the statutory values for the various Unit Types for the initial Phase I, consisting of 193 units (Chart A); for proposed Phase II, consisting of 301 units (Chart B); and for proposed Phase III, consisting of 326 units (Chart C).

Chart A consist of a summary of all of the Unit Types in Phase I, consisting of a total of 193 units. This includes all of the villas in Villa Buildings A, B and C, all of the Veranda Units in Veranda Buildings A, B, C and E, the two Clubhouse Villas and the 49 Cottage Units as well as the Marketing Office.

Chart B depicts the additional 108 units being added in Phase II contained in Villa Buildings D, E

and F and Veranda Building D.

Chart C would depict the anticipated additional 25 Cottage Units added as part of the prospective Phase III.

It is noted that these valuations are for the purposes of the North Carolina Condominium Act only and do not necessarily relate to market value.

## CHART A - SUMMARY - ALL UNIT TYPES/COMPOSITE CHART FOR PHASE I:

Set forth below are specific Unit Types by statutory value and resulting percentage for the 31 different types of residential units and the one marketing office unit for Phase I of the Condominium.

Unit Type	Statutory Value	Individual % Interest	Total Number of Units	Total % Interest *
<b>Villas: (3 Villa Bldgs.)</b>				
Glenview	\$227,000.00	0.26%	2	0.52%
Henly	\$264,000.00	0.30%	4	1.21%
Highland	\$279,000.00	0.32%	14	4.47%
Holly	\$281,000.00	0.32%	4	1.29%
Inverness	\$302,000.00	0.35%	8	2.76%
Tanglewood	\$345,000.00	0.39%	1	0.39%
Madison	\$347,000.00	0.40%	4	1.59%
Jackson	\$354,000.00	0.40%	4	1.62%
Juniper	\$368,000.00	0.42%	12	5.05%
Jefferson	\$371,000.00	0.42%	4	1.70%
Jordan	\$382,000.00	0.44%	3	1.31%
Kendall	\$398,000.00	0.46%	8	3.64%
Kenyan	\$404,000.00	0.46%	1	0.46%
Kingston	\$429,000.00	0.49%	3	1.47%
Lakewood	\$478,000.00	0.55%	8	4.37%
Meadowlark	\$505,000.00	0.58%	8	4.62%
Nightingale	\$581,000.00	0.66%	8	5.32%
<b>Subtotal Villas</b>			<b>96</b>	
<b>Veranda Buildings (4 Bldgs.)</b>				
Oakmont	\$393,000.00	0.45%	12	5.39%
Preston	\$456,000.00	0.52%	12	6.26%
Quincy	\$572,000.00	0.65%	12	7.85%
<b>Half Veranda Building (1 Bldg.)</b>				
Lincoln	\$331,000.00	0.38%	3	1.14%
Monroe	\$498,000.00	0.57%	6	3.42%
<b>Subtotal Verandas</b>			<b>45</b>	
<b>Cottages</b>				
Archdale	\$416,000.00	0.48%	3	1.43%
Badin	\$523,000.00	0.60%	2	1.20%
Benton	\$523,000.00	0.60%	2	1.20%
Calloway	\$568,000.00	0.65%	13	8.45%
Carolina	\$586,000.00	0.67%	6	4.02%
Dogwood	\$586,000.00	0.67%	8	5.36%
Evergreen	\$613,000.00	0.70%	7	4.91%
Franklin	\$698,000.00	0.80%	8	6.39%
<b>Subtotal Cottages</b>			<b>49</b>	
<b>Club Villas</b>				
Hampton	478,000.00	0.55%	2	1.09%
<b>Marketing Office</b>	100,000.00	0.11%	1	0.11%
<b>Total (All Units)</b>	<b>\$87,430,000.00</b>		<b>193</b>	<b>100.00%</b>

\* Rounded to Nearest 100<sup>th</sup>

### TOTAL VALUE

The Phase I Units have a total statutory value of \$87,430,000.00. These valuations are for purposes of the North Carolina Condominium Act only and do not necessarily relate to market value.

## **FUTURE PHASES**

In the event Declarant elects to expand the Condominium as provided for in the Declaration, all Unit(s) added shall have the same statutory valuations as set forth above in Chart A; provided, however, that Declarant does reserve the right to modify floor plans for future phase units, but in such event, any modified floor plans will fall within the same statutory valuation as set forth above. Further, the mix of Villa Types and Cottage Types, if applicable, may be different than Phase I.

## **CHART B - SUMMARY - COMPOSITE CHART - FUTURE PHASE II (Includes Villa Buildings D, E, F and Veranda Building D):**

Set forth in the following Chart B are specific Unit Types by statutory value and resulting percentages for each Unit Type in the Condominium based upon the expansion of the Condominium to include Future Phase Property. This Chart B assumes the likely scenario of an additional 96 Villa units and 12 Veranda units being added in four Buildings in the same basic mix of Villa and Veranda Types as the Phase I Buildings. In the event the number or unit Type is modified, these statutory percentages will be modified accordingly.

Chart B

Unit Type	Statutory Value	Individual % Interest (Phase I and II)	Total Number of Units (Phase I & II)	Total % Interest * (Phases I & II)
<b>Villas (6 Buildings)</b>				
Glenview	\$227,000.00	0.18%	4	0.70%
Henly	\$264,000.00	0.20%	8	1.64%
Highland	\$279,000.00	0.22%	28	6.05%
Holly	\$281,000.00	0.22%	8	1.74%
Inverness	\$302,000.00	0.23%	16	3.74%
Fanglewood	\$345,000.00	0.27%	2	0.53%
Madison	\$347,000.00	0.27%	8	2.15%
Jackson	\$354,000.00	0.27%	8	2.19%
Juniper	\$368,000.00	0.29%	24	6.84%
Jefferson	\$371,000.00	0.29%	8	2.30%
Jordan	\$382,000.00	0.30%	6	1.78%
Kendall	\$398,000.00	0.31%	16	4.93%
Kuzyan	\$404,000.00	0.31%	2	0.63%
Kingston	\$429,000.00	0.33%	6	1.99%
Lakewood	\$478,000.00	0.37%	16	5.93%
Meadowlark	\$505,000.00	0.39%	16	6.26%
Nightingale	\$581,000.00	0.45%	16	7.20%
<b>Subtotal Villas</b>			<b>192</b>	
<b>Veranda Buildings (4 Bldgs.)</b>				
Oakmont	\$392,000.00	0.30%	18	5.48%
Preston	\$456,000.00	0.35%	18	6.36%
Quincy	\$572,000.00	0.44%	12	5.32%
<b>Half Veranda Building (1 Bldg.)</b>				
Lincoln	\$331,000.00	0.26%	3	0.77%
Monroe	\$498,000.00	0.39%	6	2.32%
<b>Subtotal Verandas</b>			<b>57</b>	
<b>Cottages</b>				
Archdale	\$416,000.00	0.32%	3	0.97%
Badin	\$523,000.00	0.41%	2	0.81%
Benton	\$523,000.00	0.41%	2	0.81%
Calloway	\$568,000.00	0.44%	13	5.72%
Carolina	\$586,000.00	0.45%	6	2.72%
Dogwood	\$586,000.00	0.45%	8	3.63%
Livergreen	\$613,000.00	0.47%	7	3.32%
Franklin	\$698,000.00	0.54%	8	4.33%
<b>Subtotal Cottages</b>			<b>49</b>	
<b>Club Villas</b>				
Hampton	\$478,000.00	0.37%	2	0.74%
Marketing Office	\$100,000.00	0.08%	1	0.08%
<b>Total (All Units)</b>	<b>\$129,062,000.00</b>		<b>301</b>	<b>100.00%</b>

\* Rounded to Nearest 100<sup>th</sup>

Based on the above general mix of Villa and Veranda Type Units in this Phase II portion of the Future Phase Property, the estimated Total Value of the Phase I and projected Buildings of Future Phase II Units is \$129,062,000.00. These valuations are for purposes of the North Carolina Condominium Act only and do not necessarily relate to market value.



**CHART C - SUMMARY - COMPOSITE CHART ALL FUTURE PHASE UNITS**

In the event additional Future Phase III Units are added to the Condominium up to the full reserved right of 326 units, and assuming that the mix of the additional 25 units results in an average valuation of \$568,000.00, the following Chart C depicts that impact of a total of 326 units. In the event the number or Unit Type is modified, these statutory percentages will be modified accordingly.

Unit Type	Statutory Value	Individual % Interest (All Phases)	Total Number of Units (All Phases)	Total % Interest* (All Phases)
<b>Villas (6 Buildings)</b>				
Glenview	\$227,000.00	0.16%	4	0.63%
Henly	\$264,000.00	0.18%	8	1.47%
Highland	\$279,000.00	0.20%	28	5.45%
Holly	\$281,000.00	0.20%	8	1.57%
Inverness	\$302,000.00	0.21%	16	3.37%
Tanglewood	\$345,000.00	0.24%	2	0.48%
Madison	\$347,000.00	0.24%	8	1.94%
Jackson	\$354,000.00	0.25%	8	1.98%
Juniper	\$368,000.00	0.26%	24	6.16%
Jefferson	\$371,000.00	0.26%	8	2.07%
Jordan	\$382,000.00	0.27%	6	1.60%
Kendall	\$398,000.00	0.28%	16	4.45%
Kenyan	\$404,000.00	0.28%	2	0.56%
Kingston	\$429,000.00	0.30%	6	1.80%
Lakewood	\$478,000.00	0.33%	16	5.34%
Meadowlark	\$505,000.00	0.35%	16	5.64%
Nightingale	\$581,000.00	0.41%	16	6.49%
<b>Subtotal Villas</b>			<b>192</b>	
<b>Veranda Buildings (4 Bldgs.)</b>				
Oakmont	\$393,000.00	0.27%	18	4.94%
Preston	\$456,000.00	0.32%	18	5.73%
Quincy	\$572,000.00	0.40%	12	4.79%
<b>Half Veranda Building (1 Bldg.)</b>				
Lincoln	\$331,000.00	0.23%	3	0.69
Monroe	\$498,000.00	0.35%	6	2.09
<b>Subtotal Verandas</b>			<b>57</b>	
<b>Cottages</b>				
Archdale	\$416,000.00	0.29%	3	0.87%
Badin	\$523,000.00	0.37%	2	0.73%
Benton	\$523,000.00	0.37%	2	0.73%
Calloway	\$568,000.00	0.40%	38	15.07%
Carolina	\$586,000.00	0.41%	6	2.45%
Dogwood	\$586,000.00	0.41%	8	3.27%
Evergreen	\$613,000.00	0.43%	7	3.00%
Franklin	\$698,000.00	0.49%	8	3.90%
<b>Subtotal Cottages</b>			<b>74</b>	
<b>Club Villas</b>				
Hampton	478,000.00	0.33%	2	0.67%
<b>Marketing Office</b>	100,000.00	0.07%	1	0.07%
<b>Total (All Units)</b>	<b>\$143,262,000.00</b>		<b>326</b>	<b>100.00%</b>

\* Rounded to Nearest 100<sup>th</sup>

Based upon the above estimated average valuation of the Phase III Units, the estimated Total Value of all Future Phase Units together with Phases I and II is \$143,262,000.00



2005003742

FOR REGISTRATION REGISTER OF DEEDS  
Willie L. Covington  
DURHAM COUNTY NC  
2005 JAN 27 12:41:06 PM  
BK: 4681 PG: 953-965 FEE: \$47.00

INSTRUMENT # 2005003742

STATE OF NORTH CAROLINA  
COUNTIES OF DURHAM AND ORANGE

**FIRST AMENDMENT TO  
DECLARATION OF CONDOMINIUM FOR  
THE CEDARS OF CHAPEL HILL  
CONDOMINIUM**

Prepared by and return to William A. Anderson, III; P.O. Box 51579; Durham, NC 27717-1579.

THIS FIRST AMENDMENT TO DECLARATION OF CONDOMINIUM FOR THE CEDARS OF CHAPEL HILL CONDOMINIUM (the "First Amendment") is made this 27th day of January, 2005 by THE CEDARS OF CHAPEL HILL, L.L.C., a North Carolina limited liability company ("Declarant").

WITNESSETH:

WHEREAS, Declarant caused that certain Declaration of Condominium of The Cedars of Chapel Hill to be recorded in Deed Book 4483, Page 1, Durham County Registry and Deed Book 3509, Page 57, Orange County Registry as (the "Declaration"); and

WHEREAS, Declarant desires to exercise its right to annex additional property to The Cedars of Chapel Hill Condominium pursuant to the North Carolina Condominium Act and the Declaration;

NOW, THEREFORE, Declarant hereby submits to the terms and provisions of the North Carolina Condominium Act, the Declaration, the Bylaws and Membership Agreement that certain property described on Exhibit A attached hereto and incorporated herein by reference (the "First Amendment Property"), said property hereby being annexed and made an integral part of The Cedars of Chapel Hill Condominium in the same manner as if made a part thereof in every particular upon the initial execution and filing of the Declaration.

Defined capitalized terms as used herein shall have the same meaning that they are given in the Declaration.

This First Amendment establishes and creates nine (9) additional Units. More specifically, there are created by the filing of this First Amendment the following numbers and types of Units,

to wit: four (4) Cottage Units having the floor plan Franklin, two (2) Cottage Units having the floor plan Dogwood, one (1) Cottage Unit having the floor plan Carolina, and two (2) Cottage Units having the floor plan Calloway. The said additional nine (9) Cottage Units are further described and detailed on those plats and plans that are filed as a part of this First Amendment and recorded in Condominium Plat Book 7, Pages 250 through 334, Durham County Registry and Plat Book 96, Pages 145 through 173, Orange County Registry, and which are incorporated herein by reference. There is a schedule of plans of the Units created by the recordation of this First Amendment attached hereto as Exhibit B and incorporated herein by reference.

In accordance with the North Carolina Condominium Act and the Declaration, the percentage interest apportioned to each Unit is hereby adjusted, and the new values attributed to each Unit are set forth on Exhibit C attached hereto and incorporated herein by reference.

The First Amendment Property is currently encumbered by the lien of a Deed of Trust (with Construction Loan Provisions), Assignment of Rents, Security Agreement and Financing Statement dated December 17, 2002, as amended, executed and delivered by Declarant to Southland Associates, Inc., as Trustee, for the benefit of BNP Paribas, Sovereign Bank, Allfirst Bank (now Manufacturers and Traders Trust Company), and Central Carolina Bank, a division of National Bank of Commerce. A Consent/Joinder of Lender executed by said Trustee and said banks consenting to the execution and recordation of this First Amendment is attached hereto as Exhibit D and incorporated herein by reference.

Except as herein specifically amended and supplemented, all provisions of the Declaration shall remain in full force and effect.

IN WITNES WHEREOF, Declarant has caused this instrument to be executed the day and year first above written.

[Signature follows.]

THE CEDARS OF CHAPEL HILL, L.L.C., a North Carolina limited liability company

By its Manager,  
THE CEDARS OF CHAPEL HILL DEVELOPMENT COMPANY, L.L.C., a North Carolina limited liability company

By its Manager,  
THE CEDARS OF CHAPEL HILL INVESTOR GROUP, L.L.C., a North Carolina limited liability company

By its Manager,  
MEADOWMONT RETIREMENT COMMUNITY, LLC, a North Carolina limited liability company

By: *Robert E. Woodruff* (SEAL)  
Robert E. Woodruff, Manager

STATE OF NORTH CAROLINA  
COUNTY OF Durham

I, *William A. Anderson, III*, a Notary Public of the County and State aforesaid, certify that Robert E. Woodruff personally came before me this day in his capacity as the Manager of Meadowmont Retirement Community, L.L.C., which is the Manager of the Cedars of Chapel Hill Investor Group, L.L.C., which is the Manager of The Cedars of Chapel Hill Development Company, L.L.C., which is the Manager of The Cedars of Chapel Hill, L.L.C., all North Carolina limited liability companies, and being first duly sworn, and acting in such capacity and on behalf of such entities, acknowledged the execution of the foregoing instrument on behalf of the company.

WITNESS my hand and notarial seal, this the *27<sup>th</sup>* day of *January*, 2005.

*William A. Anderson, III*  
Notary Public

My Commission Expires: *10/5/08*

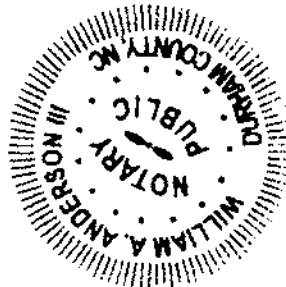


EXHIBIT A

FIRST AMENDMENT PROPERTY

BEING all of those certain parcels of land lying and being in the Town of Chapel Hill, Counties of Durham and Orange, State of North Carolina described as Cottages 1, 3, 4, 5, 7, 8, 10, 11, and 14 as shown on that certain plat entitled "Condominium Plat of The Cedars of Chapel Hill" prepared by Kevin C. Piver of Ballentine Associates, P.A. (North Carolina R.L.S. No. L-3919) and recorded with the architectural plans for said Cottages as the first 3 pages of the 29 sheet series recorded in Condominium Plat Book 7, Pages 250 through 334, Durham County Registry, and in Condominium Plat Book 96, Pages 145 through 173, Orange County Registry.

NOTE: Cottage 20 is inadvertently shown on said survey in bold. It is the intent of Declarant that Cottage 20 is not annexed to The Cedars of Chapel Hill Condominium by operation of this First Amendment. Cottage 20 must be completed by Declarant and will be annexed to The Cedars of Chapel Hill Condominium by future amendment.

**EXHIBIT B**

**SCHEDULE OF UNIT PLANS**

<u>Building Type</u>	<u>Sheet Numbers of 29 Total Sheets</u>
Cottage 1	5-8
Cottage 3	9-11
Cottage 4	12-13
Cottage 5	14-16
Cottage 7	17-19
Cottage 8	20-21
Cottage 10	22-25
Cottage 11	26-27
Cottage 14	28-29



**EXHIBIT C**  
**SCHEDULE OF ADJUSTED PERCENTAGE INTERESTS FOR PHASE I**

Set forth below are specific Unit Types by statutory value and resulting percentage for the 31 different types of residential units and the one marketing office unit for Phase I of the Condominium.

<b>Villas: (3 Villa Bldgs.)</b>				
Glenview	\$227,000.00	0.27%	2	0.54%
Henly	\$264,000.00	0.32%	4	1.28%
Highland	\$279,000.00	0.33%	14	4.62%
Holly	\$281,000.00	0.34%	4	1.36%
Inverness	\$302,000.00	0.36%	8	2.88%
Tanglewood	\$345,000.00	0.41%	1	0.41%
Madison	\$347,000.00	0.42%	4	1.68%
Jackson	\$354,000.00	0.42%	4	1.68%
Juniper	\$368,000.00	0.44%	12	5.28%
Jefferson	\$371,000.00	0.44%	4	1.76%
Jordan	\$382,000.00	0.46%	3	1.38%
Kendall	\$398,000.00	0.48%	8	3.84%
Kenyan	\$404,000.00	0.48%	1	0.48%
Kingston	\$429,000.00	0.51%	3	1.53%
Lakewood	\$478,000.00	0.57%	8	4.56%
Meadowlark	\$505,000.00	0.60%	8	4.80%
Nightingale	\$581,000.00	0.70%	8	5.60%
<b>Subtotal Villas</b>			<b>96</b>	
<b>Veranda Buildings (4 Bldgs.)</b>				
Oakmont	\$393,000.00	0.47%	12	5.64%
Preston	\$456,000.00	0.55%	12	6.60%
Quincy	\$572,000.00	0.68%	12	8.16%
<b>Half Veranda Building (1 Bldg.)</b>				
Lincoln	\$331,000.00	0.40%	3	1.20%
Monroe	\$498,000.00	0.60%	6	3.60%
<b>Subtotal Verandas</b>			<b>45</b>	
<b>Cottages</b>				
Archdale	\$416,000.00	0.50%	3	1.50%
Badin	\$523,000.00	0.63%	2	1.26%
Benton	\$523,000.00	0.63%	2	1.26%
Calloway	\$568,000.00	0.68%	13	8.84%
Carolina	\$586,000.00	0.70%	5	3.05%
Dogwood	\$586,000.00	0.70%	8	5.60%
Evergreen	\$613,000.00	0.73%	5	3.65%
Franklin	\$698,000.00	0.84%	5	4.20%
<b>Subtotal Cottages</b>			<b>49</b>	
<b>Club Villas</b>				
Hampton	478,000.00	0.57%	2	1.14%
Marketing Office	100,000.00	0.12%	1	0.12%
<b>Total (All Units in Condominium)</b>	<b>\$83,524,000.00</b>		<b>193</b>	<b>100.00%</b>

\* Rounded to Nearest 100<sup>th</sup>

**TOTAL VALUE**

The Phase I Units currently in the Condominium have a total statutory value of \$83,524,000.00. These valuations are for purposes of the North Carolina Condominium Act only and do not necessarily relate to market value.





2005029527

FOR REGISTRATION REGISTER OF DEEDS  
Willie L. Covington  
DURHAM COUNTY, NC  
2005 JUL 01 12:22:37 PM  
BK:4857 PG:757-769 FEE:\$47.00

INSTRUMENT # 2005029527

STATE OF NORTH CAROLINA  
COUNTIES OF DURHAM AND ORANGE

**SECOND AMENDMENT TO  
DECLARATION OF CONDOMINIUM FOR  
THE CEDARS OF CHAPEL HILL  
CONDOMINIUM**

Prepared by and return to William A. Anderson, III; P.O. Box 51579; Durham, NC 27717-1579.

THIS SECOND AMENDMENT TO DECLARATION OF CONDOMINIUM FOR THE CEDARS OF CHAPEL HILL CONDOMINIUM (the "Second Amendment") is made this 28<sup>th</sup> day of June, 2005 by THE CEDARS OF CHAPEL HILL, L.L.C., a North Carolina limited liability company ("Declarant").

WITNESSETH:

WHEREAS, Declarant caused that certain Declaration of Condominium of The Cedars of Chapel Hill to be recorded in Deed Book 4483, Page 1, Durham County Registry and Deed Book 3509, Page 57, Orange County Registry as amended by that First Amendment to Declaration of Condominium for The Cedars of Chapel Hill recorded in Deed Book 4681, Page 953, Durham County Registry and Deed Book 3660, Page 198, Orange County Registry (collectively, the "Declaration"); and

WHEREAS, Declarant desires to exercise its right to annex additional property to The Cedars of Chapel Hill Condominium pursuant to the North Carolina Condominium Act and the Declaration;

NOW, THEREFORE, Declarant hereby submits to the terms and provisions of the North Carolina Condominium Act, the Declaration, the Bylaws and Membership Agreement that certain property described on Exhibit A attached hereto and incorporated herein by reference (the "Second Amendment Property"), said property hereby being annexed and made an integral part of The Cedars of Chapel Hill Condominium in the same manner as if made a part thereof in every particular upon the initial execution and filing of the Declaration.

Defined capitalized terms as used herein shall have the same meaning that they are given in the Declaration.

This Second Amendment establishes and creates five (5) additional Units. More specifically, there are created by the filing of this Second Amendment the following numbers and types of Units, to wit: two (2) Cottage Units having the floor plan Franklin, one (1) Cottage Unit having the floor plan Carolina, and two (2) Cottage Units having the floor plan Evergreen. The said additional five (5) Cottage Units are further described and detailed on those plats and plans that are filed as a part of this Second Amendment and recorded in Condominium Plat Books 7 and 8. Pages 376-397 <sup>and 1-31</sup> through 1-31, Durham County Registry and Plat Book 97. Pages 178 through 198, Orange County Registry, and which are incorporated herein by reference. There is a schedule of plans of the Units created by the recordation of this Second Amendment attached hereto as Exhibit B and incorporated herein by reference.

In accordance with the North Carolina Condominium Act and the Declaration, the percentage interest apportioned to each Unit is hereby adjusted, and the new values attributed to each Unit are set forth on Exhibit C attached hereto and incorporated herein by reference.

The Second Amendment Property is currently encumbered by the lien of a Deed of Trust (with Construction Loan Provisions), Assignment of Rents, Security Agreement and Financing Statement dated December 17, 2002, as amended, executed and delivered by Declarant to Southland Associates, Inc., as Trustee, for the benefit of BNP Paribas, Sovereign Bank, Allfirst Bank (now Manufacturers and Traders Trust Company), and Central Carolina Bank, a division of National Bank of Commerce. A Consent/Joinder of Lender executed by said Trustee and said banks consenting to the execution and recordation of this Second Amendment is attached hereto as Exhibit D and incorporated herein by reference.

Except as herein specifically amended and supplemented, all provisions of the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, Declarant has caused this instrument to be executed the day and year first above written.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]  
[SIGNATURE PAGE FOLLOWS]

THE CEDARS OF CHAPEL HILL, L.L.C., a North Carolina limited liability company

By its Manager,  
THE CEDARS OF CHAPEL HILL DEVELOPMENT COMPANY, L.L.C., a North Carolina limited liability company

By its Manager,  
THE CEDARS OF CHAPEL HILL INVESTOR GROUP, L.L.C., a North Carolina limited liability company

By its Manager,  
MEADOWMONT RETIREMENT COMMUNITY, LLC, a North Carolina limited liability company

By: *Robert E. Woodruff* (SEAL)  
Robert E. Woodruff, Manager

STATE OF NORTH CAROLINA  
COUNTY OF Durham

I, *William A. Anderson III*, a Notary Public of the County and State aforesaid, certify that Robert E. Woodruff personally came before me this day in his capacity as the Manager of Meadowmont Retirement Community, L.L.C., which is the Manager of the Cedars of Chapel Hill Investor Group, L.L.C., which is the Manager of The Cedars of Chapel Hill Development Company, L.L.C., which is the Manager of The Cedars of Chapel Hill, L.L.C., all North Carolina limited liability companies, and being first duly sworn, and acting in such capacity and on behalf of such entities, acknowledged the execution of the foregoing instrument on behalf of the company.

WITNESS my hand and notarial seal, this the *28<sup>th</sup>* day of *June*, 2005.

*William A. Anderson III*  
Notary Public

My Commission Expires: *10/5/08*

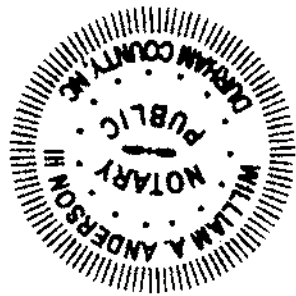


EXHIBIT A

SECOND AMENDMENT PROPERTY

BEING all of those certain parcels of land lying and being in the Town of Chapel Hill, Counties of Durham and Orange, State of North Carolina described as Cottages 6, 9, 18, 20 and 50 as shown on that certain plat entitled "Condominium Plat of The Cedars of Chapel Hill" prepared by Kevin C. Piver of Ballentine Associates, P.A. (North Carolina R.L.S. No. L-3919) and recorded with the architectural plans for said Cottages as the first 3 pages of the 21 sheet series recorded in Condominium Plat Books 7 and 8, Pages 376-397 through 1-37, Durham County Registry, and in Condominium Plat Book 97, Pages 178 through 198, Orange County Registry.



## EXHIBIT C

### SCHEDULE OF ADJUSTED PERCENTAGE INTERESTS FOR PHASE I

Set forth below are specific Unit Types by statutory value and resulting percentage for the 31 different types of residential units and the one marketing office unit for Phase I of the Condominium

Unit Type	Statutory Value	Individual % Interest	Total Number of Units	Total % Interest *
<b>Villas: (3 Villa Bldgs.)</b>				
Glenview	\$227,000.00	0.26%	2	0.52%
Henly	\$264,000.00	0.30%	4	1.22%
Highland	\$279,000.00	0.32%	14	4.50%
Holly	\$281,000.00	0.32%	4	1.30%
Inverness	\$302,000.00	0.35%	8	2.79%
Tanglewood	\$345,000.00	0.40%	1	0.40%
Madison	\$347,000.00	0.40%	4	1.60%
Jackson	\$354,000.00	0.41%	4	1.63%
Juniper	\$368,000.00	0.42%	12	5.09%
Jefferson	\$371,000.00	0.43%	4	1.71%
Jordan	\$382,000.00	0.44%	3	1.32%
Kendall	\$398,000.00	0.46%	8	3.67%
Kenyan	\$404,000.00	0.47%	1	0.47%
Kingston	\$429,000.00	0.49%	3	1.48%
Lakewood	\$478,000.00	0.55%	8	4.41%
Meadowlark	\$505,000.00	0.58%	8	4.66%
Nightingale	\$581,000.00	0.67%	8	5.36%
<b>Subtotal Villas</b>			<b>96</b>	
<b>Veranda Buildings (4 Bldgs.)</b>				
Oakmont	\$393,000.00	0.45%	12	5.44%
Preston	\$456,000.00	0.53%	12	6.31%
Quincy	\$572,000.00	0.66%	12	7.91%
<b>Half Veranda Building (1 Bldg.)</b>				
Lincoln	\$331,000.00	0.38%	3	1.14%
Monroe	\$498,000.00	0.57%	6	3.45%
<b>Subtotal Verandas</b>			<b>45</b>	
<b>Cottages</b>				
Archdale	\$416,000.00	0.48%	3	1.44%
Badin	\$523,000.00	0.60%	2	1.21%
Benton	\$523,000.00	0.60%	2	1.21%
Calloway	\$568,000.00	0.65%	13	8.51%
Carolina	\$586,000.00	0.68%	6	4.05%
Dogwood	\$586,000.00	0.68%	8	5.41%
Evergreen	\$613,000.00	0.71%	7	4.95%
Franklin	\$698,000.00	0.80%	7	5.63%
<b>Subtotal Cottages</b>			<b>49</b>	
<b>Club Villas</b>				
Hampton	478,000.00	0.55%	2	1.10%
<b>Marketing Office</b>	100,000.00	0.12%	1	0.12%
<b>Total (All Units in Condominium)</b>	<b>\$86,732,000.00</b>		<b>193</b>	<b>100.00%</b>

\* Rounded to Nearest 100<sup>th</sup>

#### TOTAL VALUE

The Phase I Units currently in the Condominium have a total statutory value of \$83,524,000.00. These valuations are for purposes of the North Carolina Condominium Act only and do not necessarily relate to market value



FOR REGISTRATION REGISTER OF DEEDS  
Willie L. Covington  
DURHAM COUNTY, NC  
2005 OCT 11 11:33:37 AM  
BK: 4979 PG: 695-707 FEE: \$47.00

INSTRUMENT # 2005047425

STATE OF NORTH CAROLINA  
COUNTIES OF DURHAM AND ORANGE

**THIRD AMENDMENT TO  
DECLARATION OF CONDOMINIUM FOR  
THE CEDARS OF CHAPEL HILL  
CONDOMINIUM**

Prepared by and return to William A. Anderson, III; P.O. Box 51579; Durham, NC 27717-1579.

THIS THIRD AMENDMENT TO DECLARATION OF CONDOMINIUM FOR THE CEDARS OF CHAPEL HILL CONDOMINIUM (the "Third Amendment") is made this 11<sup>th</sup> day of October, 2005 by THE CEDARS OF CHAPEL HILL, L.L.C., a North Carolina limited liability company ("Declarant").

WITNESSETH:

WHEREAS, Declarant caused that certain Declaration of Condominium of The Cedars of Chapel Hill to be recorded in Deed Book 4483, Page 1, Durham County Registry and Deed Book 3509, Page 57, Orange County Registry as amended by that First Amendment to Declaration of Condominium for The Cedars of Chapel Hill recorded in Deed Book 4681, Page 953, Durham County Registry and Deed Book 3660, Page 198, Orange County Registry, and by that Second Amendment to Declaration of Condominium for The Cedars of Chapel Hill recorded in Deed Book 4857, Page 757, Durham County Registry and Deed Book 3795, Page 473, Orange County Registry (collectively, the "Declaration"); and

WHEREAS, Declarant desires to exercise its right to annex additional property to The Cedars of Chapel Hill Condominium pursuant to the North Carolina Condominium Act and the Declaration;

NOW, THEREFORE, Declarant hereby submits to the terms and provisions of the North Carolina Condominium Act, the Declaration, the Bylaws and Membership Agreement that certain property described on Exhibit A attached hereto and incorporated herein by reference (the "Third Amendment Property"), said property hereby being annexed and made an integral part of The Cedars of Chapel Hill Condominium in the same manner as if made a part thereof in every particular upon the initial execution and filing of the Declaration.

Defined capitalized terms as used herein shall have the same meaning that they are given in the Declaration.

This Third Amendment establishes and creates sixty (60) additional Villa Units contained in two (2) separate Villa Buildings. More specifically, there are created by the filing of this Third Amendment the following numbers and floor plan types of Villa Units in Villa E (named Macon) and situated on Lot 2B, to wit: 1 Glenview, 7 Highland, 4 Inverness, 2 Madison, 4 Kendall, 4 Lakewood, 4 Meadowlark, 4 Nightingale, and 6 Jasmine; and, there are created by the filing of this Third Amendment the following numbers and floor plan types of Villa Units in Villa F (named Forsythe) and situated on Lot 2C, to wit: 4 Henly, 4 Holly, 1 Tanglewood, 4 Jackson, 4 Jefferson, 1 Kenyan, 3 Jordan, and 3 Kingston. These additional sixty (60) Villa Units are further described and detailed on those plats and plans that are filed as a part of this Third Amendment and recorded in Condominium Plat Book 8, Pages 112 through 175, Durham County Registry and Plat Book 98, Pages 117 through 138, Orange County Registry, and which are incorporated herein by reference. There is a schedule of plans of the Units created by the recordation of this Third Amendment attached hereto as Exhibit B and incorporated herein by reference.

In accordance with the North Carolina Condominium Act and the Declaration, the percentage interest apportioned to each Unit is hereby adjusted, and the new values attributed to each Unit are set forth on Exhibit C attached hereto and incorporated herein by reference.

The Third Amendment Property is currently encumbered by the lien of a Deed of Trust (with Construction Loan Provisions), Assignment of Rents, Security Agreement and Financing Statement dated December 17, 2002, as amended, executed and delivered by Declarant to Southland Associates, Inc., as Trustee, for the benefit of BNP Paribas, Sovereign Bank, Allfirst Bank (now Manufacturers and Traders Trust Company), and Central Carolina Bank, a division of National Bank of Commerce. A Consent/Joinder of Lender executed by said Trustee and said banks consenting to the execution and recordation of this Third Amendment is attached hereto as Exhibit D and incorporated herein by reference.

Except as herein specifically amended and supplemented, all provisions of the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, Declarant has caused this instrument to be executed the day and year first above written.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]  
[SIGNATURE PAGE FOLLOWS]



IN WITNESS WHEREOF, the Grantor has caused this instrument to be executed the day and year first above written.

THE CEDARS OF CHAPEL HILL, L.L.C., a North Carolina limited liability company

By its Manager,  
THE CEDARS OF CHAPEL HILL DEVELOPMENT COMPANY, L.L.C., a North Carolina limited liability company

By its Manager,  
THE CEDARS OF CHAPEL HILL INVESTOR GROUP, L.L.C., a North Carolina limited liability company

By its Manager,  
MEADOWMONT RETIREMENT COMMUNITY, LLC, a North Carolina limited liability company

By: *Robert E. Woodruff* (SEAL.)  
Robert E. Woodruff, Manager

STATE OF NORTH CAROLINA  
COUNTY OF DURHAM

I, Connie S. Murray, a Notary Public of Wake County and State of North Carolina, certify that Robert E. Woodruff personally came before me this day in his capacity as the Manager of Meadowmont Retirement Community, L.L.C., which is the Manager of the Cedars of Chapel Hill Investor Group, L.L.C., which is the Manager of The Cedars of Chapel Hill Development Company, L.L.C., which is the Manager of The Cedars of Chapel Hill, L.L.C., all North Carolina limited liability companies, and being first duly sworn, and acting in such capacity and on behalf of such entities, acknowledged the execution of the foregoing instrument on behalf of the company.

WITNESS my hand and notarial seal, this the 11<sup>th</sup> day of October, 2005.

*Connie S. Murray*  
Notary Public

My Commission Expires: 4/17/2010



**EXHIBIT A**

**THIRD AMENDMENT PROPERTY**

BEING all of those certain parcels of land lying and being in the Town of Chapel Hill, Counties of Durham and Orange, State of North Carolina described as Lot 2B and 2C as shown on that certain plat entitled "Condominium Plat of The Cedars of Chapel Hill" prepared by Kevin C. Piver of Ballentine Associates, P.A. (North Carolina R.L.S. No. L-3919) and recorded with the architectural plans for said Cottages as the first 3 pages of the 22 sheet series recorded in Condominium Plat Book 8, Pages 112 through 175, Durham County Registry, and in Condominium Plat Book 98, Pages 117 through 138, Orange County Registry.



## EXHIBIT C

### SCHEDULE OF ADJUSTED PERCENTAGE INTERESTS FOR PHASE I

Set forth below are specific Unit Types by statutory value and resulting percentage for the 31 different types of residential units and the one marketing office unit for Phase I of the Condominium

Unit Type	Statutory Value	Statutory % Interest *	Number of Units	Total Percentage *
<b>Villas: (5 Villa Bldgs.)</b>				
Glenview	\$227,000.00	0.21%	3	0.62%
Henly	\$264,000.00	0.24%	8	1.94%
Highland	\$279,000.00	0.26%	21	5.37%
Holly	\$281,000.00	0.26%	8	2.01%
Inverness	\$302,000.00	0.28%	12	3.32%
Langlewood	\$345,000.00	0.32%	2	0.63%
Madison	\$347,000.00	0.32%	6	1.91%
Jackson	\$354,000.00	0.32%	8	2.60%
Jumper (Jasmine)	\$368,000.00	0.34%	18	6.07%
Jefferson	\$371,000.00	0.34%	8	2.72%
Jordan	\$382,000.00	0.35%	6	2.10%
Kendall	\$398,000.00	0.36%	12	4.38%
Kenyan	\$404,000.00	0.37%	2	0.74%
Kingston	\$429,000.00	0.39%	6	2.36%
Lakewood	\$478,000.00	0.44%	12	5.26%
Meadowlark	\$505,000.00	0.46%	12	5.55%
Nightingale	\$581,000.00	0.53%	12	6.29%
<b>Subtotal Villas</b>			<b>156</b>	
<b>Veranda Buildings (4 Bldgs.)</b>				
Oakmont	\$393,000.00	0.36%	12	4.32%
Preston	\$456,000.00	0.42%	12	5.01%
Quincy	\$572,000.00	0.52%	12	6.39%
<b>Half Veranda Building (1 Bldg.)</b>				
Lincoln	\$331,000.00	0.30%	3	.91%
Monroe	\$498,000.00	0.46%	6	2.76%
<b>Subtotal Verandas</b>			<b>45</b>	
<b>Cottages</b>				
Archdale	\$416,000.00	0.38%	3	1.14%
Badin	\$523,000.00	0.50%	2	.96%
Benion	\$523,000.00	0.50%	2	.96%
Calloway	\$568,000.00	0.52%	13	6.77%
Carolina	\$586,000.00	0.54%	6	3.22%
Dogwood	\$586,000.00	0.54%	8	4.30%
Evergreen	\$613,000.00	0.56%	7	3.93%
Franklin	\$698,000.00	0.64%	7	4.48%
<b>Subtotal Cottages</b>			<b>49</b>	
<b>Club Villas</b>				
Hampton	478,000.00	0.44%	2	.88%
<b>Marketing Office</b>	100,000.00	0.09%	1	0.09%
<b>Total (All Units in Condominium)</b>	<b>\$109,132,000.00</b>		<b>253</b>	<b>100.00%</b>

\* Rounded to Nearest 100<sup>th</sup>

#### TOTAL VALUE

These valuations are for purposes of the North Carolina Condominium Act only and do not necessarily relate to market value.





OR REGISTRATION REGISTER OF DEEDS  
 Willie L. Covington  
 DURHAM COUNTY, NC  
 2006 FEB 06 03:45:23 PM  
 BK 5106 PG 860-972 FEE \$47.00

**INSTRUMENT # 2006005555**

STATE OF NORTH CAROLINA  
 COUNTIES OF DURHAM AND ORANGE

**FOURTH AMENDMENT TO  
 DECLARATION OF CONDOMINIUM FOR  
 THE CEDARS OF CHAPEL HILL  
 CONDOMINIUM**

Prepared by and return to William A. Anderson, III; P.O. Box 51579; Durham, NC 27717-1579.

THIS FOURTH AMENDMENT TO DECLARATION OF CONDOMINIUM FOR THE CEDARS OF CHAPEL HILL CONDOMINIUM (the "Fourth Amendment") is made this 3rd day of February, 2006 by THE CEDARS OF CHAPEL HILL, L.L.C., a North Carolina limited liability company ("Declarant").

WITNESSETH:

WHEREAS, Declarant caused that certain Declaration of Condominium of The Cedars of Chapel Hill to be recorded in Deed Book 4483, Page 1, Durham County Registry and Deed Book 3509, Page 57, Orange County Registry as amended by that First Amendment to Declaration of Condominium for The Cedars of Chapel Hill recorded in Deed Book 4681, Page 953, Durham County Registry and Deed Book 3660, Page 198, Orange County Registry, by that Second Amendment to Declaration of Condominium for The Cedars of Chapel Hill recorded in Deed Book 4857, Page 757, Durham County Registry and Deed Book 3795, Page 473, Orange County Registry, and by that Third Amendment to Declaration of Condominium for The Cedars of Chapel Hill recorded in Deed Book 4979, Page 695, Durham County Registry and Deed Book 3889, Page 78, Orange County Registry (collectively, the "Declaration"); and

WHEREAS, Declarant desires to exercise its right to annex additional property to The Cedars of Chapel Hill Condominium pursuant to the North Carolina Condominium Act and the Declaration;

NOW, THEREFORE, Declarant hereby submits to the terms and provisions of the North Carolina Condominium Act, the Declaration, the Bylaws and Membership Agreement that certain property described on Exhibit A attached hereto and incorporated herein by reference (the "Fourth Amendment Property"), said property hereby being annexed and made an integral part of The Cedars

of Chapel Hill Condominium in the same manner as if made a part thereof in every particular upon the initial execution and filing of the Declaration.

Defined capitalized terms as used herein shall have the same meaning that they are given in the Declaration.

This Fourth Amendment establishes and creates one (1) additional Unit. More specifically, there is created by the filing of this Fourth Amendment the following number and floor plan type of Unit, to wit: one (1) Cottage Unit having the floor plan Franklin. The said additional one (1) Cottage Unit is further described and detailed on those plats and plans that are filed as a part of this Fourth Amendment and recorded in Condominium Plat Book 8, Pages 241 through 253, Durham County Registry and Plat Book 99, Pages 61 through 65, Orange County Registry, and which are incorporated herein by reference. There is a schedule of plans of the Unit created by the recordation of this Fourth Amendment attached hereto as Exhibit B and incorporated herein by reference.

In accordance with the North Carolina Condominium Act and the Declaration, the percentage interest apportioned to each Unit is hereby adjusted, and the new values attributed to each Unit are set forth on Exhibit C attached hereto and incorporated herein by reference.

The Fourth Amendment Property is currently encumbered by the lien of a Deed of Trust (with Construction Loan Provisions), Assignment of Rents, Security Agreement and Financing Statement dated December 17, 2002, as amended, executed and delivered by Declarant to Southland Associates, Inc., as Trustee, for the benefit of BNP Paribas, Sovereign Bank, Allfirst Bank (now Manufacturers and Traders Trust Company), and Central Carolina Bank, a division of National Bank of Commerce. A Consent/Joinder of Lender executed by said Trustee and said banks consenting to the execution and recordation of this Fourth Amendment is attached hereto as Exhibit D and incorporated herein by reference.

Except as herein specifically amended and supplemented, all provisions of the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, Declarant has caused this instrument to be executed the day and year first above written.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]  
[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Grantor has caused this instrument to be executed the day and year first above written.

THE CEDARS OF CHAPEL HILL, L.L.C., a North Carolina limited liability company

By its Manager,  
THE CEDARS OF CHAPEL HILL DEVELOPMENT COMPANY, L.L.C., a North Carolina limited liability company

By its Manager,  
THE CEDARS OF CHAPEL HILL INVESTOR GROUP, L.L.C., a North Carolina limited liability company

By its Manager,  
MEADOWMONT RETIREMENT COMMUNITY, L.L.C., a North Carolina limited liability company

By: *Robert E. Woodruff* (SEAL)  
Robert E. Woodruff, Manager

STATE OF NORTH CAROLINA  
COUNTY OF DURHAM

I certify that the following person personally appeared before me this day, acknowledging to me that he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Robert E. Woodruff.

Date: February 3, 2006

*Connie S. Smith*  
Notary Public

Print Name: Connie S. Smith

My Commission Expires: 4/17/2010

[Official Seal]

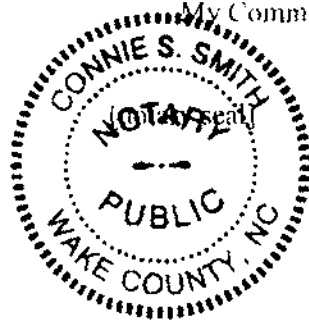






EXHIBIT A

FOURTH AMENDMENT PROPERTY

BEING all of those certain parcels of land lying and being in the Town of Chapel Hill, Counties of Durham and Orange, State of North Carolina described as Cottage 39 as shown on that certain plat entitled "Condominium Plat of The Cedars of Chapel Hill" prepared by Kevin C. Piver of Ballentine Associates, P.A. (North Carolina R.L.S. No. L-3919) and recorded with the architectural plans for said Cottages as the first 3 pages of the 5 sheet series recorded in Condominium Plat Book 8, Pages 241 through 253, Durham County Registry, and in Plat Book 99, Pages 61 through 65, Orange County Registry.



## EXHIBIT C

### SCHEDULE OF ADJUSTED PERCENTAGE INTERESTS FOR PHASE I

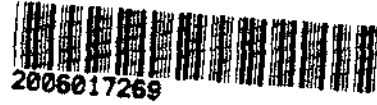
Set forth below are specific Unit Types by statutory value and resulting percentage for the 31 different types of residential units and the one marketing office unit for Phase I of the Condominium:

Unit Type	Statutory Value	Individual % Interest *	Total Number of Units	Total % Interest *
<b>Villas: (5 Villa Bldgs.)</b>				
Glenview	\$227,000.00	0.21%	3	0.62%
Henly	\$264,000.00	0.24%	8	1.92%
Highland	\$279,000.00	0.25%	21	5.33%
Holly	\$281,000.00	0.26%	8	2.05%
Inverness	\$302,000.00	0.28%	12	3.30%
Tanglewood	\$345,000.00	0.31%	2	0.63%
Madison	\$347,000.00	0.32%	6	1.90%
Jackson	\$354,000.00	0.32%	8	2.58%
Juniper (Jasmine)	\$368,000.00	0.34%	18	6.03%
Jefferson	\$371,000.00	0.34%	8	2.70%
Jordan	\$382,000.00	0.35%	6	2.19%
Kendall	\$398,000.00	0.36%	12	4.35%
Kenyan	\$404,000.00	0.37%	2	0.74%
Kingston	\$429,000.00	0.39%	6	2.34%
Lakewood	\$478,000.00	0.44%	12	5.22%
Meadowlark	\$505,000.00	0.46%	12	5.52%
Nightingale	\$581,000.00	0.53%	12	6.35%
<b>Subtotal Villas</b>			<b>156</b>	
<b>Veranda Buildings (4 Bldgs.)</b>				
Oakmont	\$393,000.00	0.36%	12	4.29%
Preston	\$456,000.00	0.42%	12	4.98%
Quincy	\$572,000.00	0.52%	12	6.25%
<b>Half Veranda Building (1 Bldg.)</b>				
Lincoln	\$331,000.00	0.30%	3	.90%
Monroe	\$498,000.00	0.45%	6	2.72%
<b>Subtotal Verandas</b>			<b>45</b>	
<b>Cottages</b>				
Archdale	\$416,000.00	0.38%	3	1.14%
Badin	\$523,000.00	0.48%	2	.95%
Benton	\$523,000.00	0.48%	2	.95%
Calloway	\$568,000.00	0.52%	13	6.72%
Carolina	\$586,000.00	0.53%	6	3.20%
Dogwood	\$586,000.00	0.53%	8	4.27%
Evergreen	\$613,000.00	0.56%	7	3.91%
Franklin	\$698,000.00	0.64%	8	5.08%
<b>Subtotal Cottages</b>			<b>50</b>	
<b>Club Villas</b>				
Hampton	478,000.00	0.44%	2	.87%
<b>Marketing Office</b>	100,000.00	0.09%	1	0.09%
<b>Total (All Units in Condominium)</b>	<b>\$109,830,000.00</b>		<b>254</b>	<b>100.00%*</b>

\* Rounded to Nearest 100<sup>th</sup>

#### TOTAL VALUE

These valuations are for purposes of the North Carolina Condominium Act only and do not necessarily relate to market value.



FOR REGISTRATION REGISTER OF DEEDS  
Willie L. Covington  
DURHAM COUNTY, NC  
2006 APR 20 04:56:50 PM  
BK: 5181 PG: 223-236 FEE: \$50.00

INSTRUMENT # 2006017269

STATE OF NORTH CAROLINA  
COUNTIES OF DURHAM AND ORANGE

**FIFTH AMENDMENT TO  
DECLARATION OF CONDOMINIUM FOR  
THE CEDARS OF CHAPEL HILL  
CONDOMINIUM**

Prepared by and return to William A. Anderson, III; P.O. Box 51579; Durham, NC 27717-1579.

THIS FIFTH AMENDMENT TO DECLARATION OF CONDOMINIUM FOR THE CEDARS OF CHAPEL HILL CONDOMINIUM (the "Fifth Amendment") is made this 20<sup>th</sup> day of April, 2006 by THE CEDARS OF CHAPEL HILL, L.L.C., a North Carolina limited liability company ("Declarant").

WITNESSETH:

WHEREAS, Declarant caused that certain Declaration of Condominium of The Cedars of Chapel Hill to be recorded in Deed Book 4483, Page 1, Durham County Registry and Deed Book 3509, Page 57, Orange County Registry as amended by that First Amendment to Declaration of Condominium for The Cedars of Chapel Hill recorded in Deed Book 4681, Page 953, Durham County Registry and Deed Book 3660, Page 198, Orange County Registry, by that Second Amendment to Declaration of Condominium for The Cedars of Chapel Hill recorded in Deed Book 4857, Page 757, Durham County Registry and Deed Book 3795, Page 473, Orange County Registry, by that Third Amendment to Declaration of Condominium for The Cedars of Chapel Hill recorded in Deed Book 4979, Page 695, Durham County Registry and Deed Book 3889, Page 78, Orange County Registry and by that Fourth Amendment to Declaration of Condominium for The Cedars of Chapel Hill recorded in Deed Book 5106, Page 860, Durham County Registry and Deed Book 3965, Page 250, Orange County Registry (collectively, the "Declaration"); and

WHEREAS, Declarant desires to exercise its right to annex additional property to The Cedars of Chapel Hill Condominium pursuant to the North Carolina Condominium Act and the Declaration;

NOW, THEREFORE, Declarant hereby submits to the terms and provisions of the North Carolina Condominium Act, the Declaration, the Bylaws and Membership Agreement that certain property described on Exhibit A attached hereto and incorporated herein by reference (the "Fifth

Amendment Property"), said property hereby being annexed and made an integral part of The Cedars of Chapel Hill Condominium in the same manner as if made a part thereof in every particular upon the initial execution and filing of the Declaration.

Defined capitalized terms as used herein shall have the same meaning that they are given in the Declaration.

This Fifth Amendment establishes and creates thirty-six (36) additional Villa Units contained in one Villa building known as Villa D (named Davidson). More specifically, there are created by the filing of this Fifth Amendment the following numbers and floor plan types of Villa Units in Villa D and situated on Lot 2A, to wit: 1 Glenview, 7 Highland, 4 Inverness, 2 Madison, 4 Kendall, 4 Lakewood, 4 Meadowlark, 4 Nightingale, and 6 Jasmine. These additional thirty-six (36) Villa Units are further described and detailed on those plats and plans that are filed as a part of this Fifth Amendment and recorded in Condominium Plat Book 8, Pages 274 through 313, Durham County Registry and Plat Book 99, Pages 148 through 161, Orange County Registry, and which are incorporated herein by reference.

In accordance with the North Carolina Condominium Act and the Declaration, the percentage interest apportioned to each Unit is hereby adjusted, and the new values attributed to each Unit are set forth on Exhibit B attached hereto and incorporated herein by reference.

The Fifth Amendment Property is currently encumbered by the lien of a Deed of Trust (with Construction Loan Provisions), Assignment of Rents, Security Agreement and Financing Statement dated December 17, 2002, as amended, executed and delivered by Declarant to Southland Associates, Inc., as Trustee, for the benefit of BNP Paribas, Sovereign Bank, Allfirst Bank (now Manufacturers and Traders Trust Company), and Central Carolina Bank, a division of National Bank of Commerce. A Consent/Joinder of Lender executed by said Trustee and said banks consenting to the execution and recordation of this Fifth Amendment is attached hereto as Exhibit C and incorporated herein by reference.

Except as herein specifically amended and supplemented, all provisions of the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, Declarant has caused this instrument to be executed the day and year first above written.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]  
[SIGNATURE PAGE FOLLOWS]

THE CEDARS OF CHAPEL HILL, L.L.C., a North Carolina limited liability company

By its Manager,  
THE CEDARS OF CHAPEL HILL DEVELOPMENT COMPANY, L.L.C., a North Carolina limited liability company

By its Manager,  
THE CEDARS OF CHAPEL HILL INVESTOR GROUP, L.L.C., a North Carolina limited liability company

By its Manager,  
MEADOWMONT RETIREMENT COMMUNITY, LLC, a North Carolina limited liability company

By: *Robert E. Woodruff* (SEAL)  
Robert E. Woodruff, Manager

STATE OF NORTH CAROLINA  
COUNTY OF Purham

I certify that the following person personally appeared before me this day, acknowledging to me that he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Robert E. Woodruff

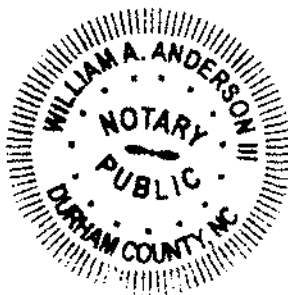
Date: 4/20/06

*William A. Anderson III*  
Notary Public

Print Name: William A. Anderson III

My commission expires: 10/5/08

[Official Seal]



**EXHIBIT A**

**FIFTH AMENDMENT PROPERTY**

BEING all of those certain parcels of land lying and being in the Town of Chapel Hill, Counties of Durham and Orange, State of North Carolina described as Lot 2A as shown on that certain plat entitled "Condominium Plat of The Cedars of Chapel Hill" prepared by Kevin C. Piver of Ballentine Associates, P.A. (North Carolina R.L.S. No. L-3919) and recorded with the architectural plans for said Cottages as the first 3 pages of the 14 sheet series recorded in Condominium Plat Book 8, Pages 274 through 313, Durham County Registry, and in Plat Book 99, Pages 148 through 161, Orange County Registry.





## EXHIBIT B

### SCHEDULE OF ADJUSTED PERCENTAGE INTERESTS FOR PHASE I

Set forth below are specific Unit Types by statutory value and resulting percentage for the 31 different types of residential units and the one marketing office unit for Phase I of the Condominium.

Unit Type	Statutory Value	Individual % Interest *	Total Number of Units	Total % Interest *
<b>Villas: (6 Villa Bldgs.)</b>				
Glenview	\$227,000.00	0.18%	4	0.73%
Healy	\$264,000.00	0.21%	8	1.70%
Highland	\$279,000.00	0.23%	28	6.30%
Holly	\$281,000.00	0.23%	8	1.81%
Inverness	\$302,000.00	0.24%	16	3.90%
Tanglewood	\$345,000.00	0.28%	2	0.56%
Madison	\$347,000.00	0.28%	8	2.24%
Jackson	\$354,000.00	0.29%	8	2.28%
Juniper (Jasmine)	\$368,000.00	0.30%	24	7.12%
Jefferson	\$371,000.00	0.30%	8	2.39%
Jordan	\$382,000.00	0.31%	6	1.85%
Kendall	\$398,000.00	0.32%	16	5.14%
Kenyan	\$404,000.00	0.33%	2	0.65%
Kingston	\$429,000.00	0.35%	6	2.08%
Lakewood	\$478,000.00	0.39%	16	6.17%
Meadowlark	\$505,000.00	0.41%	16	6.52%
Nightingale	\$581,000.00	0.47%	16	7.50%
<b>Subtotal Villas</b>			<b>192</b>	
<b>Veranda Buildings (4 Bldgs.)</b>				
Oakmont	\$393,000.00	0.32%	12	3.80%
Preston	\$456,000.00	0.37%	12	4.41%
Quincy	\$572,000.00	0.46%	12	5.54%
<b>Half Veranda Building (1 Bldg.)</b>				
Lincoln	\$331,000.00	0.27%	3	.80%
Monroe	\$498,000.00	0.40%	6	2.4%
<b>Subtotal Verandas</b>			<b>45</b>	
<b>Cottages</b>				
Arbdale	\$416,000.00	0.34%	3	1.01%
Badin	\$523,000.00	0.42%	2	.84%
Benton	\$523,000.00	0.42%	2	.84%
Calloway	\$568,000.00	0.46%	13	5.96%
Carolina	\$586,000.00	0.47%	6	2.84%
Dogwood	\$586,000.00	0.47%	8	3.78%
Evergreen	\$613,000.00	0.49%	7	3.46%
Franklin	\$698,000.00	0.56%	8	4.50%
<b>Subtotal Cottages</b>			<b>49</b>	
<b>Club Villas</b>				
Hampton	478,000.00	0.39%	2	.77%
Marketing Office	100,000.00	0.08%	1	0.08%
<b>Total (All Units in Condominium)</b>	<b>\$123,968,000.00</b>		<b>289</b>	<b>100.00%*</b>

\* Rounded

These valuations are for purposes of the North Carolina Condominium Act only and do not necessarily relate to market value.





FOR REGISTRATION REGISTER OF DEEDS  
Willie L. Covington  
DURHAM COUNTY, NC  
2009 APR 20 11:01:09 AM  
BK: 6194 PG: 410-419 FEE: \$38.00

INSTRUMENT # 2009012412

Prepared by and return to William A. Anderson, III; P.O. Box 51579; Durham, NC 27717-1579.

STATE OF NORTH CAROLINA  
COUNTIES OF DURHAM AND ORANGE

**SIXTH AMENDMENT TO DECLARATION OF CONDOMINIUM  
FOR  
THE CEDARS OF CHAPEL HILL CONDOMINIUM**

THIS SIXTH AMENDMENT TO DECLARATION OF CONDOMINIUM FOR THE CEDARS OF CHAPEL HILL CONDOMINIUM (the "Sixth Amendment") is made this 3<sup>rd</sup> day of April, 2009 by THE CEDARS OF CHAPEL HILL, L.L.C., a North Carolina limited liability company ("Declarant").

WITNESSETH:

WHEREAS, Declarant caused that certain Declaration of Condominium of The Cedars of Chapel Hill to be recorded in Deed Book 4483, Page 1, Durham County Registry and Deed Book 3509, Page 57, Orange County Registry as amended by that First Amendment to Declaration of Condominium for The Cedars of Chapel Hill recorded in Deed Book 4681, Page 953, Durham County Registry and Deed Book 3660, Page 198, Orange County Registry, by that Second Amendment to Declaration of Condominium for The Cedars of Chapel Hill recorded in Deed Book 4857, Page 757, Durham County Registry and Deed Book 3795, Page 473, Orange County Registry, by that Third Amendment to Declaration of Condominium for The Cedars of Chapel Hill recorded in Deed Book 4979, Page 695, Durham County Registry and Deed Book 3889, Page 78, Orange County Registry, by that Fourth Amendment to Declaration of Condominium for The Cedars of Chapel Hill recorded in Deed Book 5106, Page 860, Durham County Registry and Deed Book 3965, Page 250, Orange County Registry, and by that Fifth Amendment to Declaration of Condominium for The Cedars of Chapel Hill recorded in Deed Book 5181, Page 223, Durham County Registry and Deed Book 4011, Page 126, Orange County Registry (collectively, the "Declaration"); and

WHEREAS, Declarant desires to exercise its right to annex additional property to The Cedars of Chapel Hill Condominium pursuant to the North Carolina Condominium Act and the Declaration;

NOW, THEREFORE, Declarant hereby submits to the terms and provisions of the North Carolina Condominium Act, the Declaration, the Bylaws and Membership Agreement that certain property described on Exhibit A attached hereto and incorporated herein by reference (the "Sixth Amendment Property"), said property hereby being annexed and made an integral part of The Cedars of Chapel Hill Condominium in the same manner as if made a part thereof in every particular upon the initial execution and filing of the Declaration.

Defined capitalized terms as used herein shall have the same meaning that they are given in the Declaration unless expressly set forth herein.

This Sixth Amendment establishes and creates eighteen (18) additional Veranda Units contained in one Veranda building known as Veranda D (named Davie). More specifically, there are created by the filing of this Sixth Amendment the following numbers and floor plan types of Veranda Units in Veranda D and situated on Lot 2D, to wit: 3 Berkshire, 3 Prestwick, 3 Somerset, 3 Nottingham, 3 Turnberry, and 3 Essex. These additional eighteen (18) Veranda Units are further described and detailed on those plats and plans that are filed as a part of this Sixth Amendment and recorded in Condominium Plat Book 11, Pages 189 through 203, Durham County Registry and Plat Book 105, Pages 52 through 59, Orange County Registry, and which are incorporated herein by reference.

In accordance with the North Carolina Condominium Act and the Declaration, the percentage interest apportioned to each Unit is hereby adjusted, and the new values attributed to each Unit are set forth on Exhibit B attached hereto and incorporated herein by reference.

The Sixth Amendment Property is currently encumbered by the lien of the following security instruments for the benefit of SunTrust Bank: a Deed of Trust and Security Agreement recorded in Book 5777, Page 448, Durham County Registry, and Book 4397, Page 165, Orange County Registry; an Assignment of Leases and Rents recorded in Book 5777, Page 467, Durham County Registry, and Book 4397, Page 183, Orange County Registry; a UCC-1 Financing Statement recorded in recorded in Book 5777, Page 476, Durham County Registry, and Book 4397, Page 191, Orange County Registry; a Construction Loan Deed of Trust and Security Agreement recorded in Book 5881, Page 381, Durham County Registry, and Book 4468, Page 370, Orange County Registry; an Assignment of Leases and Rents recorded in Book 5881, Page 402, Durham County Registry, and Book 4468, Page 390, Orange County Registry; and a UCC-1 Financing Statement recorded in recorded in Book 5777, Page 476, Durham County Registry, and Book 4397, Page 191, Orange County Registry. A Consent/Joinder of Lender executed by SunTrust Bank as lender and Southland Associates, Inc. as Trustee consenting to the execution and recordation of this Sixth Amendment is attached hereto as Exhibit C and incorporated herein by reference.

Except as herein specifically amended and supplemented, all provisions of the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, Declarant has caused this instrument to be executed the day and year first above written.

THE CEDARS OF CHAPEL HILL, L.L.C., a North

By its Manager,  
THE CEDARS OF CHAPEL HILL DEVELOPMENT

By its Manager,  
THE CEDARS OF CHAPEL HILL INVESTOR GROUP,

By its Manager,  
MEADOWMONT RETIREMENT COMMUNITY, I.L.C. a  
North Carolina limited liability company

By: Robert E. Woodruff (SEAL)  
Robert E. Woodruff, Manager

STATE OF NORTH CAROLINA  
COUNTY OF Orange

I certify that the following person personally appeared before me this day, acknowledging to me that he signed the foregoing document: Robert E. Woodruff

Date: 11/3/09

Tiffany McDowell  
Notary Public

Print Name: Tiffany McDowell

My commission expires: 10/25/2010

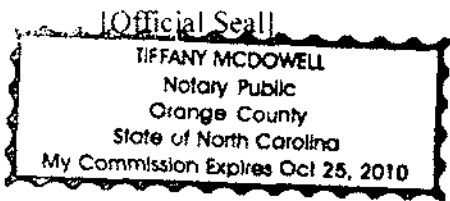




EXHIBIT A

SIXTH AMENDMENT PROPERTY

BEING all of that certain parcel of land lying and being in the Town of Chapel Hill, Counties of Durham and Orange, State of North Carolina described as Lot 2D containing 2.00 acres as shown on that certain plat entitled "Condominium Plat, Lot 2D, Veranda D" prepared by John Ray Pickens of The John R. McAdams Company, Inc. (North Carolina R.L.S. No. L-3297) and recorded with the architectural plans for the Units as the first page of the eight (8) sheet series recorded in Condominium Plat Book 11, Pages 189 through 203, Durham County Registry, and in Plat Book 105, Pages 52 through 59, Orange County Registry.





**EXHIBIT B**  
**SCHEDULE OF ADJUSTED PERCENTAGE INTERESTS**

Set forth in the table on the following page are specific Unit Types by statutory value and resulting percentage for the different types of residential units and the one marketing office unit for the Condominium.

These valuations are for purposes of the North Carolina Condominium Act only and do not necessarily relate to market value.

Exhibit B continues on the following page.

Unit Type		No.	Statutory Value Per Unit (000)	Individual Statutory Value Percentage	Total Statutory Value
<b>Villas</b>					
1 BR, 1Bath, Sun Rm.	Glenview	4	227	0.18%	0.72%
2BR, 2 Bath	Henly	8	264	0.20%	1.60%
2BR, 2 Bath	Highland	28	279	0.22%	6.16%
2BR, 2 Bath	Holly	8	281	0.22%	1.76%
2BR, 2 Bath	Inverness	16	302	0.23%	3.68%
2BR, 2 Bath, Sun Room	Tanglewood	2	345	0.27%	0.54%
2BR, 2 Bath, Sun Room	Madison	8	347	0.27%	2.16%
2BR, 2 Bath, Den	Jackson	8	354	0.27%	2.16%
2BR, 2 Bath, Den	Juniper	24	368	0.28%	6.72%
2BR, 2 Bath, Den	Jefferson	8	371	0.29%	2.32%
2BR, 2 Bath, Den	Jordan	6	382	0.29%	1.74%
2BR, 2 Bath, Den	Kendall	16	398	0.31%	4.96%
2BR, 2 Bath, Breakfast	Kenyan	2	404	0.31%	0.62%
2BR, 2 Bath, Den	Kingston	6	429	0.33%	1.98%
2BR, 2 Bath, Den	Lakewood	16	478	0.37%	5.92%
2BR, 2 Bath, Study	Meadowlark	16	505	0.39%	6.24%
2BR, 2 Bath, Den	Nightingale	16	581	0.45%	7.20%
		192			
<b>Veranda Buildings (4 Buildings)</b>					
2 BR, 2Bath	Oakmont	12	393	0.30%	3.60%
2 BR, Den, 2Bath	Preston	12	456	0.35%	4.20%
2 BR, Den, 2Bath	Quincy	12	572	0.44%	5.28%
<b>Half Veranda Building (1 Building)</b>					
1 BR, 1Bath, Sun Rm.	Lincoln	3	331	0.28%	0.84%
2 BR, Den, 2Bath	Monroe	6	498	0.38%	2.28%
<b>Davie Veranda Building</b>					
	Nottingham	3	307	0.24%	0.72%
	Berkshire	3	318	0.25%	0.75%
	Prestwick	3	258	0.20%	0.60%
	Somerset	3	318	0.25%	0.75%
	Essex	3	345	0.27%	0.81%
	Turnberry	3	312	0.24%	0.72%
		63			
<b>Total</b>		<b>255</b>			
<b>Cottages</b>					
2 BR, 2 Bath, Den	Archdale	3	416	0.32%	0.96%
1 BR, 2 Bath, Den, Bkfst	Badin	2	523	0.39%	0.78%
2 BR, 2 Bath, Den, Bkfst	Benton	2	523	0.39%	0.78%
2 BR, 2 Bath, Den, Bkfst	Calloway	13	568	0.44%	5.72%
3 BR, 2 Bath, Den, Bkfst	Carolina	6	586	0.45%	2.70%
2 BR, 2 Bath, Study	Dogwood	8	586	0.45%	3.60%
2 BR, 2 Bath, Den, Bkfst	Evergreen	7	613	0.47%	3.29%
2 BR, 2.5 Bath, Sunroom, Bkfst	Franklin	8	698	0.54%	4.32%
<b>Total</b>		<b>49</b>			
<b>Penthouses</b>					
	Hampton	2	478	0.37%	0.74%
	Marketing Office	1	100	0.08%	0.08%
<b>Total</b>		<b>307</b>			<b>100.00%</b>



FOR REGISTRATION REGISTER OF DEEDS  
WILLIE L. COVINGTON  
DURHAM COUNTY, NC  
2012 MAR 15 01:53:15 PM  
BK 6926 PG 524-527 FEE \$26.00

INSTRUMENT # 2012008718

Prepared by -  
Return to: Holly H Alderman, Esq., 100 Europa Dr., Suite 271, Chapel Hill, NC 27517

NORTH CAROLINA

AMENDMENT TO DECLARATION, BYLAWS, PURCHASE  
AND SALE AGREEMENT AND MEMBER AGREEMENT

DURHAM COUNTY

THIS AMENDMENT TO DECLARATION, BYLAWS, PURCHASE AND SALE AGREEMENT AND  
MEMBER AGREEMENT, made and entered into this the 13<sup>th</sup> day of March, 2012, by THE CEDARS OF  
CHAPEL HILL, LLC, a North Carolina limited liability company, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant was the owner of certain property known as 205 Cedar Berry Lane, Chapel  
Hill, NC 27517, located in the County of Durham, State of North Carolina ("the Property"), which is more  
particularly described as set forth on Schedule A annexed and attached hereto and made a part hereof  
and incorporated herein by reference as fully and to the same extent as if said description were set forth  
herein verbatim in words and figures; and

WHEREAS, Declarant has previously executed and had recorded a Declaration of Condominium  
for The Cedars of Chapel Hill in Book 4483, at Page 1, Durham County Registry, and Book 3509, at Page  
57, Orange County Registry, as subsequently amended Attached to the original Declaration are Bylaws  
and a form Membership Agreement; and

WHEREAS, Declarant previously executed a Purchase and Sale Agreement and Member  
Agreement with Georgia Carroll Kyser for the purchase of the Property, and conveyed the Property to  
her as evidenced by that certain Deed recorded in Book 4763, Page 422, Orange County Registry and  
Book 3724, Page 264, Durham County Registry;

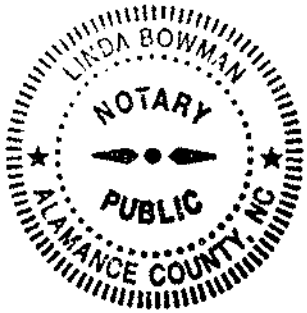
WHEREAS, pursuant to the Will of Georgia Carroll Kyser, the Property was devised to Sun Trust  
Bank, as Trustee of the Georgia Carroll Kyser Revocable Trust dated September 30, 1993, as amended  
and restated August 19, 1997 and as Executor under the Will of Georgia Carroll Kyser ("the Trustee");

WHEREAS, the Trustee has executed a Purchase and Sale Agreement with Wyndham Robertson for the purchase of the Property;

WHEREAS, Declarant does wish to permanently waive its' rights set out in Paragraph 30 entitled "Right of First Refusal" of the Membership Agreement as well as any corresponding paragraph in the Declaration, Bylaws, or any of the amendments thereto as they relate to Ms. Robertson and all future owners of the Property.

NOW, THEREORE, Declarant, does by these presents hereby permanently waive its' rights set out in Paragraph 30 entitled "right of First Refusal" of the Membership Agreement as well as any corresponding paragraph in the Declaration, Bylaws or any of the amendments thereto as they relate to all future owners of the Property. This waiver shall be binding on Declarant, its successors and assigns.

IN WITNESS WHEREOF, the undersigned, THE CEDARS OF CHAPEL HILL, LLC, a North Carolina limited liability company, Declarant hereof, has caused this Declaration to be executed by its Manager this the day and year first above written.



THE CEDARS OF CHAPEL HILL, LLC  
A North Carolina limited liability company

By: *Robert E. Woodruff*  
MEADOWMONT RETIREMENT COMMUNITY, LLC  
Managing/Member  
By: Robert E. Woodruff, Manager

NORTH CAROLINA  
Alamance COUNTY

I, *Linda Bowman*, a Notary Public of the county and State aforesaid, do certify that Robert E. Woodruff personally appeared before me this day and acknowledged that he is Manager of MEADOWMONT RETIREMENT COMMUNITY, LLC, Managing Member of THE CEDARS OF CHAPEL HILL, LLC, a North Carolina limited liability company, and that by authority duly given and as the act of the limited liability company, the foregoing instrument was signed in its name by himself as Manager.

This the *13<sup>th</sup>* day of March, 2012.

*Linda Bowman*  
\_\_\_\_\_, Notary Public

My Commission Expires: *11-26-13*

**EXHIBIT A**  
**Legal Description**

BEING all of that Unit known as Cottage 5 of The Cedars of Chapel Hill, a condominium, as more particularly described in the Declaration of Condominium for The Cedars of Chapel Hill recorded in Deed Book 4483, Page 1, Durham County Registry, and Deed Book 3509, Page 57, Orange County Registry, as amended by that First Amendment recorded in Deed Book 4681, Page 953, Durham County Registry and in Deed Book 3660, Page 198, Orange County Registry; Second Amendment to Declaration of Condominium for The Cedars of Chapel Hill Condominium recorded in Book 4857, Page 757 of the Durham County Register of Deeds and Book 3795, Page 473 of the Orange County Register of Deeds; Third Amendment to Declaration of Condominium for The Cedars of Chapel Hill Condominium recorded in Book 4979, Page 695 of the Durham County Register of Deeds and Book 3889, Page 78 of the Orange County Register of Deeds; Fourth Amendment to Declaration of Condominium for The Cedars of Chapel Hill Condominium recorded in Book 5106, Page 860 of the Durham County Register of Deeds and Book 3965, Page 250 of the Orange County Register of Deeds; Fifth Amendment to Declaration of Condominium for The Cedars of Chapel Hill Condominium recorded in Book 5181, Page 223 of the Durham County Register of Deeds and Book 4011, Page 126 of the Orange County Register of Deeds; Sixth Amendment to Declaration of Condominium for The Cedars of Chapel Hill Condominium recorded in Book 6194, Page 410 of the Durham County Register of Deeds and Book 4714, Page 277 of the Orange County Register of Deeds; Seventh Amendment to Declaration of Condominium for The Cedars of Chapel Hill Condominium recorded in Book 6395, Page 86 of the Durham County Register of Deeds and Book 4881, Page 132 of the Orange County Register of Deeds; and on the plats and plans recorded in Condominium Plat Book 6, Pages 48 through 399, Condominium Plat Book 7, Pages 1 through 184 and 250 through 334, Durham County Registry, and in Plat Book 94, Pages 172 through 200, Plat Book 95, Pages 1 through 151, and Plat Book 96, Pages 145 through 173, Orange County Registry; together with an undivided interest in the common elements of said condominium as more particularly set forth in the Declaration of Condominium, which undivided interest shall automatically change in accordance with the Declaration of Condominium as the same may be amended.



**EXHIBIT C**

**BYLAWS OF ASSOCIATION AND RULES OF CONDUCT**



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# BYLAWS

## ARTICLE I PLAN OF UNIT OWNERSHIP

**Section 1. *CONDOMINIUM.*** The Property (the term "Property" as used herein means and includes the land, the buildings, all improvements and structures thereon) located in Chapel Hill, Orange and Durham Counties, North Carolina, known as THE CEDARS OF CHAPEL HILL CONDOMINIUM has been, by Declaration, submitted to the provisions of the North Carolina Condominium Act, which said Property shall henceforth be known as THE CEDARS OF CHAPEL HILL CONDOMINIUM (hereinafter referred to as "Condominium").

**Section 2. *ASSOCIATION.*** In conjunction with the creation of the above described Condominium, there also has been incorporated under the laws of the State of North Carolina an Association known as The Cedars of Chapel Hill Condominium Association (hereinafter referred to as "Association") which shall, pursuant to the provision of the aforementioned Declaration, constitute the incorporated condominium owners' association.

**Section 3. *THE CEDARS OF CHAPEL HILL CLUB, INC.*** As set forth below in Section 4 of Article IV, The Cedars of Chapel Hill Club, Inc. has for its purpose the operation of the various membership functions of the continuing care retirement community known as The Cedars. The Cedars of Chapel Hill Club, Inc. is a North Carolina non-profit corporation (the "Club") of which the Declarant is a member. It is a non-equity club. The individual Members have a non-proprietary interest in the Club by virtue of their ownership of a Unit within the Condominium. The Club, in essence, is a membership plan separate from, but related to, the condominium project. Certain of the present and/or future Common Elements of the Condominium are subject to use by the Club in order to perform its functions for the benefit of its Members.

**Section 4. *PERSONAL APPLICATION.*** All present or future Co-owners, Members (as defined in the Declaration), tenants, future tenants, or their employees, or any other person who might use the facilities of the Property in any manner, are subject to the regulations set forth in these Bylaws and in the Declaration establishing said Condominium as they may be amended from time to time. The mere acquisition or use of any of the Villa Units, Veranda Units, Cottage Units or Club Villa Units (hereinafter usually referred to as "Units") as defined in the Declaration or the mere act of occupancy of any of said Units will signify that these Bylaws, the provisions of the Declaration, and any authorized recorded amendments to the foregoing Declaration are accepted and ratified, and will be complied with.

## ARTICLE II

### VOTING, MAJORITY OF UNIT OWNERS QUORUM, PROXIES

**Section 1. ELIGIBILITY.** Any person who acquires title to a Unit in the Condominium shall be a member of the Association. There shall be one membership for each Unit owned. Transfer of Unit ownership, either voluntarily or by operation of law, shall terminate membership in the Association, and said membership is to become vested in the transferee. If Unit ownership is vested in more than one person, then all of the persons so owning such Unit shall agree upon the designation of one of the Co-owners of such Unit to act as a member of the Association. If Unit ownership is vested in a corporation or partnership, said corporation or partnership may designate an individual officer or employee or partner of the corporation or partnership to act as a member of the Association.

**Section 2. VOTING.** Voting shall be on a percentage basis and the percentage of the vote to which the Unit Owner is entitled is the percentage assigned to the Unit or Units in the Declaration.

**Section 3. MAJORITY OF UNIT OWNERS.** As used in these Bylaws, the term "Majority of Unit Owners" shall mean those Unit Owners holding more than fifty (50%) percent of the total votes in the Association, in accordance with the percentages assigned in the Declaration, and any authorized amendments thereto.

**Section 4. QUORUM.** Except as otherwise provided in Section 6 and elsewhere in these Bylaws, the presence in person or by proxy of a Majority of Unit Owners as defined in Section 3 of this Article shall constitute a quorum.

**Section 5. PROXIES.** Votes may be cast in person or by proxy or by ballot when authorized by the Executive Board. Proxies must be filed with the Secretary before the appointed time of each meeting.

**Section 6. BALLOTS.** Voting by ballot is authorized when required by the Executive Board. When the Executive Board has authorized voting by ballot, there shall be sent to every Member with notices of regular or special meetings of the Association, a statement of certain motions to be introduced for vote of the Members and a ballot on which each Member may vote for or against each motion. Each ballot which is presented at such meeting shall be counted in calculating the quorum requirements set out in Section 4 of this Article II. Provided, however, such ballots shall not be counted in determining whether a quorum is present to vote upon motions not appearing on the ballot. All ballots must contain the time by which a ballot must be received by the Association in order to be counted.

**Section 7. MAJORITY VOTE.** The vote of a majority of a quorum of the Unit Owners present at a meeting, or by proxy, shall be binding upon all Unit Owners for all purposes except where in the Declaration or in these Bylaws, or by law, a higher percentage vote is required.

**ARTICLE III**  
**THE CEDARS OF CHAPEL HILL CONDOMINIUM ASSOCIATION**

**Section 1. ASSOCIATION RESPONSIBILITIES.** The Unit Owners of the Units will constitute the Association of Co-owners (hereinafter usually referred to as "Association") who will have, among other duties, the responsibility of electing the Board of Directors. Except as otherwise provided, decisions and resolutions of the Association shall require approval as provided in Section 7 of Article II.

**Section 2. PLACE OF MEETINGS.** Meetings of the Association shall be at such place, convenient to the Unit Owners, as may be designated by the Association.

**Section 3. ANNUAL MEETINGS.** The Annual meetings of the Association shall be held at the call of the President once a year during the month of November or at such other time as a Majority of the Unit Owners may agree upon. At such meetings, there shall be elected by ballot of the Unit Owners an Executive Board in accordance with the requirements of Section 5 of Article IV of these Bylaws. The Unit Owners may also transact such other business of the Association as may properly come before them.

**Section 4. SPECIAL MEETINGS.** It shall be the duty of the Secretary to call a special meeting of the Unit Owners as directed by resolution of the Executive Board, at the request by a majority of the Directors, or upon a petition signed by Unit Owners representing twenty (20%) percent of the total votes in the Association and having been presented to the Secretary. A notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice except by consent of four-fifths (4/5) of the votes present, either in person or by proxy.

**Section 5. FIRST MEETING.** The first meeting of the Association shall be held within sixty (60) days of the filing of the Articles of Incorporation. This first meeting may be prior to any Units having been conveyed by Declarant to individual Unit Owners.

**Section 6. NOTICE OF MEETINGS.** It shall be the duty of the Secretary to mail a notice of each annual or special meeting, stating the purpose thereof as well as the time and place where it is to be held, to each Unit Owner of record, at least ten (10), but not more than fifty (50) days prior to such meeting. The mailing of a notice in the manner provided in this Section shall be considered notice served.

**Section 7. ADJOURNED MEETING.** If any meeting of the Association cannot be organized because a quorum has not attended, the Unit Owners who are present, either in person or by proxy, may adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called. Upon the reconvening of said meeting a quorum shall be constituted if Unit Owners holding at least forty (40%) percent of the total votes in the Association are present in person or by proxy at said reconvened meeting.

**Section 8. ORDER OF BUSINESS.** The order of business at all Annual Meetings of the Association shall be as follows:

- (a) Roll Call.
- (b) Proof of Notice of Meeting or Waiver of Notice.
- (c) Reading of Minutes of Preceding Meeting.
- (d) Reports of Officers.
- (e) Reports of Committees.
- (f) Election of Inspectors of Election.
- (g) Election of Executive Board Members.
- (h) Budget Review.
- (i) Unfinished Business.
- (j) New Business.

The order of business at a Special Meeting of the Association shall include items (a) through (d) above, and thereafter, the agenda shall consist of the items specified in the notice of meeting.

#### ARTICLE IV

#### EXECUTIVE BOARD

**Section 1. NUMBER AND QUALIFICATIONS.** The affairs of the Association shall be governed by an Executive Board (hereinafter referred to as the "Board") comprised of no less than three (3) persons and no more than nine (9) persons. The number of members shall be initially determined by the Declarant. During the Period of Declarant Control, as defined in the Declaration, the Declarant shall be entitled to appoint and remove officers and Executive Board Members as set forth in Section 2.7 of the Declaration. After the termination of the Period of Declarant Control, the number of Members of the Board shall be determined by the members but in any event shall not be less than three (3) nor more than nine (9) persons, a majority of whom shall be Unit Owners.

**Section 2. GENERAL POWERS AND DUTIES.** The Board shall have the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not by law, or by these Bylaws, directed to be executed and done by the Management Agent, the Club, the Association or individual Unit Owners, it being recognized that there is significant delegation of power and duties to the Management Agent as hereinafter set forth.

**Section 3. DELEGATED POWERS AND DUTIES.** Because of the long-term nature and health and life care responsibilities of the management agent, the licensing requirements, as well as the long-term nature of the relationship of the Declarant with the Condominium (as generally described in Article XIV of the Declaration), the following powers and duties are specifically delegated and authorized to the Management Agent:

- (a) Compliance with all of the terms and conditions of the Declaration and any amendments thereto and enforcement of same.
- (b) Care, upkeep and surveillance of the Property and the Common Elements.

(c) Collection, at the time of the closing of the sale of each Unit (including resales), at least two (2) month's estimated common expense assessments for the purpose of establishing a working capital fund for the Association.

(d) Preparation of the annual budget. The budget shall be distributed by the Management Agent to all members of the Association at least thirty (30) days in advance of its effective date and at least ten (10) days in advance of the Association's Annual Meeting. Notwithstanding the responsibilities and authority of the Management Agent, the budget may be modified by the Association at the Annual Meeting or a Special Meeting of the Association by a three-fourths (3/4) vote of the total eligible votes of Unit Owners in person or by proxy.

(e) As a part of the annual budget described in (d) above, there shall be established and maintained on behalf of the Association an adequate reserve fund for periodic maintenance, repair and replacement of improvements to the common elements. Any interest earned on said reserve fund shall remain a part of said reserve fund and shall not be used for general operating expenses. For purposes of this Section, "adequate reserve fund" shall mean not less than two (2%) percent of the total operating common element expenses. (N.B. This reserve account is separate and distinctive from the "operating reserve" required by the N.C. Department of Insurance pursuant to the state licensing requirements.)

(f) Contracting for the employment, dismissal and control of the personnel necessary for the maintenance and operating of the Common Elements.

(g) Performing repairs caused by any natural disaster or man-made damage from the reserve account and any special assessment, or causing the same to be done. (N.B. Once the reserve account has reached a level, which in the Management Agent's opinion, is sufficient for its purposes, then any excess may be expended by Management Agent for other purposes, such as refurbishing, repairing or replacing the Club Facilities.)

(h) Obtaining of insurance for the Property, pursuant to the provisions hereof and the provisions of the Declaration, or causing the same to be done as set forth in ARTICLE VIII hereof.

(i) Grant or relocate easements which are not inconsistent with the owners' full use and enjoyment of the Common Elements.

(j) Execute and administer (including the right to assess) those covered parking space agreements with those Owners for the individual parking spaces described in Section 5.1(i) of the Declaration.

(k) Making of repairs, additions and improvements to or alterations of, the Property and repairs to and restoration of the Property in accordance with the other provisions of these Bylaws.



- (l) To make available, for inspection, upon request during normal working hours or under other reasonable circumstances, to Unit Owners, the holders, insurers or guarantors of any first mortgage on any Unit, current copies of the Declaration, Bylaws, other Rules and Regulations pertaining to the Association, and financial statements of the Association.
- (m) To establish such advisory committees as the Board may deem appropriate to assist in carrying out the duties above described.
- (n) To further improve the Condominium or Association Property, both real and personal, and to purchase real estate and personal property including items of furniture, furnishings, fixtures and equipment for the foregoing.
- (o) To enter into agreements, leases, memberships and other possessory or use interests in lands or facilities, such as recreational facilities, whether contiguous to the Condominium or Association Property, or not, if they are intended to provide enjoyment, recreation or other use or benefit to the Owners.
- (p) If it appears that through a drafter's error in the Declaration that the Common Elements, or Common Expenses have been stated or distributed improperly, to approve an amendment to the Declaration correcting that error. No Owners, except those directly affected, must join in the execution of the amendment.
- (q) To pay taxes or assessments against the Common Elements or Association Property as required.
- (r) To pay costs of utility services rendered to the Condominium and Association, as required.
- (s) To authorize the Owners or others to use portions of the Common Elements or Association Property, such as social rooms and meeting rooms, if any, for private parties and gatherings, for which reasonable charges may be imposed for the clean-up of such rooms after use by them.

In the event that the Management Agent fails to act upon any of the above duties and/or responsibilities or if the Management Agent is terminated, the Board shall have the authority to act upon the above duties/responsibilities on behalf of the Association.

**Section 4. MANAGEMENT AGENT.** The Cedars of Chapel Hill continuing care retirement community (herein sometimes referred to as "The Cedars") is composed of two major components which are as follows:

- (a) The Cedars of Chapel Hill Condominium; and
- (b) "The Cedars of Chapel Hill Club, Inc.," an incorporated membership organization which provides its members ("Members") with certain rights, privileges

and responsibilities of membership through which they are provided access to and use of the Club Facilities which includes the Clubhouse and the Health Care Center as defined in the Declaration.

Because of the unique character of this Association, the licensing required by the State of North Carolina as a continuing care community, and the close functioning interrelationship that it shares with The Club, it is deemed necessary and desirable that management of The Club and the management of The Condominium be carried out in coordinated fashion to avoid wasteful duplication. Therefore, the initial Management Agent shall be The Cedars of Chapel Hill Club, Inc. It is expressly disclosed that the Management Agent shall be employed to perform the duties and services outlined in this Article IV, Section 3(a) through (s), the duties and services for the Members as noted in Article VII, Section 1 herein, as well as any duties, powers and responsibilities set forth in the Condominium Management Agreement.

**Section 5. FIRST EXECUTIVE BOARD/PERIOD OF DECLARANT CONTROL.** The first Executive Board shall be designated by the Declarant. These appointments will be temporary and will continue only in accordance with the requirements of the Act relating to the Period of Declarant Control. As stated in the Act, the Period of Declarant Control terminates no later than the earlier of: (i) one hundred and twenty (120) days after conveyance of 75% of the units, including those Future Phase units which may be created pursuant to the Special Declarant Rights as set forth in the Declaration (to unit owners other than the Declarant); (ii) two years after Declarant has ceased to offer units for the sale in the ordinary course of business; or (iii) two years after any development right to add new Future Phase units was last exercised. (It is noted that Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board before termination of this Period, but in that event, Declarant may require, for the duration of the Period of Declarant Control, that specified actions of the Association or Board, as described in recorded instruments executed by the Declarant, be approved by the Declarant before they become effective.)

Further, not later than sixty (60) days after conveyance of 25% of the units (including Future Phase units that may be created pursuant to Special Declarant Rights for Future Phase units as set forth in the Declaration) to unit owners other than Declarant, at least one member and not less than 25% of the members of the Board shall be elected by Unit Owners other than Declarant. Not later than sixty (60) days after conveyance of 50% of the units (including Future Phase units) to Unit Owners other than Declarant, not less than 33% of the members of the Board shall be elected by Unit Owners other than Declarant.

Not later than the termination of the Period of Declarant Control, the unit owners shall elect the Board of at least three (3), but not more than nine (9), members, at least a majority of whom must be Unit Owners.

At the first Annual Meeting of the Association, the initial term of office for up to three (3) members of the Board shall be fixed at three (3) years, the term of office of up to three (3) members of the Board shall be fixed at two (2) years, and the term of office of up to three (3) members of the Board shall be fixed at one (1) year. At the expiration of the initial term of office of each member of the Board, his successor shall be elected to serve a term of three (3) years as provided in Section 1 of this ARTICLE IV. The members of the Board shall hold office until their successors have been

elected and hold their first meeting. Any and all of said Board Members shall be subject to replacement, in the event of resignation or death, in the manner set forth in Section 6 of this Article.

**Section 6. VACANCIES.** Vacancies in the Board caused by reason other than the removal of a member of the Board by a vote of the Association shall be filled by vote of the majority of the remaining members (or, during the Period of Declarant Control, by appointment of Declarant), even though they constitute less than a quorum; and each person so elected shall be a member of the Board until a successor is elected at the next meeting of the Association.

**Section 7. REMOVAL OF MEMBERS OF THE BOARD.** Once the Period of Declarant Control has terminated, at any annual or special meeting of the Association duly called, any one or more of the members of the Board may be removed with or without cause by a Majority of Unit Owners and a successor may then and thereby be elected to fill the vacancy thus created. Any member of the Board whose removal has been proposed to the Association shall be given an opportunity to be heard at the meeting. No Board member shall continue to serve on the Board if during the term of office, he shall cease to be a Unit Owner (except as provided above regarding Declarant's appointees).

**Section 8. ORGANIZATIONAL MEETING.** The first meeting of a newly elected Board shall be held within ten (10) days of election at such place as shall be fixed by the Board, and no notice shall be necessary to the newly elected Board members in order to legally constitute such a meeting, providing a majority of the Board shall be present.

**Section 9. REGULAR MEETINGS.** Regular meetings of the Board may be held at such time and place as shall be determined, from time to time, by a majority of the Board, but at least one (1) such meeting shall be held each fiscal year. Notice of regular meetings of the Board shall be given by the Secretary or other designated person, to each Board member, personally or by mail, telephone, or telegraph, at least ten (10) days prior to the day named for such meeting.

**Section 10. SPECIAL MEETINGS.** Special meetings of the Board may be called by the President on three (3) days notice to each Board Member, given personally or by mail, telephone or telegraph, which notice shall state the time, place (as hereinabove provided), and the purpose of the meeting. Special meetings of the Board shall be called by the President or Secretary in like manner and on like notice on the written request of at least two (2) Board members.

**Section 11. WAIVER OF NOTICE.** Before or at any meeting of the Board, any member of the Board may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Board Member at any meeting of the Board shall be a waiver of notice by him of the time, place and purpose thereof. If all members are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

**Section 12. BOARD QUORUM.** At all meetings of the Board, a majority of the Board members shall constitute a quorum for the transaction of business, and acts of the majority of the members present at a meeting at which a quorum is present shall be the acts of the Board. If, at any meeting of the Board, there is less than a quorum present, the majority of the Board members present may adjourn the meeting from time to time. At any such adjourned meeting which is reactivated

with a quorum, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

**Section 13. FIDELITY BONDS.** The Board may require that any and all officers and employees of the Association handling or responsible for Condominium funds shall furnish adequate fidelity bonds. The premiums on such bonds shall be paid by the Association.

**Section 14. COMPENSATION.** No member of the Board shall receive any compensation from the Association for acting as such.

**Section 15. LIABILITY OF THE BOARD OF DIRECTORS.** It is intended that the members of the Board shall have no personal liability with respect to any contract made by them on behalf of the Association. It is understood and permissible for the original Board, who are members of or employed by Declarant, to contract with Declarant and affiliated entities without fear of being charged with self-dealing. Every agreement made by the Board or by the Management Agent on behalf of the Association shall provide that the members of the Board, or the Management Agent, as the case may be, are acting only as agent for the Unit Owner and shall have no personal liability thereunder (except as Unit Owners).

**Section 16. INDEMNIFICATION**

(a) Definitions for Purposes of This Section.

(1) Covered Person. A covered person shall include any person who at anytime serves or has served as a member of the Board or officer of the Association, or in such capacity at the request of the Association for any trust, employee benefit plan, or other enterprise.

(2) Action. An action shall include any threatened, pending, or completed civil, criminal, administrative, investigative suit or proceeding, any appeal therefrom, and any inquiry or investigation that could lead to such a suit or proceeding to which a person is made a party because such person is or was a covered person.

(3) Improper personal benefit. Improper personal benefit does not include a Board Member's or officer's reasonable compensation or other incidental benefit for or on account of service as a director, officer, employee, independent contractor, attorney, or consultant of the Association.

(b) General. Except as provided in subparagraph (e) of this Section 16, the Association shall indemnify a covered person if he is made, or is threatened to be made, a party to an action whether or not the action is brought by or on behalf of the Association (i.e., a derivative action), or otherwise (i.e., a direct action).

(c) Covered Expenses. A covered person shall be indemnified against (1) reasonable expenses, including without limitation, all attorney's fees actually and necessarily incurred by him in connection with any such action, (2) all reasonable

payments made by him in satisfaction of any judgment, money decree, fine (including any excise tax assessed with respect to an employee benefit plan), penalty, or settlement for which he may have become liable in such action, and (3) all reasonable expenses incurred in enforcing the indemnification rights provided herein.

(d) **Advanced Payment of Expenses.** Covered expenses may be paid by the Association in advance of final disposition of the action if authorized pursuant to subparagraph (f) below. Any advance payment shall be made only upon receipt of an undertaking by the covered person to repay such amount unless it shall ultimately be determined that the covered person is entitled to be indemnified by the Association against such expense.

(e) **Standard of Care.** Unless otherwise required by law, the Association shall not indemnify a covered person unless such covered person:

(1) conducted himself in good faith;

(2) Reasonably believed, a) in the case of conduct taken in his official capacity with the Association, that his conduct was in the Association's best interests; and b) in all other cases, that his conduct was at least not opposed to the best interests of the Association; c) in the case of a criminal proceeding, had no reasonable cause to believe his conduct was unlawful; provided, however, the Association shall not indemnify a covered person for d) Liability under North Carolina General Statute 55A-8-32 or North Carolina General Statute 55A-8-33; e) any transaction in which the covered person derived an improper personal benefit; f) acts or omissions that the covered person knew or believed were clearly in conflict with the best interests of the Association; or g) any action in which the covered person is adjudged liable to the Association.

(f) **Determination and Evaluation of Indemnification.** The determination to indemnify a covered person, and the amount and terms of the indemnification shall be made:

(1) By the Board by majority vote of a quorum consisting of Board Members not at the time parties to the action.

(2) If a quorum cannot be obtained under subsection (1) by majority vote of a committee duly designated by the Board (in which designation Board Members who are parties may participate), consisting solely of two or more Board Members not at the time parties to the action.

(3) By special legal counsel

a) Selected by the Board or its committee in the manner prescribed in subsections (1) and (2) of this subsection; or

b) if a quorum of the Board cannot be obtained under subsection (1) of this subsection and a committee cannot be designated under subsection (2) of this subsection, selected by a majority vote of the full Board (in which selection Board Members who are parties may participate).

Authorization of indemnification and evaluation as to reasonableness of expenses shall be made in the same manner as the determination that indemnification is permissible, except if the determination is made by special legal counsel, authorization of indemnification and evaluation as to reasonableness of expenses shall be made by those entitled under subsection (3) of this section to select counsel.

(g) ***Reliance.*** A covered person shall be deemed to be serving the Association in reliance upon, and as consideration for the rights provided for herein. Any repeal or modification of these indemnification provisions shall not affect any rights or obligations existing at the time of such repeal or modification;

(h) ***Non-exclusivity.*** The rights provided for herein shall not be exclusive of any other rights to which the covered person may be entitled, including, without limitation, statutory rights to indemnification and benefits under policies of insurance.

**Section 17. JOINDER BY WRITTEN CONCURRENCE.** A member of the Board may join by written concurrence in any action taken at a meeting of the Board by signing and concurring in the minutes of that meeting, but such concurrence shall not be used for the purposes of creating a quorum.

## **ARTICLE V**

### **OFFICERS**

**Section 1. DESIGNATION.** The principal officers of the Association shall be a President, a Vice President, a Secretary and a Treasurer all of whom shall be elected by and from the Board. The Board may appoint an Assistant Treasurer and Assistant Secretary, and such other officers as, in their judgment, may be necessary. Officers need not be directors or members of the Association.

**Section 2. ELECTION OF OFFICERS.** Until the Period of Declarant Control has terminated, Declarant may appoint officers. Thereafter, the officers of the Association shall be elected annually by the Board at the organizational meeting of each new Board and shall hold office at the pleasure of the Board.

**Section 3. REMOVAL OF OFFICERS.** Until the Period of Declarant Control has terminated, Declarant may remove officers. Thereafter, upon an affirmative vote of a majority of the members of the Board, any officer may be removed either with or without cause, and his successor elected at any regular meeting of the Board, or at any special meeting of the Board called for such purpose. No officer shall continue to serve as such if, during his term of office, he shall cease to be a Unit Owner.

**Section 4. PRESIDENT.** The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and of the Board. He shall have all of the general powers and duties which are usually vested in the office of President of a Condominium or incorporated Association, including but not limited to the power to appoint committees from among the Co-owners from time to time as he may, in his discretion, feel appropriate to assist in the conduct of the affairs of the Association.

**Section 5. VICE PRESIDENT.** The Vice President shall take the place of the President and perform his duties when the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board shall appoint some other member of the Board to do so on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him by the Board.

**Section 6. SECRETARY.** The Secretary shall keep the minutes of all meetings of the Board and the minutes of all meetings of the Association; he shall have charge of such books and papers as the Board may direct.

**Section 7. TREASURER.** The Treasurer shall have responsibility for Association funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. He shall be responsible for the deposit of all monies and other valuable effects in the name, and to the credit, of the Association in such depositories as may from time to time be designated by the Board. He shall, in general, perform all the duties customary and incident to the office of the Treasurer.

## ARTICLE VI

### NOTICES

**Section 1. DEFINITION.** Whenever under the provisions of the Declaration or of these Bylaws notice is required to be given to the Board, any Management Agent or Unit Owner, it shall not be construed to mean personal notice; but such notice may be given in writing, by mail, by depositing the same in a post office or letter box, in a postage prepaid sealed wrapper, addressed to the Board, such Management Agent or such Unit Owners at such address as appears on the books of the Association. Notice shall be deemed given as of two (2) days after the date of mailing.

**Section 2. SERVICE OF NOTICE-WAIVER.** Whenever any notice is required to be given under the provisions of the Declaration, or law, or of these Bylaws, a waiver thereof, in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed the equivalent thereof.

## ARTICLE VII

### OBLIGATIONS OF THE UNIT OWNERS

**Section 1. MONTHLY PAYMENT.** All Members, as defined in the Declaration have certain membership rights, obligations and services as outlined in The Cedars of Chapel Hill Membership Agreement, the terms and provisions of which are incorporated herein by reference. All Members of The Club are responsible for a Monthly Payment discussed in the Membership Agreement which covers the cost of the various services provided to Members by The Club, the Overhead Payment as described in the Membership Agreement and also includes the monthly Condominium Fee for the Unit owned or occupied by the Member. The monthly Condominium Fee, as described in Section 2 below, is a cost separate from the operation of The Club and its services. The Condominium Fee is made a part of the Monthly Payment as a convenience to the Members so that the Members will only have to make one payment. If the Member is not the Owner of the Unit, the Member shall be considered jointly and severally responsible for the Condominium Fee of the Unit Owner and the Unit Owner shall likewise be jointly and severally responsible for the Monthly Payment with the Member. In such circumstances, the Member and the Unit Owner shall execute a guaranty agreement in a form approved by The Club further evidencing this joint and several responsibility.

**Section 2. ASSESSMENTS FOR COMMON EXPENSES.** All Unit Owners shall be obligated to pay the periodic assessments (also known as "Condominium Fees") imposed by the Association to meet all Association common expenses, which shall include, among other things, liability insurance policy premiums and an insurance policy premium to cover repair and reconstruction work in case of hurricane, fire, earthquake and other hazards. The common expenses may also include, but shall not be limited to, such amounts as the Board may deem proper for the operation and maintenance of the Property and any authorized additions thereto, any amount for general working capital, for a general operating reserve, for a reserve fund for replacements, and to make up any deficit in the common expenses for any prior year. In addition, because of the interrelationship of the Condominium and the Club, the term common expenses, as referenced herein, shall be construed to encompass and include the entire Monthly Payment as that term is defined in the Membership Agreement. Payment of the assessments shall be in equal monthly installments as part of the Monthly Payment on or before the first day of each month, or in such other reasonable manner as the Board shall designate. No less than thirty (30) days prior to the Annual Meeting, the Board or the designated Management Agent shall furnish all Unit Owners with a copy of the budget for the next fiscal year and shall likewise advise them of the amount of the



common charges payable by each of them, respectively, as determined by the Board or the designated Management Agent as aforesaid.

The transfer of ownership of an individual Unit within the Association shall carry with it the proportionate equity of that Unit's ownership in the Association escrow or reserve account set aside to provide a contingency fund for the maintenance and repair of the Association Property.

In addition to the periodic payments for assessments as described above, at the time of closing of the sale of each Unit (both original sale from Declarant and resales), a two month's estimated common expense assessment shall be assessed to the buyer as a working capital assessment.

**Section 3. ASSESSMENTS TO REMAIN IN EFFECT UNTIL NEW ASSESSMENTS MADE.** The omission by the Board before the expiration of any year, to fix the assessments hereunder for that or the next year, shall not be deemed a waiver or modification in any respect of the provisions of the Declaration and Bylaws or a release of any Unit Owner from the obligation to pay the assessments, or an installment thereof for that or any subsequent year, but the assessment fixed for the preceding year shall continue until a new assessment is fixed. No Unit Owner may exempt himself from liability for his contribution towards the common expenses by waiver of the use or enjoyment of any of the General or Limited Common Elements or by abandonment of his Unit.

**Section 4. RECORDS.** The Management Agent or Board shall keep detailed records of the receipts and expenditures affecting the General and Limited Common Elements and any other expenses incurred. Records and vouchers authorizing the payments involved shall be available for examination by the Owner during reasonable business hours.

**Section 5. DEFAULT IN PAYMENT OF COMMON EXPENSES.** The Board shall take prompt action to collect any common charge monthly payments, or portion thereof, due from any Unit Owner which remains unpaid for more than thirty (30) days from the due date for payment thereof. In the event of default by any Unit Owner in paying to the Board the common expenses as determined by the Board, such Unit Owner shall be obligated to pay a late charge of one and one-half (1 ½%) percent of the delinquent amount per month on such unpaid common charge from the due date thereof, together with all expenses, including attorney's fees, incurred by the Board in any proceeding brought to collect such unpaid common expenses. The Board shall have the right and duty to attempt to recover such common expenses, together with interest thereon, and the expenses of the proceeding, including attorney's fees, in an action to recover the same brought against such Unit Owner, or by foreclosure of the lien on such Unit granted by N.C.G.S. § 47C-3-116. With regard to the subordinate nature of such liens as it relates to mortgages recorded prior to the recording of any evidence of such lien, the provisions of N.C.G.S. § 47-3-116(b), as amended, shall be controlling.

**Section 6. STATEMENT OF COMMON EXPENSES OR OTHER CHARGES.** The Board shall, for a reasonable fee not to exceed Ten (\$10.00) Dollars, promptly provide any purchaser, Unit Owner, encumbrancer or prospective encumbrancer of an Unit so requesting the same in writing, with a written statement of all unpaid common expenses or other charges due from the Owner of that Unit and the purchaser's liability therefor shall be limited to the amount as set forth in the statement.

**Section 7. MAINTENANCE AND REPAIR.**

(a) Each Unit Owner or designated Member must perform work within his own Unit, which, if omitted, would affect the Property in its entirety or in a part belonging to another Unit Owner, being expressly responsible for the damages and liabilities that his failure to do so may engender.

(b) All the repairs of the Units and of those items described in Section 3.4 of the Declaration, and of all other accessories and Limited Common Elements appertaining or belonging to the Unit shall be made by the Management Agent and the cost of which shall be included in the standard Monthly Payment as provided in the Membership Agreement which is incorporated herein by reference.

(c) All maintenance, repair and replacement to the common elements as defined in the Declaration, unless otherwise provided in the Declaration, shall be made by the Board or the Management Agent and shall be charged to all the Unit Owners as a common expense, excepting to the extent that the same may be necessitated by the negligence, misuse or neglect of the Unit Owner, in which such case the expense shall be charged to such Unit Owner.

**Section 8. WATER AND SEWER CHARGES.** Water shall be supplied and sewer services shall be supplied to all Units and the Common Elements by the municipal utility provider and the costs of same shall be collected from the Unit Owners by the standard Monthly Payment paid pursuant to The Cedars Membership Agreement. The cost for such services supplied to the Common Elements shall be a common expense and shall be paid for by the Association. The Association monthly common charges shall include a budgeted amount to cover the cost of such services.

**Section 9. ELECTRICITY/GAS.** Electricity shall be included in the Monthly Payment for Villa, Veranda, Clubhouse Villa Unit Owners or designated Members. Cottage Unit Owners or their designated Members will be billed separately and will be responsible for payment of their own electricity costs. The electricity serving the Common Elements shall be paid as a common expense and shall be paid by the Association. The Association monthly common charges shall include a budgeted amount to cover the cost of such charges. Any gas utilized by the Cottage Unit Owners shall be billed separately to the Owners and shall not be part of the Monthly Payment.

**Section 10. USE OF COMMON ELEMENTS.** A Unit Owner or designated Member shall not place or cause to be placed in the passages, parking areas, roads, or other common areas any furniture, packages or obstructions of any kind. Such areas shall be held in common for the enjoyment of the Unit Owners or designated Member and shall be used for no other purpose than for normal transit through or use of them and for normal vehicular parking.

**Section 11. RIGHT OF ENTRY.**

(a) A Unit Owner or designated Member shall grant the right of entry to the Management Agent or to any person authorized by the Board in case of any emergency originating in or threatening his Unit, whether the Unit Owner is present at the time or not.

(b) A Unit Owner or designated Member shall permit the Management Agent, or its representatives, when so required, to enter his Unit for the purpose of performing installations, alterations, or repairs to the mechanical or electrical services, provided that such requests for entry are made in advance and that such entry is at a time convenient to the Unit Owner or designated Member. In case of emergency, the right of entry shall be immediate.

**Section 12. RULES OF CONDUCT.** In order to assure the peaceful and orderly use and enjoyment of the Units and Common Elements of the Association, the Board may from time to time adopt, modify, and revoke in whole or in part such reasonable rules and regulations, to be called Rules of Conduct, governing the conduct of persons on said Property of the Association as it may deem necessary. Such Rules of Conduct, upon adoption, and every amendment, modification, and revocation thereof, shall be delivered promptly to each Unit Owner by posting same with postage prepaid addressed to the Unit Owner at the last registered address of the Unit Owner and shall be binding upon all Unit Owners and the occupants of Units in the Condominium. The initial Rules of Conduct for the Condominium are as adopted by the Declarant and are attached hereto as Appendix I to these Bylaws. Subsequent Amendments shall be kept by the Management Agent on behalf of the Board and shall not require recording.

**Section 13. ABATEMENT AND ENJOINMENT OF VIOLATIONS BY UNIT OWNERS.** The violation of any rules or regulations adopted by the Board or the breach of any Bylaws contained herein, or the breach of any provisions of the Declaration, shall give the Management Agent, on behalf of the Board the right, in addition to any other rights set forth in these Bylaws: (a) to enter the Unit in which or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition, that may exist therein contrary to the intent and meaning of the provisions hereof, and the Management Agent shall not thereby be deemed guilty in any manner of trespass; or (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any

such breach and to recover the cost of such enforcement, including attorneys fees, and until such expense is recovered it shall be a lien upon said Unit which lien shall be inferior to the lien of all prior Mortgages.

**Section 14. LITIGATION.** No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of seventy-five percent (75%) of the votes eligible to be cast by the Members. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens); (b) the imposition and collection of assessments as provided herein; (c) proceedings involving challenges to ad valorem taxation; or (d) counterclaims brought by the Association in proceedings instituted against it. In the event any claim is made against Declarant or any litigation is instituted against Declarant, then the Association shall assess all Members, other than the Declarant, for the costs of the claim or litigation, including, without limitation, attorneys' fees incurred, and funds from regular assessments shall not be used for any such claim or litigation.

## ARTICLE VIII

### INSURANCE

The Board of Directors, through its Management Agent, shall be required to obtain and maintain, as set forth below, in forms and amounts as hereinafter described, the following insurance, without prejudice to the right of the Co-owner to obtain additional individual insurance at his own expense:

**Section 1. HAZARD INSURANCE.** The Board of Directors shall cause the Property to be insured, as it may be constituted from time to time, against loss or damage due to all risks of direct physical loss commonly insured against, including fire and extended coverage perils, in an amount not less than the maximum insurable replacement value of the Property as determined by the Board upon recommendation made by the Condominium's insurer, it being understood that the Board, at its discretion, may have an appraisal made of the Property for this purpose, or in the amount reasonably obtainable as it relates to certain perils. The Board shall have the authority also to insure against other hazards and risks as it may deem desirable for protection of the Property. All hazard insurance shall cover the entire Property, exclusive only of the contents and furnishings of the individual Units.

(a) All hazard insurance policies obtained by the Board, through its Management Agent, shall designate the Board as the named insured as Insurance Trustee for the benefit of all the Owners and their mortgagees collectively, as their respective interests may appear. In the event of loss or damage, all insurance proceeds shall be paid jointly to the Board of Directors as Insurance Trustee under the provisions of

this Declaration, it being understood and acknowledged that the distribution of such proceeds shall be controlled by the Act and the provisions of this Declaration.

(b) All hazard insurance policies obtained by the Board, through its Management Agent, shall provide for the issuance of Certificates of Insurance to each Unit Owner. Each Certificate shall evidence the issuance of the Master Policy and shall indicate the amount of insurance covering the building within which the respective Unit is located. If a Unit is mortgaged, a Certificate of Insurance shall be issued to the mortgagee bearing a standard mortgagee endorsement, if requested.

(c) If obtainable, all hazard insurance policies upon the Property shall include provisions waiving (i) any rights of the insurer to subrogation against the Association, its agents and employees, and against the individual Unit Owners and their servants, agents, and guests; and (ii) any rights of the insurer to contribution from hazard insurance purchased by the Unit Owner upon the contents and furnishings of their Units.

(d) Each mortgagee of which the Board has notice as herein provided shall be entitled to receive upon request a statement of the replacement value as determined in Paragraph 1 above. If any such mortgagee disagrees with the values assigned to the Property by such determination and presents an appraisal prepared at such mortgagee's expense showing higher values which has been performed by a qualified appraiser, then the Board shall either adopt the higher value or shall cause a reappraisal to be made by a qualified appraiser approved by the Board and by the appraisers who conducted the prior appraisals and the findings of the third appraiser shall be conclusive to determine such value for insurance purposes.

(e) Each hazard insurance policy shall contain a loss payee provision designating the interest of the various mortgagees as to the various Units within the Condominium which are covered by the Master Policy. Such policies shall also provide that they shall not be canceled without giving thirty (30) days prior written notice to all such mortgagees about which the insurer has been given written notice.

**Section 2. AUTOMOBILE LIABILITY INSURANCE, PUBLIC LIABILITY INSURANCE, AND UMBRELLA LIABILITY INSURANCE.** The Board shall cause to be obtained comprehensive automobile liability insurance, comprehensive public liability insurance, directors' and officers' liability insurance, and umbrella liability insurance with limits and provisions as it deems desirable and as may be obtainable. All such policies shall contain severability of interest clauses or endorsements extending coverage to liabilities of the Association to an individual Unit Owner and to liabilities of one Unit Owner to another Unit Owner.

**Section 3. WORKMEN'S COMPENSATION INSURANCE.** The Board, as necessary, shall cause to be obtained Workmen's Compensation Insurance to meet the requirements of law. Coverage "B", employers' liability, shall be obtained in minimum limits of \$500,000/each accident; \$500,000/disease policy limit; and \$500,000/disease each employee.

**Section 4. PREMIUMS.** All premiums upon insurance policies purchased by the Board of Directors shall be assessed as Common Expenses to be paid by the Unit Owners through periodic assessment as herein provided.

**Section 5. ADJUSTMENT.** Each Unit Owner shall be deemed to have delegated to the Board his right to adjust with insurance companies all losses under policies purchased by the Association, subject to the rights of mortgagees of such Unit Owners.

**Section 6. INSURANCE BY UNIT OWNERS.** Each Unit Owner shall be responsible for obtaining, at his sole expense, insurance covering the personal property (including any personal motorized vehicle, such as wheelchairs), wall coverings, decorations, and furnishings within his own Unit and the additions and improvements made by him to the Unit. (Note: if any additions or alteration to the Unit, or "custom changes" as described in Section 3.4 of the Declaration, are insured by the Board through the Condominium policy, the affected Unit Owner shall be liable for any increase in the premium attributable to the additional coverage). Each Unit Owner shall also be responsible for obtaining, at his own expense, insurance covering his liability for the safety of the premises within his Unit. All such insurance policies shall include, however, provisions waiving (i) any right of the insurer to subrogation claims against the Association and against individual Unit Owners, as well as their agents, servants, employees, and guests; and (ii) any right of the insurer to contribution or pro-ration because of the master hazard policy.

As set forth in Section 3.4 of the Declaration, the Unit Owner is responsible for any damage to his Unit or another Unit caused by his negligent action or inaction. If a claim is made against the Association's policy as a result of such negligence by a Unit Owner, then the Board may make a determination to assess any non-reimbursable expenses, such as the deductible, attorney's fees, and the like, against the negligent Unit Owner, and such assessment shall be collectible just as any other assessment described in Section 1 of Article VII of these Bylaws.

**Section 7. SUBSTITUTION OF INSURANCE TRUSTEE.** The Board, in its discretion, may decline to serve as Insurance Trustee and may appoint in its place any financial institution which is qualified and willing to act as Trustee and which also has offices in either Orange or Durham County, North Carolina. Any substitute Insurance Trustee appointed by the Board shall succeed to all of the powers and responsibilities vested in the Board as Insurance Trustee under the terms of this Declaration.

## ARTICLE IX

### RECONSTRUCTION AND REPAIR

In the event of casualty loss or damage to the Property, the Board shall be responsible for applying the proceeds of all casualty insurance to the repair or reconstruction of the Property in accordance with the provisions of N.C.G.S. § 47C-3-113(h), as amended. The Property shall be repaired in the following manner:

1. Any reconstruction or repair must follow substantially the original plans and specifications of the Property unless the Unit Owners holding seventy-five percent (75%) or more of the total interest in Common Elements and their mortgagees, if any, vote to adopt different plans and specifications.

2. The Board shall promptly obtain estimates of the cost required to restore the damaged property to its condition before the casualty occurred. Such soft costs may include such professional fees and premiums for bids as the Board deems necessary.

3. If the insurance proceeds paid to the Board are insufficient to cover the cost of reconstruction, the deficiency shall be paid as a special assessment by the Unit Owners whose units are being reconstructed or repaired in proportion to the damage done to their respective Units.

4. The insurance proceeds received by the Board and the mortgagees, and any special assessments collected to cover a deficiency in insurance shall constitute a construction fund from which the Board shall disburse payment of the costs of reconstruction and repair. The first disbursements from the construction fund shall be insurance proceeds; and if there is a balance in the fund after payment of all costs of reconstruction and repair, it shall be distributed to the Unit Owners who paid special assessments in proportion to their payments. Any balance remaining after such distribution shall be retained by the Association.

## ARTICLE X

### INSURANCE TRUST

In the event of casualty loss to the Property, all insurance proceeds indemnifying the loss or damage shall be paid jointly to the Board as Insurance Trustee and to any mortgagee holding mortgages on five or more Units. The Board, acting as Insurance Trustee, shall receive and hold all insurance proceeds in trust for the purposes stated in this ARTICLE X, and for the benefit of the Association, the Unit Owners, and their respective mortgagees in the following share:

1. Insurance proceeds paid on account of loss or damage to the Common Elements only shall be held in the same proportion as the undivided interests in the Common Elements which are appurtenant to each of the Units.

2. Insurance proceeds paid on account of loss or damage to less than all of the Units, when the damage is to be restored, shall be held for the benefit of Unit Owners of the damaged Units and their respective Mortgagees in proportion to the costs of repairing each damaged Unit.

3. Insurance proceeds paid when the entire Property is not to be restored shall be held for the benefit of all Unit Owners, and their respective Mortgagees, the share of each being equal to the undivided share or interest in Common Elements appurtenant to the applicable Unit.

4. In the event a Certificate of Insurance has been issued to a Unit Owner bearing a mortgagee endorsement, the share of the Unit Owner shall be held in trust for the mortgagee and the Unit Owner as their interests may appear; provided, however, that no mortgagee shall have any right to determine or participate in the determination as to whether any damaged property shall be reconstructed or repaired, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds except for insurance proceeds required by the loan documents to be paid jointly to the Unit Owners and their respective mortgagees pursuant to the provisions of this Declaration.



## ARTICLE XI

### MORTGAGES (DEEDS OF TRUST)

**Section 1. NOTICE TO BOARD.** A Unit Owner who mortgages his Unit shall notify the Board through the Management Agent of the name and address of his Mortgagee.

**Section 2. STATEMENTS TO MORTGAGEE.** Upon written request to the Association from any Mortgagee of which it has notice as herein provided, the Board or Management Agent shall supply such Mortgagee with a reasonably current financial statement of the Association within a reasonable time of such request.

## ARTICLE XII

### AMENDMENTS

**Section 1. REQUIREMENTS FOR AMENDMENTS.** Except as provided in the Declaration for an amendment or amendments to admit Future Phases to the Declaration, if appropriate, and except where a greater percentage is expressly required, either herein, in the Declaration or by the Act, these Bylaws may be amended only with the consent of the Owners of Units to which at least sixty-seven (67%) percent of the votes in the Association are allocated.

Notwithstanding the foregoing, so long as the Declarant remains the Owner of more than one Unit in this Condominium or any of the Future Phase Property, these Bylaws shall not be amended so as to adversely affect the Declarant without the Declarant's consent.

**Section 2. MATERIALITY OF AMENDMENTS; MORTGAGEE APPROVAL PROCEDURE.** An addition or amendment to the Bylaws or Declaration shall not be considered material if it is for the purpose of correcting technical errors, or for clarification only. Moreover, a mortgage holder who receives a written request to approve additions or amendments who does not deliver or post to the requesting party a negative response within thirty (30) days shall be deemed to have approved such request and proof of mailing such request in affidavit form, together with an affidavit of non-receipt, shall be sufficient evidence of such approval.

## ARTICLE XIII

### MISCELLANEOUS MATTERS

**Section 1. GENDER; NUMBER.** The use of the masculine gender in these Bylaws includes the feminine gender, and when the context requires, the use of the singular includes the plural.

**Section 2. DEFINITIONS.** The definitions contained in ARTICLE IV and elsewhere in the Declaration also apply to these Bylaws.

**Section 3. EXECUTION OF DOCUMENTS.** The President or Vice President and Secretary or Assistant Secretary are responsible for preparing, executing, filing and recording amendments to the Declaration and Bylaws, and shall be authorized to execute any other document which the Association may from time to time be required to execute.

**Section 4. NOTICES.** All notices required by these Bylaws shall be hand delivered or sent by mail to the Association at the address of the President; to Unit Owners at the address of the Unit or at such other address as may have been designated by such Unit Owner from time to time in writing to the Association. All notices from or to the Association shall be deemed to have been given when mailed or delivered, except notice of changes of address which shall be deemed to have been given when received.

**Section 5. CAPTIONS.** The captions contained in these Bylaws are inserted as a matter of convenience and for reference, and in no way define, limit, or describe the scope of these Bylaws or the intent of any provision of the Bylaws.

**Section 6. INVALIDITY.** The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability or effect of the balance of these Bylaws.

**Section 7. CONFLICT.** These Bylaws are set forth to comply with the requirements of the North Carolina Condominium Act ("Act"), as amended. In the event of any conflict between these Bylaws and the provisions of such Act or the Declaration, the provisions of such Act or the Declaration, as the case may be, shall control.

**Section 8. WAIVER.** No restriction, condition, obligation, or covenant contained in these Bylaws shall be deemed to have been abrogated or waived by reason of failure to enforce the same, irrespective of the violations or breaches thereof which may occur.



APPENDIX I  
TO BYLAWS  
OF  
THE CEDARS OF CHAPEL HILL CONDOMINIUM

RULES OF CONDUCT

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1. Residents shall exercise extreme care to avoid unnecessary noise or the use of musical instruments, radios, televisions and amplifiers that may disturb other residents.
2. No Unit Owner or designated Member shall:
  - (a) Post any advertisements or posters of any kind in or on the Property except as authorized by the Association;
  - (b) Hang garments, towels, rugs, or similar objects from the windows or balconies or from any of the facades of the Property;
  - (c) Clean dust mops, rugs or similar objects from the windows or balconies by beating on the exterior part of the Property;
  - (d) Throw trash or garbage outside the disposal installation provided for such purpose in the service areas;
  - (e) Act so as to interfere unreasonably with the peace and enjoyment of the residents of the other Units in the Property;
  - (f) Maintain any pets which cause distress to Co-owners through barking, biting, scratching, soiling, or damaging of property or otherwise fail to comply with the project's pet policy.
  - (g) Operate, park, or store on the Property any recreational vehicles, motor homes, motorcycles, mopeds, trucks, trailers, commercial vans or boats without permission of the Executive Director.
  - (h) No Unit Owner or designated Member shall install wiring for electrical or telephone installations, television or radio antenna, air conditioning fixtures, or similar objects

outside of his dwelling or which protrudes through the walls or the roof of the Unit except as authorized by the Executive Director.

3. It shall be the responsibility of each Unit Owner to prevent any unclean, unsightly or unkempt condition in or around his Unit or elsewhere on the Property's grounds, which shall tend to substantially decrease the beauty of the neighborhood as a whole or the specific area.

4. No structure of a temporary character shall be placed upon the Property at any time, provided, however, that this prohibition shall not apply to shelters or temporary structures used by the contractor or developer during the construction of the Future Phase Property, it being clearly understood that these latter temporary shelters may not, at any time, be used as residences or permitted to remain on the Property after completion of construction. The design and color of structures temporarily placed on the Property by a contractor shall be subject to reasonable aesthetic control by the Declarant.

5. No tent, barn, tree house or other similar outbuilding or structure shall be placed on the Property at any time, either temporarily or permanently; provided, however, that the Declarant reserves the right to grant approval in writing for temporary construction facilities to be placed on the Property.

6. No noxious or offensive activity shall be carried on, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or nuisance to the other Owners. There shall not be maintained any plants or animals, or device or thing of any sort whose normal activities or existence is in any way noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of other property by the other Owners.

**EXHIBIT D**

**MANAGEMENT AGREEMENT BETWEEN THE CEDARS  
OF CHAPEL HILL CONDOMINIUM ASSOCIATION AND  
THE CEDARS OF CHAPEL HILL CLUB, INC.**

**THE CEDARS OF CHAPEL HILL CONDOMINIUM  
MANAGEMENT AGREEMENT**

THIS CONDOMINIUM MANAGEMENT AGREEMENT ("Agreement") is made and entered into effective the 11<sup>th</sup> day of February, 2002, by and between **THE CEDARS OF CHAPEL HILL CONDOMINIUM ASSOCIATION** (the "Association") and **THE CEDARS OF CHAPEL HILL CLUB, INC.** ("The Club") which said terms shall be deemed to extend to and include the legal representatives, successors and assigns of the said parties hereto.

**WITNESSETH:**

**WHEREAS**, The Cedars of Chapel Hill, L.L.C., a North Carolina limited liability company (the "Company") is the developer of that planned continuing care retirement community in Chapel Hill, Orange and Durham Counties, North Carolina, known as The Cedars of Chapel Hill Continuing Care Retirement Community ("The Cedars"), one key component of which is The Cedars of Chapel Hill Condominium (the "Condominium"), consisting of the Units and the Limited and General Common Elements which are more particularly defined and described in the Declaration of Condominium for The Cedars of Chapel Hill dated July 22, 2004 and recorded on July 27, 2004 in the Office of the Clerk of Court for Orange County, North Carolina in Book 3509 at Page 57 and in Plat Book 162 at Pages 234-240 and in Durham County, North Carolina in Book 4483 at Page 1-107 and Plat Book 94 at Pages 169-171, (the "Declaration") and the second key component of which is The Cedars of Chapel Hill Club, Inc. which provides its members ("Members") with certain rights, privileges and responsibilities of membership through which they are provided access to and use of the Club Facilities which consist of the Clubhouse and the Health Care Center (the "Club Facilities") which are more particularly described and defined in that certain Membership Agreement, a copy of which is attached to and made a part of the Declaration (the "Membership Agreement"); and

**WHEREAS**, because of the close functioning inter-relationship of the Condominium and The Club, the Association is desirous of entering into a management agreement with The Club by which The Club agrees to undertake the management and operation of the affairs of the Condominium in conjunction with the operation of the Club Facilities by providing the management services set forth herein in the manner outlined in these recitals and as set forth hereinafter and to perform those duties and responsibilities in the manner contemplated by the Declaration and Bylaws of the Condominium; and

**NOW, THEREFORE**, the premises considered and in consideration of the mutual promises and covenants and other considerations herein contained, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1        Recitals. The foregoing recitals are true and correct and are incorporated into this Agreement.

2. Definitions. The terms used herein have the meanings set forth in the Bylaws and Declaration of the Condominium, the Membership Agreement and as defined herein. When the term "Association" is used herein it shall mean and refer to The Cedars of Chapel Hill Condominium Association, a nonprofit North Carolina corporation, which is the incorporated council of Co-Owners responsible for governance of the Condominium. In certain instances the terms "Association" and "Condominium" are interchangeable.

3. Employment of The Club as Management Company The Association does hereby agree to employ The Club as the exclusive manager of the Condominium's affairs and operations within The Cedars and as manager of the Condominium's real and personal property appurtenant thereto, and The Club hereby accepts such employment subject to the stipulations, terms and conditions as herein provided. The initial term of this Agreement shall be for a period of twenty (20) years from the date of establishment of the Condominium. At the end of the initial twenty (20) year term, this Agreement shall be automatically extended for five (5) five-year renewal terms (a) unless The Club shall give the Association notice of termination not less than three (3) months nor more than six (6) months prior to the date of renewal; or (b) unless thirty five percent (35%) or more of the Unit Owners (based on percentage of ownership) shall petition the Association to submit the question of agreement extension to a referendum approval of a majority (by percentage of ownership) of the Unit Owners eligible to respond to the referendum and the result of such referendum is an affirmative vote to terminate.

4. Powers and Duties of The Club. Provided the Club is performing its duties and obligations under this Agreement, during the period of time it is providing management services hereunder, The Club shall have, exclusively, all the powers and duties as set forth in this Agreement, exempting only such powers and duties as are specifically reserved to and required to be exercised by the Unit Owners by the terms of this Agreement. The Association shall not interfere nor permit, allow, or cause any of the officers, directors or Unit Owners to interfere with The Club in the performance of its duties or the exercise of any of its powers hereunder. Moreover, when this Agreement calls upon The Club to undertake a duty, arrange for a service, acquire supplies, goods or services or otherwise incur any expense for the benefit of the Condominium, it is understood that such expense is an expense of the Condominium and not of The Club. Effective with The Club commencing to provide management services hereunder, the Association hereby expressly grants and delegates to The Club the following authority, powers and duties:

a. Collection of Condominium Fee. The Membership Agreement provides that all Members of The Club shall be responsible for a Monthly Payment which covers (i) the Service Fee, consisting of the cost of the various services provided to Members by The Club as more particularly described in said Membership Agreement, (ii) a portion of the Overhead Payment, also as described in the Membership Agreement, and (iii) the Condominium Fee, consisting of the monthly Condominium fee for each of the Units. The Condominium Fee is computed by use of the percentages for each Unit set forth in the Declaration as applied to the total amount of the annual Budget of the Condominium. The Condominium Fee component of the Monthly Payment shall be adjusted annually as provided in the Bylaws of the Condominium and based upon the annual budgets of the Condominium covering such factors as operating costs, anticipated inflation during the coming year, and the need to maintain working capital, anticipated capital improvements and debt service, if any, necessary for repair and expansion of the facilities of the Condominium.



The Club shall cause to be collected from all Members the Monthly Payment which is authorized under the Declaration and the Membership Agreement. The Condominium Fee, as one component of the Monthly Payment, shall be payable to The Club, or such other firm or entity as The Club shall direct. The Club shall have the right to collect and account for the Condominium Fee component of the Monthly Payment on behalf of the Condominium. The Association hereby authorizes the Club, in its sole discretion, to request, demand, collect, receive and receipt for any and all assessments, charges, and late fees which may be due the Association, and to take such action in the name of the Association by way of making, recording, satisfying, foreclosing the Association's lien therefor, initiating legal process or taking such other action as The Club may deem necessary or appropriate for the collection of such Condominium Fee or other assessment. It is specifically understood that The Club does not undertake to pay Condominium Fees from its own funds and shall only be required to perform its services, and make disbursements to the extent that, and so long as, payments received from the Condominium Fee portion of the Monthly Payments or other revenue, if any, of the Condominium are sufficient to pay the costs and expenses of such services and the amounts of such disbursements. If it shall appear to The Club that the Condominium Fee and other revenue, if any, of the Condominium are insufficient, The Club shall forthwith determine such additional amounts as are required and advise the Unit Owners of the Condominium accordingly. The Club shall discharge or cause to be discharged the responsibilities of the Association under the Membership Agreements by discharging those responsibilities and providing those services in the manner contemplated by the Bylaws of the Association.

b. Employees/Contractors. The Club shall cause to be selected, employed, supervised, directed and discharged, in its absolute discretion, either in its name and/or in the name of the Association as The Club shall determine, such persons, either as employees of The Club, employees of the Association or as independent contractors, and such companies or consultants, as it may require to function hereunder. It is noted that The Club may deal with entities affiliated with itself for on-site concessions or other services without conflict or self-dealing as long as the financial arrangements are equitable.

c. Upkeep, Maintenance, Repair and Alterations. Subject to available funding, The Club shall cause or contract for the Common Elements and Limited Common Elements of the Condominium to be kept in conformity with good maintenance and landscaping practices and shall cause a contract to be performed for any repairs, replacement, refurbishment or maintenance involving specialty work, including but not limited to electricians, plumbers, carpenters, etc. The Club shall cause or contract for such alterations and/or additions to be made to the Common Elements of the Condominium, as it shall in its reasonable discretion deem necessary or appropriate for the proper functioning of the Condominium to serve the Unit Owners in a reasonable, convenient and efficient manner. As to the foregoing, The Club shall be paid for the cost of its personnel, materials and equipment in regard thereto, and any and all contractors, subcontractors or materialmen as are required therefor. If maintenance and/or repair of the Common Elements of the Condominium is required due to loss by an Act of God or other cause, which is other than normal wear and tear, then in such event, The Club shall be authorized and empowered to determine, assess, charge and levy the costs of repairing

and restoring such loss among the Unit Owners in such proportions as it deems advisable, pursuant to the Declaration, notwithstanding the fact that said loss or damage was, or was not, covered by insurance. Said total assessment shall be equal to the cost of said repair, which shall include the costs of The Club's contractors, subcontractors, or materialmen as are required. Should the loss be covered by insurance, the proceeds thereof shall be applied as a credit against the total costs of said repair and restoration in such proportions as hereinbefore set forth in this paragraph. It shall be presumed that the first monies disbursed in payment of costs of repair and restoration shall be from insurance proceeds, where such are received, and then such assessments collected. Should there be a surplus of such funds, then said surplus shall be distributed to or on behalf of the Unit Owners in a manner contemplated by the Declaration and Bylaws of the Condominium.

d. Purchase or Rental of Equipment, Etc. The Club shall purchase or rent equipment, goods, supplies and materials as shall be reasonably necessary to perform its duties as set forth herein. Purchases or rentals shall be made in the name of The Club, or the Association, as The Club deems appropriate. When making purchases or rentals, The Club shall make a reasonable effort to obtain the best price available, all factors considered. However, it shall, with impunity, purchase or contract as it deems advisable and in the best interest of the Condominium.

e. Insurance. The Club shall, on behalf of the Association, cause to be placed or kept in force all insurance required or permitted by the Declaration, applicable North Carolina law, and the Bylaws of the Condominium to be kept or placed by the Condominium. The Club shall cause the insurance policies to have the Declarant, the Condominium, the Association and The Club named as co-insureds and certificate holders under the policy as their interests may appear. And, further, The Club is empowered to otherwise exercise all the rights, powers and privileges of the Association under such insurance with regard to the distribution of proceeds resulting from minor losses payable to the Association.

f. Recordkeeping. The Club shall maintain a separate set of financial record books, accounts and other records for the Condominium as provided by the Condominium's Bylaws and North Carolina law, and as necessary, issue certificates of account to Unit Owners, without liability for errors, unless as a result of gross negligence. In connection with this duty, The Club shall cause the fiscal year of the Association to be set on a calendar year basis. Such records shall be sufficient to describe its services hereunder and in accordance with prevailing accounting standards to identify the source of all funds collected by it and the disbursements thereof. Such records shall be kept at the offices of The Club and shall be maintained at the expense of the Condominium and at no cost to The Club. These books and records should be reasonably available for inspection by the duly elected officers of the Board of Directors of the Association, at reasonable times and with a minimum of seventy-two (72) hours prior written notice. It is understood that any of the foregoing inspections shall be conducted without cost to The Club and without unreasonable disruption to the employees and operation of The Club in the conduct of its duties pursuant to this Agreement. Any expenses associated with copying of records shall be a cost of the Condominium unless a request is made by a group of Unit Owners, and in such case the cost shall be borne by such Unit Owners.

g. Audits. The Club shall perform a continual internal review of the Association's financial records for the purpose of verifying same. At the Association's expense, it shall arrange for an independent audit of all the books and financial records of the Association by a certified public accountant in accord with generally accepted auditing standards, which accountant shall be selected either by The Club or the Association with the approval of the other party, which approval shall not be unreasonably withheld.

h. Reserves. As part of the budgetary process, The Club shall assist in the quantification and establishment of appropriate reserves for the Condominium which may be for the payment of general operating and/or capital expenditures, or for special and specific purposes as provided in Article IV, Section 3 of the Bylaws of the Condominium. In either event, The Club shall collect and account for such funds and disburse the same in the course of its performance of its duties under this Agreement. It is recognized that separate special reserve accounts will be maintained by The Club for anticipated costs, including the acquisition and replacement of roofs or periodic refurbishment of parking and drives, repair and replacement of certain fixtures and similar types of anticipated costs. Once a reserve account is at a level which in The Club's discretion is satisfactory, The Club may utilize the excess funds for capital replacements and refurbishing purposes for the Condominium.

i. Funds. The Club shall receive and deposit all funds collected from or on behalf of Unit Owners, or otherwise accruing to the Condominium, in special bank accounts of the Association which are under the control of The Club in banks or other appropriate financial institutions in the State of North Carolina or elsewhere, with suitable designation indicating the custodial nature thereof, separate from similar funds collected by The Club on behalf of other parties, if any. Receipt of the foregoing funds by The Club shall not constitute income to it for income tax purposes since such funds are received and held in a custodial capacity only in an account in the name of the Association although said account is managed by The Club.

j. Budget and Special Assessments or Charges. The Club shall prepare a separate recommended operating budget for the Condominium setting forth an itemized statement of the anticipated receipts and disbursements for the year for which such budget is being prepared, taking into account the general condition of the Condominium, which budget shall comply with the requirements of the Bylaws of the Condominium. A copy of the budget shall be distributed to the Unit Owners at least thirty (30) days prior to the commencement of the year for which it has been made.

The budget for the Condominium, which shall result in the annual establishment of the Condominium Fee for each Unit in the Condominium, will be based upon the actual cost necessary to operate the Condominium and to establish appropriate reserves. The total cost of operating the Condominium shall be divided among the Units in accordance with the percentage of interest of ownership in the Common Elements as set forth in Exhibit "F" of the Declaration. The terms and conditions of that Exhibit "F" as it now exists and as it may be expanded from time to time by amendments to the Declaration to admit additional phases to the Condominium, are incorporated herein by reference. As previously noted, The Club shall prepare and distribute to the Unit Owners within the Condominium at least thirty (30) days prior to the commencement of the year

for which the Condominium budget is made and at least ten (10) days in advance of the Association's annual meeting which shall customarily be held in November. Notwithstanding The Club's responsibility and authority to formulate and distribute the budget as hereinabove provided, the Bylaws of the Condominium provide that the budget may be modified by the Association at the annual meeting or at a special meeting of the Association by a three-fourths (3/4ths) vote of the Unit Owners eligible to vote, in person or by proxy.

After the budget of the Condominium undergoes and completes the preparation and distribution process as outlined above, that budget shall serve as the supporting document for the Condominium component of the scheduled Monthly Payments. That budget shall likewise serve as a limiting factor in the establishment of economic guidelines for the Condominium's operations and shall be administered by The Club as outlined in this Agreement. The Club shall be authorized to impose a special charge or assessment against a Unit Owner/Member for those items as set forth in the Membership Agreement and in this Agreement which are services provided to the Member which are outside the scope of the Monthly Payment, including, but not limited to, those items outlined in Paragraphs 8 and 9 of the Membership Agreement.

k. Experts. The Club shall retain or employ attorneys-at-law, tax consultants, certified public accountants, health consultants, and other such experts and professionals whose services The Club may reasonably require to effectively perform its duties and exercise its powers hereunder. The Club shall retain such professionals and experts as it may hire on such basis as it deems most beneficial. The employment by the Association of other such professionals and experts on its own account, shall neither affect The Club's rights to employ and continue the employment of the professionals and experts, nor relieve the Association of its obligation to pay its share of the cost of professionals and experts retained by The Club, as elsewhere herein provided.

l. Unlimited Access. As Management Agent, The Club shall have access at all times to the General Common Elements and Limited Common Elements of the Condominium for purposes of managing, providing services, controlling, providing upkeep or for the making of emergency repairs, to make additions and expansions to the Common Elements and otherwise manage and maintain the Common Elements in the manner contemplated by the Declaration, the Bylaws, the Membership Agreement and this Agreement. Per the terms of the Declaration, The Club shall likewise have access to the Units for the making of emergency repairs.

m. Utilities. The Club shall contract for utilities, repairs and other services necessary or desirable for the management, maintenance, administration and operation of the Common Elements of the Condominium. Such contracts may be in the name of the Association, the Condominium or The Club, as The Club may elect.

n. Accounting. By way of summary to certain of the functions described above, The Club's general accounting responsibilities pursuant to this Agreement are as follows: (i) financial statements (profit and loss; balance sheet); (ii) billing for services and expenses; (iii) collection and posting of payments on account; (iv) disbursement of funds; (v) periodic placement of surplus funds in interest-bearing accounts; (vi) assemble data necessary for the preparation of the Association's state and federal income tax

returns; (vii) selection of auditors to conduct the annual audits of the books of the Association and assisting with and supervising the conduct of said audit; and (vii) such other duties as would properly fall within an accounting function and are performed routinely in similar circumstances

o. Interiors of the Common Elements. The Club shall maintain and replace the personal property within the Clubhouse and Health Center and any other Common Elements of the Condominium as necessary, at the cost and expense of the Club, and as consistent with an established reserve for replacement schedule recommended by The Club and adopted or approved by the Condominium.

p. Concessions and Licenses. The Club shall have the authority to obtain any requisite licenses, such as health licenses, ABC licenses, etc. in its name on behalf of the Condominium. Further, the Club shall have the authority to contract, upon such terms and conditions and for such purpose as The Club deems necessary, in its sole discretion, and grant concessions and licenses to persons to provide facilities and services as to and within the Common Elements of the Condominium and purchase, rent or cause to be installed coin-vending machines and coin-operated equipment and pay telephones within the Common Elements and to purchase same on behalf of and at the cost and expense of the Condominium. All income derived from the foregoing grant of concessions and licenses shall inure to the benefit of the Condominium and all expenses appertaining thereto shall likewise be borne by the Condominium. The Association and The Club hereby recognize that agreements, concessions and licenses may be entered into to provide facilities and services as specified herein for very nominal or no compensation whatsoever. The Club may enter into same, in its sole discretion, and it shall use its best judgment; however, it shall not be responsible for the fact that a greater sum might have been obtained or a shorter period contracted for. Additionally, it is specifically understood by the parties hereto, that except in the case of vending equipment, The Club shall not be precluded from executing agreements or granting concessions or licenses to itself in a capacity other than as herein or to an affiliated company, nor shall such action be considered to be self-dealing so long as it is equitable.

q. General Administration. The Club shall assist the Association in its organization of the meetings of the members of the Board of Directors of the Association and the meetings of the Unit Owners, including the preparation and delivery of the notices of the meetings and the preparation of ballots and proxy forms. The Club shall assist the Board of the Association in the preparation of the agenda for the meetings and in the conducting of the meetings. The Club shall have a representative of its organization attend meetings of the Board and of the Unit Owners properly called according to the Bylaws; however, it is understood and agreed that the minutes of all such meetings, whether of the Board or of the Unit Owners, shall be taken by the Secretary of those bodies, and possession of the minute book shall be in the custody of said Secretary (who may entrust it to The Club), who shall always be officially responsible for preparing and furnishing notices of all meetings to the required parties. The Club shall keep all records of the affairs of the Condominium, including but not limited to, minutes of meetings (if so entrusted), correspondence, modification of the Bylaws, Rules and Regulations, etc.

r. Frequency for Performance of Duties. The services, obligations and responsibilities to be performed by The Club shall be performed as often as set forth hereinabove; however, if no time frame is specified, then The Club shall perform its services, obligations and responsibilities under this Agreement as often as it, in its sole discretion, and in accordance with all applicable laws and regulations, deems necessary

s. Consolidated Services. As previously acknowledged, the Condominium recognizes that The Club and its employees and agents will be performing similar services on its own behalf as it relates to the Club Facilities. In this regard, The Club is authorized and directed to provide or cause to be provided such services as appropriate on a consolidated basis. To require The Club to cost account in every instance with regard to the activities of the Condominium and The Club and other persons in interest as to said entities, could substantially increase the costs of administration hereunder borne by The Club. Accordingly, the Club is hereby granted the power to allocate to the Condominium and to The Club each party's appropriate and fair sharing of such costs and expenses as are general, and as to those which are not general, to charge the same to the appropriate party(ies) on such basis (weighted or not) as The Club deems fair and equitable.

5. Application and Enforcement of Collections. All Condominium Fees, assessments and other revenues of the Condominium which The Club shall collect shall be applied and disbursed and otherwise expended or reserved by The Club to pay all expenses of the Condominium and costs and expenses of the services rendered by The Club under this Agreement. It is recognized that the services to be provided by The Club in its performance hereunder are limited necessarily by budgetary constraints and therefore the level of services, e.g., upkeep and landscaping, can only be as high as the Condominium's budgets will allow

6. Compensation.

a. The Club's services rendered under this Agreement are within the context of the management and administrative structure set forth in the Membership Agreement. While The Club does not receive a separate management fee as part of the Condominium budget, however, said budget, together with the service fee budget, will include the cost of the Overhead Payment as referenced above, which is substantially the equivalent of 10 percent of the total operating costs of the Condominium and The Club.

b. In the event of any special projects that arise which are outside the purview of the budget or maintenance fee schedule, and if The Club is requested by the Association to supervise same, The Club shall be entitled to reimbursement of all expenses plus a supervision or administration fee as will be mutually agreed upon by the parties at the time. An example of such a special project would be additional accounting services required of The Club to implement special assessments, including separate accounting when separate checking accounts are required, special billings which are not included with regular billings, analysis and feasibility studies for special assessments, the supervision of substantial and material additions to the Common Elements of the Condominium and similar substantial non-routine activities.

c. It is recognized that the Condominium's budgets cannot always address all potential contingencies and, much the same as special projects which arise from time to time, if the Association is either involved in, or about to be involved in, litigation, The

Club may be called upon, from time to time, to testify, provide information, and/or consultation. In such event, The Club shall be entitled to recoup, at a rate of 1.5 times the actual employee expense, any time spent by The Club's employees in litigation matters of the Condominium. The Club shall keep hourly records when such a situation arises and shall provide monthly statements to the Association for reimbursement.

7 Default.

a. By the Association. If Unit Owners shall interfere with The Club in the performance of its duties, the exercise of its powers hereunder, or if the Association shall fail to promptly pay any of the things required of it hereunder, including but not limited to, the assessments of its members of amounts sufficient to defray in full The Club's costs, expenses and compensation due it as herein defined, and to otherwise pay all of the sums mentioned herein, The Club, thirty (30) days after having given written notice to the Association of said default, by delivering said notice to an officer of the Association, or in their absence, to any member of the Board of the Association, may declare this Agreement in default. Unless such default is cured by the Association within sixty (60) days after such notice, The Club may, in addition to any other remedy given it by agreement, bring an action for damages and/or specific performance and/or exercise such other such rights or pursue such other remedy as the law may provide or permit.

b. By The Club. Failure by The Club to perform its duties and obligations under this Agreement for a continuous period of sixty (60) days after written notice of default from the Board of the Association specifying the default complained of, shall be grounds for the Association's declaring a default of this Agreement. If The Club has not, within sixty (60) days after receiving such notice, cured the default, or if such default is of such a nature that it cannot be cured within the aforementioned sixty-day period and The Club has not within such period commenced and at all times thereafter continued diligently to proceed with all acts required to cure such default, this Agreement may be terminated without prejudice after sixty (60) days additional written notice within which no cure is effected, subject, however, to any and all rights and remedies available to The Club.

c. Rights/Remedies. All of the rights of The Club and the Association set forth above in the event of the other's default shall be cumulative, and the exercise of one or more remedies shall not operate to exclude or to constitute a waiver of any other or additional remedy

8. Termination of Agreement. The process for, consequences and implications of the termination of this Agreement are as follows:

a. In the event that this Agreement is terminated pursuant to any of the provisions herein, then all compensation owed The Club under Paragraph 6 and all outstanding charges or expenses incurred by The Club under the terms of this Agreement, which are to be paid or reimbursed by the Association, but not paid at the time of termination, shall be paid by the Association. Any funds of the Association which are in excess of said outstanding charges or expenses shall be paid over to the Association by The Club within thirty (30) days after termination of this Agreement. The Club, within thirty (30) days after termination, shall supply a final statement of account and shall make

available to the Association all office records, books and accounts, and such other information as the Association shall require to enable it to continue to maintain and operate the Common Elements of the Condominium.

b. It is recognized by the Association that the employees, agents and other key personnel of The Club are key elements to its success as a competitive manager. Accordingly, the Association agrees that it shall not offer employment or independent contractual relationship with the employees, agents, independent contractors or other key personnel of The Club during the term of this Agreement or for a period of two (2) years after termination of this Agreement, for whatever reason, without The Club's prior written consent. Any violation of this provision shall give rise to the right of The Club to commence a suit for relief, either in law or in equity

c. It is recognized that the Company has certain pre-existing rights to deferred developer entitlements as described in the Declaration and in the Membership Agreement and also referenced hereinabove. This represents compensation for the deferral of certain usual and customary developer fees to compensate the Company for its efforts and risk in developing the project. Therefore, those entitlements shall survive and shall in no way be diminished or impacted by the termination of this Agreement. The criteria by which Membership Fees and the Overhead Payment are determined and the timing and method by which they are paid shall be as outlined in the Membership Agreement and the Declaration, as well as in the Management Agreement by and between the Company and the Club. Therefore, no termination of this Condominium Management Agreement shall alter those entitlements or the manner in which they are to be paid and delivered.

9 Indemnification. The Club shall not be liable to the Association or the Unit Owners, for any loss or damage not caused by The Club's own gross negligence or willful misconduct. The Association agrees to indemnify, defend and hold The Club harmless from all damage suits in connection with the administration of the herein described property and from liability from injury suffered by any employee or other person whomsoever, and to carry or cause to be carried, necessary public liability (of not less than One Million Dollars per occurrence) and workmen's compensation insurance adequate to protect the Association and The Club and in the minimum amounts required by law, and will name The Club, as co-insured or as additional insured as designated above in Paragraph 4(e). The Club shall also not be liable to the Association or to any person or entity claiming by, through or against the Association for any error of judgment or for any mistake of fact or law, or for anything which it may do or refrain from doing hereafter, except in cases of gross negligence or willful or intentional misconduct.

10. Severability If any section, sub-section, sentence, clause or phrase or word of this Agreement shall be for any reason held or declared to be inoperative or void, such holding will not affect the remaining portions of this Agreement and it shall be construed to have been the intent of the parties that the remainder of this Agreement, after the exclusion of such parts, shall be deemed and held to be as valid as if such excluded parts had never been included herein.

11 Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective legal representatives, successors and assigns. The Association, on behalf of the Unit Owners, and The Club, shall both have the right to assign this Agreement as herein set forth. The Association may assign its right, title, and interest herein



to a successor entity assuming all rights and responsibilities of the Association. The Club may assign its right, title and interest herein to another duly qualified management company operating under the laws of the State of North Carolina. However, said assignment shall not be valid unless and until the assignee thereunder expressly assumes and agrees, in writing, to perform each and every covenant and term of this Agreement. The Club may also subcontract all or portions of its duties and powers under this Agreement. In the event an assignment of this Agreement is made by The Club to a third party, notice of such assignment and a copy shall be provided to the Condominium and the terms and conditions contained herein shall survive and be binding upon the assignee.

12. Multiple Originals. For the convenience of the parties hereto, any number of counterparts hereof may be executed and each such counterpart shall be deemed to be an original instrument.

13. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of North Carolina.

14. Classification of Headings. Titles of the paragraphs and subparagraphs included herein have been inserted as a matter of convenience of reference only and shall not affect the meaning or construction of any of the terms or provisions hereof.

15. Waiver. Waiver of any party at any time or times to demand strict performance by the other of any of the terms, covenants, or conditions set forth herein shall not be construed as a continuing waiver or relinquishment thereof and each may at any time demand strict and complete performance by the other of said terms, covenants and conditions.

16. Notices. All notices required to be given hereunder shall be either hand-delivered or sent by U.S. mail, certified return receipt requested. Notices to be sent to The Club shall be sent to the then-current President or Secretary at the address set out below and notices to be sent to the Condominium shall be sent to the then-current President or Secretary at the address set out below and it is agreed that notice to the Condominium shall also constitute notice to the Association:

As to The Club:  
The Cedars of Chapel Hill Club, Inc.  
100 Cedars Club Lane  
Chapel Hill, North Carolina 27517  
Attention: (Current Pres. or Secretary)

As to the Association:  
The Cedars of Chapel Hill Condominium Association  
100 Cedars Club Lane  
Chapel Hill, North Carolina 27517  
Attention: (Current Pres. or Secretary)

17 Authority of Parties Hereto. The undersigned representatives of the parties hereto hereby represent and warrant that they have full power and authority to execute this Agreement, that this Agreement is being executed pursuant to all required corporate approvals, and that they have full power and authority, without joinder of any other persons or need for subsequent approvals, to bind the respective parties hereto.

18. Entire Agreement. This Agreement, together with the Declaration and the Exhibits attached thereto, and any amendments thereto, including this Agreement and all documents and instruments incorporated herein by specific reference are intended by the parties hereto to be the final expression of their agreement and constitute a complete and exclusive statement of the terms thereof notwithstanding any representations or statements to the contrary

IN WITNESS WHEREOF the parties have executed this Agreement effective the day first above mentioned.

SIGNED, SEALED AND DELIVERED  
IN THE PRESENCE OF

THE CEDARS OF CHAPEL HILL CLUB, INC.,  
a North Carolina nonprofit corporation

Donald G. Jordan

By: Philip Winduff

Secretary

Its: President

[Signature]

THE CEDARS OF CHAPEL HILL  
CONDOMINIUM ASSOCIATION

By: Philip Winduff

Secretary

Its: President



**EXHIBIT E**

**MANAGEMENT AGREEMENT BETWEEN THE CEDARS  
OF CHAPEL HILL CLUB, INC. AND THE CEDARS OF  
CHAPEL HILL, LLC.**

STATE OF NORTH CAROLINA )  
 )  
COUNTY OF ORANGE )           MANAGEMENT AGREEMENT

THIS MANAGEMENT AGREEMENT ("Agreement") is made and entered into effective the 11<sup>th</sup> day of February, 2003 by and between THE CEDARS OF CHAPEL HILL, LLC, a North Carolina limited liability company, whose address is 190 Finley Golf Course Rd., Durham, North Carolina 27517 (the "Company") and THE CEDARS OF CHAPEL HILL CLUB, INC. ("The Club") which said terms shall be deemed to extend to and include the legal representatives, successors and assigns of the said parties hereto.

WITNESSETH:

WHEREAS, the Company is the Developer of that planned continuing care retirement community in Chapel Hill, Orange and Durham Counties, North Carolina, known as THE CEDARS OF CHAPEL HILL ("The Cedars"), one key component of which is The Cedars of Chapel Hill Condominium ("the Condominium"), consisting of the Units and the Limited and General Common Elements which are more particularly defined and described in the Declaration of Condominium for the Cedars of Chapel Hill dated July 22, 2004, and recorded on July 27, 2004, in the Office of the Register of Deeds of Orange and Durham Counties, North Carolina, in Book 3509 at Page 57 (Orange County), and in Book 4483 at Page 1-107 (Durham County), and in Plat Book 94 at Pages 234-240 (Orange County), and in Plat Book 162 at Pages 234-240 (Durham County) (the "Declaration"); and

WHEREAS, the second key component of The Cedars is The Cedars of Chapel Hill Club, Inc. which provides its members ("Members") with certain rights, privileges and responsibilities of membership through which they are provided access to and use of certain facilities consisting of, in substantial part, a clubhouse (the "Clubhouse") and a health care center (the "Health Care Center") (collectively the "Club Facilities") which are more particularly described and defined in a certain standard form membership agreement, the terms and provisions of which are incorporated herein (the "Membership Agreement"); and

WHEREAS, the Club Facilities are subject to the Declaration and are part of Phase I of the Condominium; and

WHEREAS, because of the close functioning inter-relationship of the Condominium and The Club, the Condominium has entered into a management agreement with The Club by which the Condominium has contracted with The Club to manage the operation and affairs of the Condominium in conjunction with the operation of The Club (the "Condominium Management Agreement"), which is incorporated by reference herein; and

WHEREAS, The Club and the Company are both parties to, and obligated to ensure deliver of certain services under, the Membership Agreement, and as between The Club and the Company, The Club is desirous of having the Company provide the management services set

forth herein in the manner outlined in these recitals and as set forth hereinafter and to perform those duties and responsibilities as contemplated by the Membership Agreement.

**NOW, THEREFORE**, the premises considered and in consideration of the mutual promises and covenants and other considerations herein contained, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Recitals. The foregoing recitals are true and correct and are incorporated into this Agreement.

2. Definitions. The terms used herein have the meanings set forth in the Declaration of Condominium, the Membership Agreement and as defined herein.

3. Employment of the Company as Management Company The Club does agree to employ and hereby employs the Company as the exclusive manager of The Club's affairs and operations within The Cedars and as manager of The Club's real and personal property, and the Company hereby accepts such employment subject to the stipulations, terms and conditions as herein provided. It is recognized that The Club, at its sole cost and expense, as assignee of the Company, has contracted with Life Care Services Corporation ("LCS") for the performance of certain duties associated with operation and administration of The Club pursuant to that certain Client Services Agreement dated November 3, 1999 (the "Client Services Agreement"), which Agreement is incorporated by reference herein. The Company shall be responsible for supervising and evaluating the activities of LCS in their performance of the Client Services Agreement. Recognizing that the smooth and efficient operation of The Cedars is dependent in part upon LCS's performance under the Client Services Agreement and LCS's responsiveness to the Company's management direction and control, The Club hereby delegates to the Company a right to review LCS's performance and to make recommendations to the Club regarding the continuance, extension or termination of the Client Services Agreement. In the event the Company decides to terminate the Client Services Agreement in accordance with its terms, the Company shall be charged with the responsibility of selecting and engaging on behalf of The Club suitably qualified personnel, and/or management company, to provide the administration and support that are contemplated to be provided by the Client Services Agreement. The Company shall commence providing the management services set forth herein effective with the recording of the Declaration. The initial term of this Agreement shall be for a period of ten (10) years. Thereafter this Agreement shall continue to automatically renew itself for successive five-year periods up to a total of eight (8) additional terms (a) unless the Company shall give The Club written notice of termination not less than three (3) months nor more than six (6) months prior to the date of renewal or (b) unless thirty-five percent (35%) or more of the Members shall petition The Club to submit the question of Agreement extension to a referendum approval of a majority of the Members eligible to vote on the referendum and the result of such referendum is an affirmative vote to terminate. For purposes of this referendum the term "Members" shall mean that there will be one "Member" vote for each Unit in the Condominium. This Agreement may also be terminated for default by either party as provided in Paragraph 7 below

4. Powers and Duties of the Company Provided the Company is performing its duties and obligations under this Agreement as required herein, during the period of time it is providing management services hereunder, the Company shall have, exclusively, all the powers and duties as set forth in this Agreement, exempting only such powers and duties as are specifically reserved to and required to be exercised by The Club or its Members by the terms of this Agreement. Inasmuch as The Club herein has delegated to the Company the performance of its obligations and responsibilities under the Membership Agreement, The Club agrees that as long as the Company is providing management services as provided herein, The Club shall not interfere nor permit, allow, or cause any of the officers, directors or Members to interfere with the Company in the performance of its duties or the exercise of any of its powers hereunder. Moreover, when this Agreement calls upon the Company to undertake a duty, arrange for a service, acquire supplies, goods or services or otherwise incur any expense for the benefit of The Club, it is understood that such expense is an expense of The Club and not of the Company. Effective with the Company commencing to provide management services hereunder, The Club hereby expressly grants and delegates to the Company the following authority, powers and duties and recognizes the pre-existing entitlement to the following inurements:

a. Existing Entitlement to Collect and Retain Membership Fee. The Club recognizes that independent of this Agreement the Company has deferred receipt of certain usual and customary developer fees which compensate the Company for its effort and risk in developing the Project. Included among such fees is a Membership Fee, as defined and expressed in the Membership Agreement, which, under the terms of the Membership Agreement, each Member shall be required to pay the Company. The Membership Fee is equal to ten percent (10%) of the purchase price set forth in the Purchase and Sale Agreement pursuant to which Units within the Condominium are bought and sold. The Membership Agreement provides that said Membership Fee is payable to the Company at the closing on the purchase of a Unit in the Condominium. The Membership Fee is solely for the Members' personal participation in The Club and does not provide membership in The Club for any subsequent purchaser of a Member's Unit in the Condominium or any subsequent user of a Unit in the Condominium.

The Membership Agreement likewise provides that upon resale of a Unit in the Condominium, a Membership Fee for the purchaser will be assessed and paid to the Company at the applicable rate for future Members as a part of the resale purchase price of the Unit. The Membership Fee shall be deducted from the gross sales price of the Unit and shall be paid to the Company at the closing on the Unit. Any real estate commission due in connection with the resale of a Unit shall be based upon the net sales price resulting after deduction of the applicable amount of money actually deducted for the Membership Fee.

b. Collection of Monthly Payment. The Membership Agreement provides that all Members of The Club shall be responsible for a Monthly Payment which covers (i) the Service Fee, consisting of the cost of the various services provided to Members by The Club, as more particularly described in said Membership Agreement and hereinafter; (ii) a portion of the Overhead Payment, as more particularly described in said Membership Agreement and hereinafter, and (iii) the Condominium Fee, consisting of the monthly condominium fee for each

of the Units. The amount of the portion of the Monthly Payment covering the services provided to the Members of The Club and the Overhead Payment for the partial calendar year commencing at the beginning of operation of The Club and ending December 31 of that calendar year and the next twelve (12) months of operation commencing effective January 1, 2004, and continuing through December 31, 2004, shall be as set forth on Exhibit "A" attached hereto and made a part hereof. The estimated amounts to be collected as the Service Fee and Overhead Payment portions of the Monthly Payment during the initial twelve (12) months are based on estimates using the best information available.

The Condominium Fee is the third component of the Monthly Payment and it is computed by the use of the percentages for each Unit set forth in the Declaration as applied to the total amount of the annual Budget of the Condominium.

The amount of the Monthly Payment payable thereafter will be determined after the first full year of operations depending upon actual cost of operations and the cost of providing the services described in the Membership Agreement. The monthly cost of services assessment set forth above may increase in subsequent years. The amount of the Monthly Payment will be adjusted annually thereafter by the Company effective January 1<sup>st</sup> of each year depending upon changes in the annual budgets of the Condominium and The Club covering such factors as operating costs, anticipated inflation during the coming year, and the need to maintain working capital, anticipated capital improvements and debt service, if any, necessary for repair and expansion of the facilities of the Condominium and The Club.

Members shall be liable for the Monthly Payment which is authorized under the Declaration of the Condominium and the Membership Agreement and set pursuant to the provisions of this Agreement. The Monthly Payment as to each Member of The Club shall be made payable to The Club. The Club, for itself and the Condominium, as applicable, hereby authorizes the Company, in its sole discretion, to request, demand, collect, receive and give receipts for any and all Monthly Payments or other assessments, charges, and late fees which may be due The Club or the Condominium, and to take such action in the name of The Club or the Condominium by way of making, recording, satisfying, foreclosing The Club's or Condominium's lien therefor, initiating legal process or taking such other action as the Company may deem necessary or appropriate for the collection of such Monthly Payments or other assessments. It is specifically understood that the Company does not undertake to pay Monthly Payments from its own funds and shall only be required to perform its services, and make disbursements to the extent that, and so long as, payments received from the Monthly Payments or other revenue, if any, of The Club and the Condominium are sufficient to pay the costs and expenses of such services and the amounts of such disbursements. If it shall appear to the Company that the Monthly Payments and other revenue, if any, of The Club and/or the Condominium are insufficient, the Company shall forthwith determine such additional amounts as are required and advise The Club and the Condominium accordingly

c. Fulfillment of The Club's Management Duties to the Condominium.  
Contemporaneously with the execution of this Agreement, The Club has entered into an agreement with the Condominium by which it agrees to undertake management, administrative



and operational functions delegated to it by the Condominium, (the "Condominium Management Agreement"). On behalf of The Club, the Company agrees, as an integral part of its performance under this Agreement, to discharge all of The Club's duties and responsibilities under the Condominium Management Agreement. Accordingly, many of the provisions of this Agreement will make reference to responsibilities to the Condominium as well as responsibilities to the Club.

d. Carry Out Membership Agreements. The Company shall discharge the responsibilities under the Membership Agreements entered into between the Company and Members of The Club by discharging those responsibilities and providing those services in the manner contemplated by the Membership Agreement in the course of discharging its duties and responsibilities pursuant to this Agreement. Therefore, all terms, conditions and provisions of the Membership Agreement are incorporated herein and made a part hereof in the same manner as if expressly set forth herein; provided, however, that this Agreement shall be intended to complement and shall not be intended to contradict or conflict the Membership Agreement.

e. Employees/Contractors. The Company shall select, employ, supervise, direct and discharge, in its reasonable discretion, either in its name and/or in the name of The Club as the Company shall determine, such persons, either as employees of the Company, employees of The Club or as independent contractors, and such companies or consultants, as it may require to fulfill the management, administrative and service functions hereunder. It is noted that the Company may deal with entities affiliated with itself for on-site concessions or other services without conflict or self-dealing as long as the financial arrangements are equitable.

f. Upkeep, Maintenance, Repair and Alterations. Subject to available funding, the Company shall cause the Common Elements and Limited Common Elements of the Condominium to be kept in conformity with good maintenance and landscaping practices and shall cause to be performed any repairs, replacement, refurbishment or maintenance involving specialty work, including but not limited to electricians, plumbers, carpenters, etc. The Company shall cause such alterations and/or additions to be made to the Common Elements and Limited Common Elements of the Condominium, including the Club Facilities, as it shall in its reasonable discretion deem necessary or appropriate for the proper functioning of the Condominium and the Club Facilities to serve the Members of The Club and the Unit Owners in a reasonable, convenient and efficient manner. As to the foregoing, the Company shall be paid by The Club or the Condominium, as applicable, for the cost of its personnel, materials and equipment in regard thereto, and any and all contractors, subcontractors or materialmen as are required therefor. If maintenance and/or repair of the Club Facilities or the Common Elements of the Condominium is required due to loss by an Act of God or other cause, which is other than normal wear and tear, then in such event, the Company shall be authorized and empowered to determine, assess, charge and levy the costs of repairing and restoring such loss among the Members or Unit Owners, as applicable, in such proportions as it deems advisable, pursuant to the Membership Agreement and the Declaration, notwithstanding the fact that said loss or damage was, or was not covered by insurance. Said total assessment shall be equal to the cost of said repair, which shall include the costs of the Company's contractors, subcontractors, or

materialmen as are required. Should the loss be covered by insurance, the proceeds thereof shall be applied as a credit against the total costs of said repair and restoration in such proportions as hereinbefore set forth in this paragraph. It shall be presumed that the first monies disbursed in payment of costs of repair and restoration shall be from insurance proceeds, where such are received, and then such assessments collected. Should there be a surplus of such funds, then said surplus shall be distributed to or on behalf of the Members, in a manner contemplated by the Membership Agreement.

g. Purchase or Rental of Equipment, Etc. The Company shall purchase or rent equipment, goods, supplies and materials as shall be reasonably necessary to perform its duties as set forth herein. Purchases or rentals shall be made in the name of The Club or the Condominium, as the Company deems appropriate. When making purchases or rentals, the Company shall make a reasonable effort to obtain the best price available, all factors considered. However, it shall, with impunity, purchase or contract as it deems advisable and in the best interest of The Club and the Condominium.

h. Insurance. The Company shall, on behalf of The Club and in conjunction with the Condominium, as appropriate, cause to be placed or kept in force all insurance required or permitted by the Declaration and the Bylaws of the Condominium to be kept or placed by the Condominium. The Company shall likewise cause to be placed or kept in force comparable insurance covering the Club Facilities to their full replacement cost subject to reasonable deductible amounts as the Company shall in its discretion consider prudent. The Company shall cause the insurance policies to have the Company, the Declarant, the Condominium, and The Club named as co-insureds and certificate holders under the policy as their interests may appear. And, further, the Company is empowered to otherwise exercise all the rights, powers and privileges of The Club under such insurance with regard to the distribution of proceeds resulting from minor losses payable to The Club or the Condominium.

1. Record-keeping. The Company shall maintain separate sets of financial record books, accounts and other records for The Club and the Condominium, respectively, as provided by The Club's and the Condominium's Bylaws and North Carolina law, and as necessary, issue certificates of account to Members or Unit Owners, without liability for errors, unless as a result of gross negligence. In connection with this duty, the Company shall cause the fiscal year of The Club and the Condominium to be set on a calendar year basis. Such records shall be sufficient to describe its services hereunder and in accordance with prevailing accounting standards to identify the source of all funds collected by it and the disbursements thereof. Such records shall be kept at the offices of The Club and shall be maintained at the expense of The Club and the Condominium and at no cost to the Company. These books and records shall be reasonably available for inspection by the duly elected officers and members of the Board of Directors of The Club or the Condominium, as applicable, at reasonable times and with a minimum of seventy-two (72) hours prior written notice. It is understood that any of the foregoing inspections shall be conducted without cost to the Company and without unreasonable disruption to the employees and operation of the Company in the conduct of its duties pursuant to this Agreement. Any expenses associated with copying of records shall be a cost of The Club

or the Condominium, as applicable, unless a request is made by a Member or group of Members individually, and in such case the cost shall be borne by such Member(s).

j. Audits. The Company shall perform a continual internal review of The Club's and the Condominium's financial records for the purpose of verifying same. At The Club's and the Condominium's expense, it shall arrange for an independent audit of all the books and financial records of The Club and the Condominium by a certified public accountant in accordance with generally accepted auditing standards, which accountant shall be selected either by the Company or The Club as it relates to The Club, and either by the Company or the Condominium as it relates to the Condominium, and in each instance with the approval of the other party, which approval shall not be unreasonably withheld.

k. Reserves. As part of the budgetary process, the Company shall assist The Club in the quantification and establishment of appropriate reserves for The Club which may be for the payment of general operating and/or capital expenditures, or for special and specific purposes. The Company shall collect and account for such funds and disburse the same in the course of its performance of its duties under this Agreement. It is recognized that separate special reserve accounts will be maintained by the Company for anticipated costs, including the acquisition and replacement of furnishings and fixtures within the Club Facilities. Once a reserve account is at a level, which in the Company's discretion is satisfactory, Company may, subject to the consent of The Club, utilize the excess funds for capital replacement and refurbishing purposes.

l. Funds. The Company shall receive and deposit all funds collected from Members of The Club, or otherwise accruing to The Club or Condominium, in special bank accounts of The Club and the Condominium which are under the control of The Club and managed by the Company, in banks or other appropriate financial institutions in the State of North Carolina or elsewhere, separate from similar funds collected by the Company on behalf of other parties. Receipt of the foregoing funds by the Company shall not constitute income to it for income tax purposes since such funds are received and held in a custodial capacity only in an account in the name of The Club or the Condominium although said account is managed by the Company.

m. Budget and Special Assessments or Charges. The Company shall prepare or have prepared a recommended operating budget for The Club setting forth an itemized statement of the anticipated receipts and disbursements for the year for which such budget is being prepared, which budget shall comply with the requirements of the Bylaws of The Club. A copy of said budget shall be distributed to the Board of Directors of The Club for their consideration and approval at least thirty (30) days prior to the commencement of the year for which it has been made.

As previously stated, the Service Fee and the Overhead Payment for the first partial and full year calendar year shall be estimated amounts and the Service Fee and Overhead Payment for the second full year of operations and each successive year thereafter shall be dependent upon the actual cost of operations and the cost of providing the services to the

Members. As provided in the current Membership Agreement, there will be a cap on future increases in the cost of the Service Fee levied by the Club. The formula for determining the maximum increase permitted for this Service Fee portion of the Monthly Payment will be the formula set forth in Paragraph 7 of the Membership Agreement, as that provision may be modified from time to time by the parties thereto. The Company shall utilize that formula in establishing the maximum annual increase.

After the budget of The Club has been prepared, distributed and approved by the Board of Directors of The Club in accordance with the process as outlined above, such budget shall serve as the supporting documentation for the scheduled Monthly Payments. It shall likewise serve as a limiting factor in the establishment of economic guidelines for The Club's operations and shall be administered by the Company as outlined in this Agreement. The Company shall be authorized to impose a special charge or assessment against a Member for those items as set forth in the Membership Agreement and in this Agreement for services provided to the Member which are outside the scope of the Monthly Payment, including, but not limited to, those of the type outlined in Paragraphs 8 and 9 of the Membership Agreement.

n. Experts. The Company shall retain or employ attorneys-at-law, tax consultants, certified public accountants, health consultants, and other such experts and professionals whose services the Company may reasonably require to effectively perform its duties and exercise its powers hereunder. The Company shall retain such professionals and experts as it may hire on such bases as it deems most beneficial. The employment by The Club or the Condominium of other such professionals and experts on its own account shall neither affect the Company's rights to employ and continue the employment of the professionals and experts, nor relieve The Club or the Condominium of its obligation to pay its share of the cost of professionals and experts retained by the Company, as elsewhere herein provided.

o. Unlimited Access. As provided in the Declaration of Condominium, in order to fulfill The Club's and the Company's obligations to the Members pursuant to the Membership Agreement, the Company shall have access at all times to the Common Elements and Limited Common Elements of the Condominium and to the Club Facilities for purposes of managing, providing services, controlling, providing upkeep or for the making of emergency repairs, to make additions and expansions to the Common Elements and Club Facilities and otherwise manage and maintain the Common Elements and the Club Facilities in the manner contemplated by the Declaration, the Membership Agreement and this Agreement. The Company shall likewise have access to the Units for the making of emergency repairs.

p. Utilities. The Company shall contract for utilities, repairs and other services necessary or desirable for the management, maintenance, administration and operation of the Common Elements of the Condominium and the Club Facilities. Such contracts may be in the name of The Club, the Condominium (if applicable) or the Company, as the Company may elect.

q. Accounting. By way of summary to certain of the functions described above, the Company's general accounting responsibilities pursuant to this Agreement are as follows: (i) financial statements (profit and loss; balance sheet); (ii) billing for services and expenses; (iii) collection and posting of payments on accounts; (iv) disbursement of funds; (v) periodic placement of surplus funds in interest-bearing accounts; (vi) assembly of data necessary for the preparation of The Club's state and federal income tax returns; (vii) selection of auditors to conduct the annual audits of the books of The Club and assisting with and supervising the conduct of said audit; (viii) annual presentation of the financial statements and financial condition of The Club to the Board of Directors of The Club and (vii) such other duties as would properly fall within an accounting function and are performed routinely in similar circumstances.

r. Interiors of the Club Facilities and Common Elements. The Company shall maintain and replace the personal property within the Club Facilities and the Common Elements of the Condominium as necessary, at the cost and expense of the Club, and as consistent with an established reserve for replacement schedule recommended by the Company

s. Concessions and Licenses. The Company shall have the authority to contract, upon such terms and conditions and for such purpose as the Company deems necessary, in its sole discretion, and grant concessions and licenses to persons to provide facilities and services as to and within the Club Facilities and the Common Elements of the Condominium and purchase, rent or cause to be installed, coin-vending machines, coin-operated equipment and pay telephones within the Club Facilities or Common Elements and to purchase same on behalf of and at the cost and expense of The Club, as applicable. All income derived from the foregoing grant of concessions and licenses shall inure to the benefit of The Club, as applicable, and all expenses appertaining thereto shall likewise be borne by The Club, as applicable. The Club and the Company hereby recognize that agreements, concessions and licenses may be entered into to provide facilities and services as specified herein for very nominal or no compensation whatsoever. The Company may enter into same, in its reasonable discretion, and it shall use its best judgment; however, it shall not be responsible for the fact that a greater sum might have been obtained or a shorter period contracted for. Additionally, it is specifically understood by the parties hereto, that except in the case of vending equipment, the Company shall not be precluded from executing agreements or granting concessions or licenses to itself in a capacity other than as herein or to an affiliated company, nor shall such action be considered to be self-dealing so long as it is equitable.

t. General Administration. The Company shall assist The Club in its organization of the meetings of the Members and Directors of The Club, as applicable, including the preparation and delivery of the notices of the meetings and preparation of proxy forms. The Company shall assist the Board of The Club in the preparation of the agenda for the meetings and in the conducting of the meetings. The Company shall have a representative of its organization attend meetings of the Members and Board of The Club properly called according to the Bylaws; however, it is understood and agreed that the minutes of all such meetings, whether of Members of The Club or of the Board, shall be taken by one Secretary of each of those bodies, and possession of the minute book shall be in the custody of said Secretaries (who may entrust it to the Company), who shall always be officially responsible for preparing and

furnishing notices of all meetings to the required parties. The Company shall further assist the Board in the election of the Board of Directors at The Club's meetings. Thereafter, the Company shall assist with the meetings of the Board, including the election of officers. The Company, or counsel for The Club, shall keep all records of the affairs of The Club and the Condominium, including but not limited to, minutes of meetings (if so entrusted by the Secretary), correspondence, modification of the Bylaws, Rules and Regulations, etc.

u. Frequency for Performance of Duties. The services, obligations and responsibilities to be performed by the Company shall be performed as often as set forth hereinabove; however, if no time frame is specified, then the Company shall perform its services, obligations and responsibilities under this Agreement as often as it, in its discretion, deems necessary and in accordance with all applicable laws and regulations.

v. Consolidated Services. As previously acknowledged, The Club recognizes that the Company and its employees and agents will be performing similar services for the Condominium and The Club. In this regard, the Company is authorized and directed to provide or cause to be provided such services as appropriate on a consolidated basis. To require the Company to cost account in every instance with regard to the activities of The Club and the Condominium and other persons in interest as to said entities, could substantially increase the costs of administration hereunder borne by The Club. Accordingly, the Company is hereby granted the power to allocate to The Club and to the Condominium each of their appropriate and fair sharing of such costs and expenses as are general, and as to those which are not general, to charge the same to the appropriate party(ies) on such basis (weighted or not) as the Company deems fair and equitable.

w. Ability to Loan Funds. The Company may, in its reasonable discretion, advance funds for the Club at times when the revenues anticipated by the budgets referenced above are insufficient to pay all expenses. In the event of such an advance of funds or a deferral of the Overhead Payment, the Company shall be entitled to interest on any funds advanced or payments deferred at Wachovia Bank prime rate as that rate may change, from time to time. Company shall maintain records of all such loans, and shall be authorized to reduce said indebtedness, from time to time, out of revenues produced through the budgets.

5. Overhead Payment Payable to the Company. The Club recognizes that independent of this Agreement the Company is entitled to fees to compensate it for its effort and risk in developing and licensing the Project. Accordingly, those fees have been structured over the life of the Project in the form of the Membership Fees referred to in Paragraph 4(a) hereinabove and in the pre-existing entitlement to a ten percent (10%) overhead payment as reserved in the Membership Agreement (the "Overhead Payment"). Entitlement to the Membership Fee payment and the Overhead Payment predate and exist independent of this Agreement and are referenced in this Agreement so that the administration of those entitlements is recognized in the context of the overall operation and management of The Club and the Condominium. With respect to the Overhead Payment, that entitlement is as follows:

a. The Company shall be entitled to receive an annual Overhead Payment as compensation reserved by it pursuant to the Membership Agreement, which Overhead Payment shall be paid and administered within the context of the management and administrative structure set forth in this Agreement. The Company shall receive as said Overhead Payment an amount annually equal to ten percent (10%) of the actual of total operating and administrative costs of The Club and the Condominium. The Club shall collect a portion of this as part of the Monthly Payment and pay same to the Company on a monthly basis with payment to be made on or before the fifth (5<sup>th</sup>) day of each month for the preceding monthly period. The Overhead Payment shall be paid from the cash flow of The Club, to the extent available, and if not available, shall be deferred, with interest. The Overhead Payment is ultimately an obligation of the Members paid from the cash flow generated in part by the Monthly Payments collected from the Members and in part by other revenues received by The Club. To the extent that Monthly Payments do not generate sufficient cash flow to pay the Overhead Payment, The Club and the Condominium budgets shall be revised or amended, as soon as practicable, and a special assessment will be levied against the Members of The Club and the Unit Owners, to pay the Overhead Payment. It is understood that the services enumerated under Paragraph 4 hereinabove and otherwise to be performed by the Company pursuant to this Agreement and the Membership Agreement do not include services related to the sale of Units within the Condominium on behalf of Unit Owners, and, as such, any commissions or fees to be received by the Company for such resale services shall be in addition to and separate from its fee received pursuant to this Paragraph 5

b. In addition to the foregoing, in the event of any special projects that arise which are outside the purview of the budget or maintenance fee schedule, and if the Company is requested by The Club or the Condominium to supervise same, the Company shall be entitled to reimbursement of all expenses plus a supervision or administration fee as will be mutually agreed upon by the parties at the time. An example of such a special project would be additional accounting services required of the Company to implement special assessments, including separate accounting when separate checking accounts are required, special billings which are not included with regular billings, analysis and feasibility studies for special assessments, the supervision of substantial and material additions to the Club Facilities or the Common Elements of the Condominium and similar substantial non-routine activities.

c. It is recognized that The Club's budget cannot always address all potential contingencies and, much the same as special projects which arise from time to time, if The Club is either involved in, or about to be involved in, litigation, the Company may be called upon, from time to time, to testify, provide information, and/or consultation. In such event, the Company shall be entitled to recoup, at a rate of 1.5 times the actual employee expense, any time spent by Company employees in litigation matters of The Club. The Company shall keep hourly records when such a situation arises and shall provide monthly statements to The Club for reimbursement.

6. Application and Enforcement of Collections. All Monthly Payments, assessments and other revenues, if any, of The Club which the Company shall collect shall be applied and disbursed and otherwise expended or reserved by the Company to pay all expenses of The Club

and the Condominium, as applicable, and the costs and expenses of the services rendered by the Company under this Agreement and under the Membership Agreement. It is recognized that the services to be rendered by the Company in its performance hereunder are limited necessarily by budgetary constraints and therefore the level of services, e.g., upkeep and landscaping, can only be as high as The Club's and the Condominium's budgets will allow

7 Default.

a. By The Club. If Members or Unit Owners shall interfere with the Company in the performance of its duties, the exercise of its powers hereunder, or if The Club shall fail to promptly pay or perform any of the obligations required of either hereunder, including but not limited to, the assessments of its Members of amounts sufficient to defray in full the Company's costs, expenses and compensation due it as herein defined, and to otherwise pay all of the sums mentioned herein, the Company, sixty (60) days after having given written notice to The Club of said default, by delivering said notice to any officer of The Club, or in their absence, to any member of the Board, may declare this Agreement in default. Unless such default is cured by The Club within sixty (60) days after such notice, the Company, may, in addition to any other remedy given it by agreement, bring an action for damages and/or specific performance and/or exercise such other rights or pursue such other remedy as the law may provide or permit.

b. By the Company Failure by the Company to perform its duties and obligations under this Agreement for a continuous period of sixty (60) days after written notice of default from the Board specifying the default complained of, shall be grounds for The Club's declaring a default of this Agreement. If the Company has not, within sixty (60) days after receiving such notice, cured the default, or if such default is of such a nature that it cannot be cured within the aforementioned sixty-day period and the Company has not within such period commenced and at all times thereafter continued diligently to proceed with all acts required to cure such default, this Agreement may be terminated without prejudice after sixty (60) days additional written notice within which no cure is effected subject, however, to any and all rights and remedies available to the Company.

c. Rights/Remedies. All of the rights of the Company and The Club set forth above in the event of the other's default shall be cumulative, and the exercise of one or more remedies shall not operate to exclude or to constitute a waiver of any other or additional remedy

8. Termination of Agreement. The process for, consequences and implications of the termination of this Agreement are as follows:

a. In the event that this Agreement is terminated with respect to the Company and The Club pursuant to any of the provisions herein, then all compensation owed the Company under Paragraph 6 and all outstanding charges or expenses incurred by the Company under the terms of this Agreement, which are to be paid or reimbursed by The Club, but not paid at the time of termination, shall be paid by The Club. Any funds of The Club which are in



excess of said outstanding charges or expenses shall be paid over to The Club by the Company within thirty (30) days after termination of this Agreement. The Company, within thirty (30) days after termination, shall supply a final statement of account and shall make available to The Club all office records, books and accounts, and such other information as The Club shall require to enable it to continue to maintain and operate the Club Facilities and The Club.

b. It is recognized by The Club that the employees, agents and other key personnel of the Company are key elements to its success as a competitive management company. Accordingly, The Club agrees that it shall not offer employment or independent contractual relationship with the employees, agents, independent contractors or other key personnel of the Company during the term of this Agreement or for a period of two (2) years after termination of this Agreement, for whatever reason, without the Company's prior written consent. Any violation of this provision shall give rise to the right of the Company to commence a suit for relief, either in law or in equity.

c. The Club recognizes that the pre-existing rights of the Company to the deferred developer entitlements as described in Paragraph 4(a) and 5 hereof represent compensation for the deferral of certain usual and customary developer fees to compensate the Company for its efforts and risk in developing the Project. Therefore, those entitlements shall survive and shall in no way be diminished or impacted by the termination of this Agreement (or the termination of the Condominium Management Agreement referenced above). The criteria by which Membership Fees and the Overhead Payment are determined and the timing and method by which they are paid shall be outlined in the Membership Agreement and no termination of this Agreement shall alter those entitlements or the manner in which they are to be paid and delivered.

9. Indemnification. The Company shall not be liable to The Club or the Condominium or the Unit Owners, for any loss or damage not caused by the Company's own gross negligence or willful misconduct. Except to the extent caused by the gross negligence or willful misconduct of the Company, The Club agrees to indemnify, defend and hold the Company harmless from and against any and all claims, demands, actions, liabilities, damages, fees (including reasonable attorneys' fees) and expenses arising out of, directly or indirectly, Company's performance under this Agreement and the administration of the herein described property and from liability from injury suffered by any employee or other person whomsoever. The Club further agrees to carry or cause to be carried, necessary public liability (of not less than One Million Dollars per occurrence) and workmen's compensation insurance adequate to protect The Club and the Company and in the minimum amounts required by law, and will name the Company as co-insureds or as additional insureds as designated above in Paragraph 4(h). The Company shall also not be liable to The Club or to any person or entity claiming by, through or against The Club for any error of judgment or for any mistake of fact or law, or for anything which it may do or refrain from doing hereafter, except in cases of gross negligence, willful or intentional misconduct.

10. Severability. If any section, sub-section, sentence, clause or phrase or word of this Agreement shall be for any reason held or declared to be inoperative or void, such

holding will not affect the remaining portions of this Agreement and it shall be construed to have been the intent of the parties that the remainder of this Agreement, after the exclusion of such parts, shall be deemed and held to be as valid as if such excluded parts had never been included herein.

11. Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective legal representatives, successors and assigns. The Club, on behalf of its members, and the Company, shall both have the right to assign this Agreement as herein set forth. The Club may assign its right, title, and interest herein to a successor entity assuming all rights and responsibilities of The Club. The Company may assign its right, title and interest herein to another duly qualified management company operating and existing under the laws of the State of North Carolina. However, said assignment shall not be valid unless and until the assignee thereunder expressly assumes and agrees, in writing, to perform each and every covenant and term of this Agreement. The Company may also subcontract all or portions of its duties and powers under this Agreement. In the event an assignment of this Agreement is made by the Company to a third party, notice of such assignment and a copy shall be provided to The Club and the terms and conditions contained herein shall survive and be binding upon the assignee.

12. Multiple Originals. For the convenience of the parties hereto, any number of counterparts hereof may be executed and each such counterpart shall be deemed to be an original instrument.

13. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of North Carolina notwithstanding its principles of conflicts of laws.

14. Classification of Headings. Titles of the paragraphs and subparagraphs included herein have been inserted as a matter of convenience of reference only and shall not affect the meaning or construction of any of the terms or provisions hereof.

15. Waiver. Waiver by any party at any time or times to demand strict performance by the other of any of the terms, covenants, or conditions set forth herein shall not be construed as a continuing waiver or relinquishment thereof and each may at any time demand strict and complete performance by the other of said terms, covenants and conditions.

16. Notices. All notices required to be given hereunder shall be either hand-delivered or sent by U.S. mail, certified return receipt requested. Notices to be sent to The Club shall be sent to the then-current President or Secretary at the address set out below and notices to be sent to the Company shall be sent as set forth below:

As to the Company: The Cedars of Chapel Hill, LLC  
190 Finley Golf Course Rd.  
Chapel Hill, North Carolina 27517

Attention: Robert E. Woodruff

As to The Club: The Cedars of Chapel Hill Club, Inc.  
100 Cedars Club Lane  
Chapel Hill, North Carolina 27517

Attention: (Current Pres. or Secretary)

17 Authority of Parties Hereto. The undersigned representatives of the parties hereto hereby represent and warrant that they have full power and authority to execute this Agreement, that this Agreement is being executed pursuant to all required corporate approvals, and that they have full power and authority, without joinder of any other persons or need for subsequent approvals, to bind the respective parties hereto.

18. Entire Agreement. This Agreement, together with the Declaration and the Exhibits attached thereto, and any amendments thereto, including this Agreement and all documents and instruments incorporated herein by specific reference are intended by the parties hereto to be the final expression of their agreement and constitute a complete and exclusive statement of the terms thereof notwithstanding any representations or statements to the contrary

*SIGNATURE PAGE TO FOLLOW*

IN WITNESS WHEREOF the parties have executed this Agreement effective the day first mentioned.

SIGNED, SEALED AND DELIVERED  
IN THE PRESENCE OF

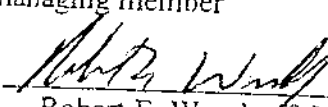
"COMPANY"  
THE CEDARS OF CHAPEL HILL, LLC,  
(SEAL.) a North Carolina limited liability company

Attest:



By: Meadowmont Retirement Community, LLC,  
a North Carolina limited liability company,  
its managing member

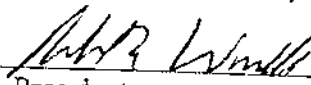
By:

  
Robert E. Woodruff, Manager

"THE CLUB"

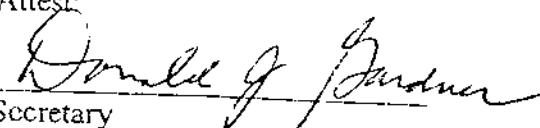
THE CEDARS OF CHAPEL HILL CLUB,  
INC., a North Carolina Non-profit corporation

By:

  
President

[AFFIX SEAL]

Attest:

  
Secretary

Disclosure Statement

Condominium Documents:

Articles of Incorporation

Declaration of Condominium

Bylaws and Rules of Conduct

Condominium Management Agreement

Club Management Agreement