

31  
90

BK: RB 6256

PG: 2252-2283

RECORDED:  
10-23-2019

04:20:01 PM

BY: ANDREA CRESWELL  
ASSISTANT



2019034616

NEW HANOVER COUNTY, NC

TAMMY THEUSCH BEASLEY

REGISTER OF DEEDS

NC FEE \$90.00

## DECLARATION OF CONDOMINIUM FOR TOWNE PLACE CONDOMINIUM

Prepared by: MURCHISON, TAYLOR, & GIBSON, PLLC  
1979 Eastwood Road, Suite 101, Wilmington, NC 28403

**NORTH CAROLINA**

**NEW HANOVER COUNTY**

**THIS DECLARATION OF CONDOMINIUM FOR TOWNE PLACE CONDOMINIUM** (the "Declaration") is made this 23<sup>rd</sup> day of October 2019, by **TOWN PLACE ISLANDER, LLC**, a North Carolina limited liability company (the "Declarant"), pursuant to the provisions of the North Carolina Condominium Act, Chapter 47C of the North Carolina General Statutes (the "Condominium Act").

WITNESSETH:

**WHEREAS**, Declarant is the owner in fee simple of certain real property located in Carolina Beach, New Hanover County, North Carolina, as more particularly described in Exhibit A attached hereto (the "Land"); and

**WHEREAS**, Declarant has constructed a four-story building containing twelve residential condominium units and one non-residential condominium unit and certain other improvements; and

**WHEREAS**, Declarant may also construct one additional building on the Land, containing up to three residential condominium units and up to two non-residential condominium units and certain other improvements; and

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

**WHEREAS**, in order to accomplish the foregoing, Declarant is entering into this Declaration and submitting the Land and the building and improvements located on the Land (collectively, the "Property") to the terms and provisions of the North Carolina Condominium Act as hereinafter provided; and

**WHEREAS**, Declarant hereby establishes by this Declaration a plan for the individual ownership of Condominium Units and the co-ownership by individual and separate owners thereof, as tenants in common, of all of the remaining property in the Condominium (all portions of the Condominium except the Units hereinafter being referred to as "Common Elements").

**NOW, THEREFORE**, as the owner of the above described Property, Declarant hereby submits the Property, including all improvements, easements, rights and appurtenances thereunto belonging, to the provisions of the Condominium Act; and hereby creates with respect to said Property a condominium to be known as "Towne Place Condominium", and hereby declares that the Property shall be held, transferred, sold, conveyed, hypothecated, encumbered, leased, used, occupied and improved subject to the following covenants, conditions, restrictions, uses, limitations and obligations, and which shall be deemed to run with the land and shall be a burden and benefit to Declarant, its successors and assigns, and any Person acquiring or owning an interest in the Property, their grantees, successors, heirs, executors, administrators, devisees and assigns.

## **ARTICLE 1** **DEFINITIONS**

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

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 it may be amended from time to time.

Allocated Interests means, collectively, each Unit Owner's: (1) Common Element Interest, (2) allocation of Common Expense liability, and (3) Voting Interest, each of which may not be the same as the other. The Allocated Interest are described in Article 6 and set forth in **Exhibit B** attached hereto and incorporated herein by reference.

Articles or Articles of Incorporation means the articles of incorporation filed with the office of the North Carolina Secretary of State which establishes Towne Place Condominium Owners' Association, Inc. as a North Carolina non-profit corporation.

Association means the Unit Owners' association as defined by the Act, and also means the Towne Place Condominium Owners' Association, Inc., a non-profit corporation.

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.

Building(s) means the structure or structures located upon the Land containing Units which comprises a part of the Condominium.

Building One means the initial Building that has been constructed upon the Land at the time this Declaration is recorded, and may sometimes also be referred to as the "Islander." Building One consists

of four (4) levels and thirteen (13) Units and is built with concrete, masonry block, steel frame and stucco exterior finish. The location and dimensions of Building One are shown on the Plats and Plans.

Building Two means the second building that may be constructed generally upon the area shown on the Plats and Plans as "Future Building Two", and may sometimes also be referred to as the "Cove." Building Two is not required to be built. If Declarant exercises its Special Declarant Rights to construct Building Two, a Supplemental Declaration shall contain a revised set of Plats and Plans which shall show the location of such Building and/or Units

Bylaws means the bylaws of the Association which, with this Declaration and the Articles of Incorporation of the Association, describe the powers and functions of the Association, and which from time to time may be amended by the Association. The Rules and Regulations of the Association (as defined in Section 12.2) shall be attached to the Bylaws as an appendix.

Common Elements means all portions of the Condominium other than the Units, as more particularly described in Article 4.

Common Expenses means the expenditures made by, or financial liabilities of, the Association, together with any allocations to reserves.

Common Elements Interest means each Unit Owner's undivided interest in the Common Elements which is appurtenant to each Unit, and each Unit Owner's proportionate share in the revenues, if any, and the Common Expenses. The Common Elements Interest shall not be used to determine voting rights in the Association, but rather, voting rights will be determined based on each Unit's Voting Interest as defined below.

Condominium means the Land described in Exhibit A, together with all Buildings, Units, Common Elements and all other improvements and structures now or hereafter constructed thereon, and all easements, rights and appurtenances belonging or appertaining to said Land.

Condominium Documents means this Declaration, the Plats and Plans, the Articles of Incorporation, the Bylaws, and any Rules and Regulations adopted by the Board, as amended and supplemented from time to time, and all attachments and exhibits thereto.

Declaration means this Declaration of Condominium, as it may be amended from time to time, which shall be recorded in the New Hanover County Registry, together with the Plats and Plans, thereby establishing Towne Place Condominium by subjecting the Condominium to the Act.

Declarant means Town Place Islander, LLC, a North Carolina limited liability company with its principal place of business in New Hanover County, North Carolina, and its successors and assigns.

Eligible Holder means any holder, insurer or guarantor of a first mortgage upon a Unit (i) which has been identified as such in writing by a Unit Owner to the Association or (ii) which has given to the Association a written notice stating the name and address of such holder, insurer or guarantor and specifying the Unit on which it has a first mortgage.

Land means the parcel of real property subject to this Declaration, exclusive of any improvements located thereon or incorporated therein, which is more particularly described on Exhibit A attached hereto.

Limited Common Elements means those portions of the Common Elements allocated by this Declaration (including any Supplemental Declaration executed by the Declarant pursuant to an exercise of its Special Declarant Rights), or by the terms of Sections 47C §2-102(2) or (4) of the Act, for the exclusive use and benefit of one or more, but fewer than all, of the Units, to the exclusion of any other Units, as more fully described in Article 4 of this Declaration, and as may also be depicted on the Plats and Plans.

Non-Residential Unit(s) means those Unit(s) which are designated for any lawful purpose, including but not limited to restaurant, retail and/or office purposes, but cannot be used for residential purposes. The Non-Residential Units are located on the first floor of Building One, and if Building Two is completed, they will be on the first floor of Building Two.

Non-Residential Unit Owner means an Owner of a Non-Residential Unit.

Owner means a "Person" (as defined herein) which owns a Unit, but does not include a person having an interest in a unit solely as security for an obligation. The term "Owner" or "Unit Owner" shall have the same connotation as the term "Unit Owner" as used in the Act.

Parking Space(s) means the individual striped parking spaces within the Condominium, some of which are allocated as Limited Common Elements to certain Units in the manner provided in Section 4.3 of this Declaration.

Period of Declarant Control or Declarant Control Period means the period during which the Declarant shall control the Association, which period shall commence on the date this Declaration is recorded and continue until *the earlier of* (i) 120 days after conveyance of seventy-five percent (75%) of the Units to Unit Owners other than Declarant; (ii) two years after Declarant has ceased to offer Units for sale in the ordinary course of business; (iii) two years after any development right to add new Units was last exercised; or (iv) seven (7) years following the recording of this Declaration in the New Hanover County Registry.

Person shall mean a natural person, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or other legal or commercial entity, or any combination thereof.

Plats and Plans or the Plat shall mean and refer to the plat, plans and specifications for the Building and Condominium, including any amendments thereto, recorded under the name of the Condominium in the Public Records, including the plan of condominium recorded in Condominium **Book 19, Pages 114-116** of the New Hanover County Registry, and any amendments or supplements to that may be attached to or referenced in a Supplemental Declaration if the Declarant exercises a Special Declarant Right. The Plats and Plans are hereby incorporated herein by reference and is made an integral part of this Declaration.

Property shall have the same meaning as the "Condominium."

Residential Unit(s) means those Unit(s) which are intended for and restricted to residential purposes. The Residential Units are located on the second through fourth floors of Building One, and if completed, on the second through fourth floors of Building Two.

Residential Unit Owner means an Owner of a Residential Unit.

Rules and Regulations means all rules and regulations adopted by the Board in accordance with the terms of this Declaration and the Bylaws.

Special Declarant Rights means all of Declarant's reserved rights as defined in the Act and in this Declaration.

Storage Closet(s) means the individual storage closets within the Buildings, which are allocated as Limited Common Elements to certain Units in the manner provided in Section 4.4 of this Declaration.

Unit or Condominium Unit means the physical portion of the Condominium which is designated for separate ownership, the boundaries of which are described in Section 3.3 hereof and which are shown on the Plats and Plans. Units shall include both Residential Units and Non-Residential Units, and such additional Units as may hereafter be created by the exercise of Special Declarant Rights or otherwise as provided in this Declaration

Unit Owner has the same definition as "Owner" as set forth above in this Article 1.

Voting Interest means the interest allocated to each Unit for the purposes of voting in the Association. The Voting Interest allocated to each Unit is different than the Common Element Interest allocated to each Unit, and is set out in Section 6.3.

The 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 Condominium documents, unless the applicable terms are expressly defined otherwise in this Declaration or unless the context otherwise plainly requires a different meaning.

## **ARTICLE 2**

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

2.1 Submission of Property. Declarant hereby submits the Condominium to the provisions of the Act. The Condominium will be administered in accordance with the provisions of the Act, the Declaration, the Bylaws, and the Articles.

2.2 Condominium Name. The name of the Condominium is "Towne Place Condominium".

2.3 Plats and Plans. The Condominium is located in Carolina Beach, New Hanover County, North Carolina. Attached hereto as Exhibit A is a legal description of the Land, which Land is also more particularly shown on the Plats and Plans. The architectural plans filed as part of the Plats and Plans show and describe the Units and certain Limited Common Elements.

2.4 Association Membership. Each Owner shall be a member of the Association, and each Unit shall have the number of votes set out in Exhibit B, in accordance with each Unit's Voting Interest, as the same may be amended from time to time as provided herein.

2.5 Special Declarant Rights. Declarant reserves all Special Declarant Rights for the entire Property as defined above in Article I, including the following:

(a) To complete any and all improvements indicated on the Plats and Plans, including but not limited to construction of Building Two shown thereon;

(b) To construct and maintain any sales offices, management offices, signs advertising the Condominium (including "For Sale" or "For Rent" signs), or model or guest rooms in any of the Units or on any of the Common Elements shown in the Condominium;

(c) To use those easements through any Common Elements which are reasonably necessary for the purpose of making any improvement indicated on the Plats and Plans, or otherwise necessary for the exercise of these Special Declarant Rights or otherwise discharging its obligations or rights hereunder;

(d) During the Period of Declarant Control, to appoint and remove any officers or Board members; provided, however, that: (i) not later than sixty (60) days after the conveyance of 25% of the Units to Owners other than Declarant, two members of the Board shall be elected by Owners other than Declarant; and (ii) not later than sixty (60) days after conveyance of 50% of the Units to Owners other than Declarant, an additional member of the Board shall be elected by Owners other the Declarant;

(e) To assign, collaterally or otherwise, in whole or in part, to its successors in title to any of Declarant's Units hereunder, or to its agent, or to an independent third party, or to the Association, any of the rights reserved in this Declaration, including these Special Declarant Rights. All references to Declarant and Declarant's rights hereunder shall be deemed to include any specific assignee of Declarant;

(f) To add additional Units, Common Elements, and Limited Common Elements to the Condominium subject to the maximum number of Units allowable hereunder; to alter the size of any Unit by relocating or subdividing Unit boundaries; to allocate and/or reallocate certain Limited Common Elements as more particularly described herein; to convert Units or portions thereof into Common Elements;

(g) To add and withdraw property and (including Units) to and from the Condominium. Without limiting the foregoing, Declarant specifically reserves the right to withdraw the land approximately shown as "Building Two" and up to three (3) Limited Common Element Parking Spaces as shown on the Plats and Plans from the Condominium.

These Special Declarant Rights (and any other Declarant rights described in more detail in this Declaration) shall expire upon *the earlier of*: 1) seven (7) years from the recording of this Declaration; or 2) upon Declarant's recording an instrument in the New Hanover County land records expressly stating that Declarant is terminating its Declarant's rights. Notwithstanding the expiration of the Special Declarant Rights, the Declarant may retain ownership of any number of the Units for any amount of time. Declarant may transfer any Special Declarant Rights created or reserved under the Condominium Documents to any person or entity, by an instrument evidencing the transfer duly recorded in the Registry. The instrument shall not be effective unless it is executed by the transferor and the transferee. Upon the transfer of any Special Declarant Rights, the liability of the transferor and the transferee shall be as set forth in Section 47C-3-104 of the Act.

### **ARTICLE 3** **DESCRIPTION OF UNITS**

3.1 Number of Units. Declarant hereby establishes within the Condominium thirteen (13) Units and does hereby designate all such Units for separate ownership. The maximum number of Units permitted in the Condominium is twenty-four (24). Subdivision of Units by anyone other than Declarant is prohibited. Unit boundaries are described in below Section 3.3 and on the Plats and Plans. Identifying Unit numbers and Unit locations are also shown on the Plats and Plans.

3.2 General Description of Units. All of the Units are more particularly shown on the Plats and Plans, which are incorporated herein in the same manner as if expressly set forth in this Section 3.2. The Plats and Plans provide the relative locations of all the Units, the Unit numbers, the square footage area of each Unit, and depict the Unit boundaries that are further described in Section 3.3 below, which together with this Declaration shall constitute a complete description of the Units within the Condominium. The square footage measurements of each Unit are established by Declarant using the same measuring methods for all Units, and by accepting a deed to a Unit, an Owner accepts such measurement.

3.3 Unit Boundaries. Generally, the vertical and horizontal boundaries of each Unit shall consist of the unfinished perimeter walls facing into the Unit, the top surfaces of the subfloors, and the bottom surfaces of the ceiling structural members, provided that the following specific rules shall be applied in determining the Unit boundaries:

(a) The Unit boundary line coincides with back face of the wallboard at exterior, demising, and corridor walls.

(b) The Unit boundary line coincides with front face of the wallboard at mechanical chases serving common areas.

(c) The Unit boundary line coincides with interior face of glass at exterior windows and sliding doors to balconies.

(d) The Unit boundary line runs straight through structural columns.

The Unit boundaries are all more particularly shown on the Plats and Plans.

Except as described above, all lath, furrowing, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, 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 not included within the Units are a part of the Common Elements. Interior walls, partitions, fixtures, appliances, cabinets and other facilities and other improvements lying completely within the boundaries of a Unit, if any, shall be part of such Unit.

Certain Units, as shown on the Plats and Plans, may include special pieces of equipment such as generators, air conditioning compressors, meter boxes, utility connection structures, and grease traps that serve a sole Unit but are detached or semidetached from the Unit or the Building. Such special equipment and storage portions shall be deemed part of the respective Unit notwithstanding their non-contiguity.

3.4 Uses of Units; Use Restrictions. It is the intent of the Declarant that the Condominium be maintained and enjoyed as an attractive, well maintained mixed-use condominium with Non-Residential Units on the ground floor of any Building(s), and Residential Units on all other floors of any Building(s). Therefore the following covenants, conditions and restrictions are hereby placed on the Condominium:

(a) Restrictions Applicable to all Units and Unit Owners. Subject to the terms and conditions regarding non-residential uses in Section 3.4(a)(xiv), the following restrictions shall apply to all Units:

(i) The Owners shall each comply with all federal, state and local laws, statutes, codes, rules, orders, decrees, ordinance, regulations and requirements now or hereafter enacted. Owners shall make all payments of taxes and other charges, the nonpayment of which entitles the unpaid party to assert a lien on an Owner's property, or if noncompliance or nonpayment by one

Owner with respect to his Unit or any part thereof would subject the other Owner to civil or criminal liability, or would jeopardize the full force or effect of any certificate of occupancy issued to such other Owner or for the Building itself or would jeopardize such other Owner's right to occupy or use beneficially his respective Unit or any part thereof, or would result in the imposition of a lien against any other property of an Owner.

(ii) Each Owner (hereinafter referred to as the "Indemnifying Owner" for the purposes of this section 3.4(a)(ii),) covenants and agrees, at its sole cost and expense, to indemnify and hold harmless any other Owner, its partners, agents, directors, officers, employees and members (collectively referred to for the purposes of this section 3.4(a)(ii) as the "Indemnitee") from and against any and all claims against Indemnitee for losses, liabilities, damages, judgments, costs and expenses and any actions or proceedings arising therefrom, by or on behalf of any person, firm, corporation or governmental authority, other than the Indemnitee, arising from the Indemnifying Owner's or its permittees' use, possession, or management of the Indemnifying Owner's Unit or activities therein or arising out of the Indemnifying Owner's or its permittees' use, exercise or enjoyment of an easement and from and against all costs, reasonable attorney's fees, expenses and liabilities incurred with respect to any such claim, action or proceeding brought against the Indemnitee by reason of any such claim, Indemnifying Owner, upon notice from Indemnitee, covenants to resist or defend such action or proceeding with attorneys reasonably satisfactory to Indemnitee. (Any counsel for the insurance company providing insurance against such claim, action or proceeding shall be presumed reasonably satisfactory to Indemnitee.)

(iii) No Unit Owner 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 (including noise) 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 maintain compliance with any applicable law or regulation, or which would otherwise be in violation of any law, or which would cause the insurance rates for the insurance carried by the Association, or by any other Unit Owner on his Unit or personal property kept on the Condominium, to increase above the commercially reasonable rates available for similar purposes. Notwithstanding the foregoing, nothing herein shall prohibit or restrict the use of any Non-Residential Unit or portion thereof for restaurant or food service purposes, including alcohol service, provided such use is permitted under local governing ordinances.

(iv) In case of any emergency originating in or threatening any Unit, or any portion of the Common Elements, regardless of whether the Owner, any tenant, or their invitees, if any, are present at the time of such emergency, the Association's Board and all managerial personnel shall have the right to authorize access to such Unit and any Common Element or Limited Common Element 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 with the Association a key to such Unit or Limited Common Element.

(v) No Owner shall (either with or without negligence) cause or permit the escape, disposal or release of any biologically active or other hazardous substances or materials or allow the storage or use of such substances or materials anywhere on the Condominium in any manner not sanctioned by law for the temporary storage and use of such substances or materials. Each Owner shall maintain his Unit and use the Common Elements so as to comply with all now existing or hereafter enacted or issued statutes, laws, rules, ordinances, orders, permits and regulations of all state, federal, local and other governmental and regulatory authorities, agencies and bodies applicable to the Condominium pertaining to environmental matters or regulating, prohibiting or otherwise having to do with asbestos, lead and all other toxic, radioactive, or hazardous wastes or material including, but not



limited to, the Federal Clean Air Act, the Federal Water Pollution Control Act, and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as from time to time amended.

(vi) 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 or to the Common Elements without the express prior written permission of the Association; provided, however, if applicable law (including regulations of the Federal Communications Commission) prohibits the regulation of such installations by homeowners associations like the Association, then such installations shall be governed by such law.

(vii) All garbage and items to be recycled shall be placed only in the receptacles designated by the Association.

(viii) Except as permitted in Section 3.5, no Owner shall in any way puncture, tear, cut or otherwise damage the gypsum board which is hung on the perimeter walls and ceilings of the Units; provided, however, this restriction shall be construed to permit the normal hanging of pictures or shelves.

(ix) No interest in any Unit shall be subjected to a time share program, as that term is defined in N.C.G.S. § 93A-41(10).

(x) No unusual, disturbing or objectionable odor or noise shall be permitted to emanate from any Unit. Notwithstanding anything herein to the contrary, any Owner of a Non-Residential Unit shall be permitted to play music or offer live music at levels and times allowed under local ordinances.

(xi) Except to the extent such uses are required by law to be permitted, no Unit may be used for day care or group home purposes.

(xii) No Unit Owner shall sweep or throw any debris, dirt or other substance from any window or balcony, patio or terrace or permit any occupant or guest to engage in such activities.

(xiii) There shall be no smoking in any of the interior portions of the Common Elements.

(xiv) **Notwithstanding anything in this Section 3.4 or anywhere in the Declaration or the Condominium Documents to the contrary, all Unit Owners are notified that the initial use for the Non-Residential Unit on the ground floor of Building One is a restaurant, although the Non-Residential Unit or Units (if later subdivided) in Building One and Building Two (if built) may also be used for any other lawful non-residential use. By acceptance, occupancy or enjoyment of any Unit, each Unit Owner, on behalf of itself and any parties claiming through said Unit Owner (including, without limitation, tenants, licensees and invitees), hereby (i) acknowledges that, among other things, commercial or business use (including but not limited to restaurant use) of Units could increase or otherwise affect the noise level and smells within and around the Condominium and the Units; (ii) acknowledges that noise levels and smells from a restaurant or business(s) on the ground floor shall not be deemed a nuisance or an interference with the peaceful possession and proper use of any Unit or violation of any provisions of Section 3.4, and (iii) waives any claims against the Declarant, the Association and the Owners and occupants of such Non-Residential Unit(s) relating to any such non-residential uses, including but not limited to any resulting noises or smells.**

(b) Restrictions Applicable to all Non-Residential Units. The Non-Residential Units may be used for any lawful purposes, including but not limited to restaurant, retail and/or office purposes.

(c) Restrictions Applicable to all Residential Units.

(i) The Residential Units shall be used only for residential, noncommercial purposes. Notwithstanding the foregoing, an Owner of a Residential Unit may “work from home” so long as the Unit in which the Owner works is his primary residence, the Owner’s Unit must be primarily residential in character with minimal space designated to or modifications made to accommodate the Owner’s commercial activity, the Owner’s commercial use must be consistent with residential nature of the Condominium, and the visitors and deliveries received by the Owner in connection with such work are not in excess of customary residential use of the Unit.

(ii) A maximum of two (2) domestic pets per Residential Unit are allowed subject to the provisions of this Declaration. Non-domestic pets shall not be allowed in any Unit. Pets shall not be kept or maintained for commercial purposes or for breeding. Any pet causing or creating a nuisance or unreasonable disturbance or noise shall be permanently removed from the Condominium upon ten (10) days written notice from the Association. All pets shall be kept on a leash except when in a Unit, and the Unit Owner shall be responsible for removing all pet waste left on the Condominium by any pets residing with such Unit Owner.

(d) Special Rules for Signs, Banners, and Flags.

(i) General Rules. No signs, banners, or flags of any type shall be posted, hung or erected by any Owner or any other person on any part of the Common Elements or displayed from within a Unit except as permitted by this subsection 3.4(d) or by the prior approval of the Association, provided, however, if applicable law prohibits such restrictions, then the posting of signs, banners and flags shall be governed by such law;

(ii) Permitted Displays for Residential Units. The following displays are permitted in a Residential Unit: “For Sale,” “For Lease” or other similar signs that do not exceed two square feet in size for the purpose of marketing the Unit but for no more than sixty (60) days in any twelve (12) month period; and

(iii) Permitted Displays for Non-Residential Units. Signs advertising the business(es) that may be located within the Non-Residential Units shall be permitted so long as they are installed and maintained in accordance with local governing ordinances.

(iv) Flags of the United States of America, North Carolina, and Political Signage. The display of any flag of the United States of America or of North Carolina is permitted in any Unit so long as the flag is no larger than four feet by six feet. Political signs are permitted to be displayed in any Unit, but no more than forty-five (45) days prior to, nor seven (7) days after, the election. Except as may be permitted by the local ordinances of the Town of Carolina Beach or the County of New Hanover, there shall be only one political sign per Unit displayed, and such sign shall not exceed two feet by two feet.

(e) Restrictions to Run with Land. Declarant hereby declares and affirms that the covenants, conditions and restrictions described herein shall be deemed restrictive covenants running with the land and are imposed as a limitation and burden upon each Unit Owner and upon Declarant, upon all future Unit Owners, upon Owner’s lessees, invitees, permittees, licensees, guests any other person or entity having any right, title or interest in the Condominium.

(f) No Right of First Refusal. The right of a Unit Owner to sell, transfer or otherwise convey his Unit shall not be subject to any right of first refusal in favor of Declarant or the Association.

### 3.5 Alterations; Subdivision.

(a) An Owner may make improvements or alterations within his Unit that do not in any way change the Common Elements or otherwise impair the structural integrity of the Building or the mechanical systems. Declarant may make changes in any Unit or in the Common Elements at any time to meet mandatory requirements of applicable law.

(b) A Unit Owner of adjoining Units may remove the partitions between adjoining Units in accordance with N.C.G.S. § 47C-2-111. No boundary shared by a Unit shall be relocated without the Declarant's written consent. Any removal of partitions between Units or creation of apertures between Units shall be subject to the below subsection 3.5(e).

(c) Unit Owners of adjoining Units ("Adjoining Owners") may relocate their Unit boundaries in accordance with N.C.G.S. § 47C-2-112 and upon obtaining the Declarant's and Association's written consent; provided, however, that no such relocation of boundaries shall be binding upon any Mortgagee holding a Mortgage on any Unit whose boundaries are relocated, unless consented to in writing by such Mortgagee. Any relocation of boundaries shall not affect the Allocated Interest allocated to each Unit. Upon approval of the proposed relocation of boundaries, the Association shall cause to be prepared and filed, at the Adjoining Owners' expense, an amendment to this Declaration and a plat that identifies the Units involved, describes and depicts the altered boundaries, and gives the dimensions of the altered Units. Such amendment shall also contain operative words of conveyance and be signed by the Adjoining Owners and consented to by their Mortgagees, if any, and shall be indexed in the New Hanover County Registry in the names of the Adjoining Owners. Any relocations shall also be subject to the below subsection 3.5(e).

(d) Subdivision of Units by Owners other than Declarant is prohibited. Declarant may subdivide any Units it owns pursuant to the exercise of Special Declarant Rights as provided in this Declaration. If any Unit is subdivided by Declarant, the Association shall cause to be filed an amendment to this Declaration reallocating the Allocated Interest appurtenant to the original Unit between or among the new Units created by the subdivision of the Unit in proportion to the Unit Area contained in each new Unit.

(e) Prior to the commencement of any work to remove or revise partitions between adjoining Units or create any apertures between Units or reallocate Unit boundaries, the affected Unit Owner shall:

(i) Notify the Declarant and the Association in writing of the intent to commence work and provide for waivers of all mechanics' and materialmen's lien rights which may arise as a result of the alteration if requested by the Association;

(ii) Secure all proper governmental permits, including, but not limited to building permits, necessary for the completion of the work;

(iii) Purchase insurance insuring against all losses commonly insured against arising out of the work, name Declarant and the Association as additional insureds and provide certificates of insurance with respect to such insurance;

(iv) Indemnify and hold the Declarant, the Association and all other Unit Owners harmless from the effect of the work including, but not limited to, any damage resulting from any disturbance to, or compromise of, the structural support of the Building;

(v) Minimize the disturbance to other Unit Owners during the work; and

(vi) Reimburse the Declarant and the Association for any expenses incurred by the Association, including but not limited to legal, architectural, and other consulting fees.

**ARTICLE 4**  
**COMMON ELEMENTS/LIMITED COMMON ELEMENTS**

4.1 Common Elements. The real estate which comprises the Common Elements as of the recording of this Declaration is all of the Condominium except the Units. In addition to all of the rights reserved to Declarant hereunder, Declarant specifically reserves the right to improve, upgrade, expand, modify and enlarge the Common Elements, including the addition of certain easement rights in favor of Declarant. Subject to the other provisions of this Declaration, the Association shall be responsible for the maintenance, replacement and repair of the Common Elements and the cost for such maintenance, repair or replacement shall be borne by all the Unit Owners.

4.2 Limited Common Elements. The Limited Common Elements are identified and allocated as follows in Sections 4.2, 4.3 and 4.4:

(a) The Limited Common Elements specified in N.C.G.S. § 47C-2-102(2) (being any chute, flue, duct, wire, conduit, bearing wall, bearing column, or any other fixture which lies partially within and partially outside the designated boundaries of a Unit, or any portion thereof serving only that Unit) are allocated to the Units served by those Limited Common Elements.

(b) The Limited Common Elements specified in N.C.G.S. § 47C-2-102(4) (being any shutter, awning, window box, doorstep, stoop, deck, porch, balcony, patio and all exterior doors, all windows (frame and glass), or other fixtures designated to serve a single Unit but located outside the Unit's boundaries) are allocated to the Units served by those Limited Common Elements. All portions of heating, ventilation and air conditioning ("HVAC") systems lying outside the boundaries of Units are Limited Common Elements allocated to the Unit(s) served by those systems.

4.3. Limited Common Elements/Parking Spaces.

(a) The Parking Spaces shown as numbers 1-12 on the Plats and Plans are Limited Common Elements, and one Parking Space has been allocated to each Residential Unit in Building One as set out on **Exhibit C**. In the event Building Two is constructed and so long as it is not withdrawn from the Condominium, the Parking Spaces shown as numbers 13-15 will be Limited Common Elements, and one such Parking Space will be assigned to each Residential Unit in Building Two. Provided however, if Declarant exercises its Special Declarant Rights to withdraw Building Two from the Condominium, the Parking Spaces shown as numbers 13-15 may also be withdrawn from the Condominium. Any remaining Parking Spaces, not otherwise allocated on **Exhibit C**, shall be allocated by Declarant in such manner as Declarant may determine; provided, however, that any Parking Space that remains unallocated as of the date four (4) years from the date of recording of this Declaration (or, if later, as of the date of expiration of the Declarant Control Period) may be allocated by the Association in such manner as it may determine.

As Declarant allocates each of the unallocated parking spaces shown on the Plats and Plans, it shall notify the Association in writing of that allocation (and may record a Supplemental Declaration reflecting the same or may show the same on the Plats and Plans). Once a Parking Space has been allocated as a Limited Common Element to a particular Unit, that Parking Space may not be transferred by the Owner of that Unit except in connection with a conveyance of his Unit and any such attempted transfer in violation of this provision shall be null and void. Until so allocated by Declarant or by the Association, any unassigned Parking Spaces shall be available for the general use of the

Owners and their guests on a first-come, first-served basis, subject to whatever rules or regulations may be imposed by the Association from time to time governing Parking Spaces.

Use of the Parking Spaces by all Owners shall be subject to any reasonable Rules and Regulations that may be imposed by the Board, or by any third party with whom the Association contracts to operate and manage the Parking Spaces. In addition, parking rights in the Parking Spaces may be enforced by requiring Owners to display appropriate permits on their vehicles. The Association may make reasonable rules concerning parking for the operation of the parking, and is empowered to enforce the same through fines, towing, booting, or other such means.

4.4 Limited Common Elements/Storage Units. Individual Storage Closets are located in Building One, as shown on the Plats and Plans. Storage Closets have been allocated to each Residential Unit in Building One as set out on **Exhibit C**. In the event Building Two is constructed and not withdrawn from the Condominium, any Storage Closets that may be built to serve Units in Building Two will be Limited Common Elements, and will be assigned to Residential Units in Building Two in Declarant's discretion. As Declarant allocates each of the unallocated Storage Closets for Building Two, it shall notify the Association in writing of that allocation (and may record a Supplemental Declaration reflecting the same or may show the same on the Plats and Plans).

4.5 Conveyance or Encumbrance of Common Elements. Portions of the Common Elements may be conveyed or subjected to a security interest by the Association if the Owners entitled to cast at least 80% of the votes in the Association, including 80% of the votes allocated to Units not owned by Declarant, agree to that action; provided, that all the Units Owners to which any Limited Common Element is allocated must agree in order to convey such Limited Common Element or subject it to a security interest. The procedure for conveying or encumbering a portion of the Common Elements and distributing the proceeds, if any, shall be that set forth in N.C.G.S. § 47C-3-112.

## **ARTICLE 5**

### **MAINTENANCE, REPLACEMENT AND REPAIR**

#### 5.1 Unit Owners' Responsibilities for Maintenance and Repair.

(a) Each Owner shall be responsible for the maintenance and repair of his Unit. Without limiting the foregoing, all Owners shall be responsible for routine cleaning of the interior surfaces of the exterior windows and doors, which are Limited Common Elements allocated exclusively to the Unit served. Each Owner shall further be responsible and liable for the maintenance, repair and replacement of the exterior surfaces of any and all walls, ceilings and floors within such Owner's Unit including painting, decorating and furnishings, and all other accessories which such Owner may desire to place or maintain in such Owner's Unit. All fixtures, equipment and utilities installed and included in a Unit commencing at a point where the fixtures, equipment and utilities enter the Unit shall be maintained and kept by the Owner of the Unit. Whenever repair work with respect to any item for which an Owner is obligated to maintain, replace or repair at such Owner's sole expense is occasioned by any loss or damage which may be covered by any insurance maintained in force by the Association, the proceeds of the insurance received by the Association shall be used for the purpose of performing such repair work except that such Owner shall be required to pay such portion of the costs of such repair work as shall, by reason of the applicability of any deductibility provision of such insurance or by any other reason, exceed the amount of the insurance proceeds applicable to such repair work. Except as otherwise set forth herein, the maintenance, repair and replacement of balconies, exterior windows and doors serving Units shall be the responsibility of the Association (as Limited Common Areas) and the cost of such repair or replacement shall be borne equally by all of the Owners, and such repair or replacement shall be made with materials and finishes of equal or better quality to those installed by the Declarant, and shall be made in accordance with a set of standards maintained by the Association. In the event any

window or exterior door is broken, the Unit Owner shall be responsible for securing her Unit until such time as the window or door can be repaired or replaced.

(b) Notwithstanding anything to the contrary, each Owner shall be responsible for any damage to his Unit or to any other Unit caused by any action or inaction of that Owner, his lessee, invitee, or agent (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 any other Unit or to any of the Common Elements. If damage for which a Unit Owner is legally responsible and which is not covered by insurance provided by the Association is inflicted on any Common Element or Limited Common Element, the Association may direct such Unit Owner to repair such damage or the Association may itself cause the repairs to be made and recover the costs thereof from the responsible Unit Owner. Damage that is caused to balconies or to exterior windows and doors by Unit Owners shall be repaired by the Association but at the sole cost of the Unit Owner causing such damage.

(c) In the event that the Association determines that any Unit Owner 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 the Declaration, then, in that event, the Association, except in the event of an emergency situation, shall give such Unit Owner written notice of the Association's intent to provide such necessary maintenance, cleaning, repair, or replacement at such Unit Owner'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 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 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 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.

(d) Without limiting the foregoing, each Non-Residential Owner shall be responsible for the maintenance, repair and replacement of any grease trap or similar facility which serves such Non-Residential Unit.

5.2 Maintenance of Common Elements. Subject to the other provisions of this Declaration, the Association shall be responsible for the maintenance, replacement and repair of the Common Elements and the cost for such maintenance, repair or replacement shall be borne by all the Unit Owners pursuant to the Condominium Documents. Declarant hereby grants and conveys to the Association such easements on, across and over the Common Elements as shall be reasonably necessary in the exercise and discharge of its maintenance rights and obligations established by this Declaration or under the Act. Whenever repair work is occasioned by any act of an Owner or such Owner's Permittees, and such loss or damage is covered by any insurance maintained in force by the Association, the proceeds of the insurance received by the Association shall be used for the purpose of performing the repair work and the Owner who is responsible for the act causing the damage shall be required to pay such portion of the cost of such repair work as shall, by reason of the applicability of any deductibility provision of such insurance or by any other reason, exceed the amount of the insurance proceeds applicable to such repair work.

### 5.3 Maintenance of Limited Common Elements.

(a) Subject to the other provisions of this Declaration, the Association shall be responsible for the maintenance, replacement and repair of the Limited Common Element Parking Spaces, and the cost for such maintenance, repair or replacement shall be borne by all of the Unit Owners to which Parking Spaces are allocated, as may be more specifically set forth in the Bylaws. Unit Owners shall be directly responsible for arranging for the maintenance, repair or replacement of their respective HVAC systems and for payment of the same.

(b) The Association shall be responsible for the exterior maintenance and the repair and replacement of windows in the Buildings. Each Owner shall be responsible for cleaning the interior surfaces of the windows and doors serving his Unit. Each Owner shall be responsible for the routine cleaning of the balcony (if any) serving his Unit. All Unit Owners shall be directly responsible for the maintenance, repair and replacement of the heating, ventilation and air conditioning systems and any water heating systems which serve their Unit, whether lying within the Unit or outside the Unit.

5.4 Standard for Maintenance, Repair and Replacement. In order to protect the value of the Units in the Condominium, the Common Elements, Limited Common Elements shall be maintained to a standard which is equivalent or better than that of other similar mixed use condominium developments in New Hanover County. All repairs and replacements of Common Elements and Limited Common Elements shall be made in a good and workmanlike manner with a grade of materials and finishes equivalent to or higher than the grade initially installed by Declarant, as may be applicable, and shall be harmonious with and complement the existing architecture and finishes within the Condominium. All work shall be properly permitted and conducted by properly licensed trades as may be applicable. The Board of the Association shall be the arbiter as to whether the foregoing standards are met.

5.5 Board to Decide Responsible Parties. If the application of the rules regarding the party responsible for the maintenance, repair, and replacement as set forth in this Article 5 is unclear as to any specific component of the condominium, then the Board of the Association shall have the authority to determine the responsible party based on a reasonable reading of the Condominium Documents. The Board has the power to delegate the maintenance, repair and replacement responsibilities for Limited Common Elements to the various Unit Owners benefited by the Limited Common Elements to be maintained, replaced or repaired.

## ARTICLE 6 ALLOCATED INTERESTS

Each Unit is allocated an undivided ownership interest in the Common Elements, a share in the liability for Common Expenses and the Association revenues, if any, of the Condominium, and a vote in the Association, as further described below.

6.1 Allocation of Common Elements Interest. Each Unit, regardless of size or usage, shall be allocated an equal percentage ownership interest in the Common Elements, as shown on Exhibit B. If Declarant exercises its Special Declarant Rights to create additional Units and Limited Common Elements or to withdraw land or Units, Declarant shall have the right to adjust the Common Elements Interest for each Unit, based on the same formula where each Unit has an equal percentage interest in the Common Elements. If Declarant exercises this right, Declarant will record a Supplement

Declaration that shall contain a new allocation of Common Elements Interests calculated in accordance with the foregoing formula, which shall be substituted for **Exhibit B** attached hereto.

6.2 Allocation of Common Expense Liability. All Common Expense Liability shall be apportioned among the Units in accordance with each Unit's Common Element Interest. Based on the initial number of 13 Units in Building One, each Owner's percentage share of Common Expenses is 7.69%; if Declarant expands the Condominium to 24 Units in accordance with Article 2 of the Declaration, each Owner's percentage share of Common Expenses would be 4.17%.

6.3 Allocation of Votes in the Association. Recognizing that the Non-Residential Units have a paramount interest in the operation and upkeep of the Condominium, the Non-Residential Units will share 35% of the total Voting Interest (with such 35% shared equally among each Non-Residential Unit regardless of square footages); and the Residential Units will share 65% of the total Voting Interest (with such 65% shared equally among each Residential Unit regardless of square footages). On all matters where the entire membership of the Association shall be entitled to vote, the Owner of each Unit shall have a vote equal to Voting Interest appurtenant to such Unit (as described in this Section 6.3), to be cast or exercised by the Owner of each Unit in such manner as may be provided in the Bylaws of the Association. Each Unit's Voting Interest is shown on **Exhibit B**. If Declarant exercises its Special Declarant Rights to create additional Units and Limited Common Elements or to withdraw land or Units, Declarant shall have the right to adjust the Voting Interest for each Unit, based on the same formula described above. If Declarant exercises this right, Declarant will record a Supplement Declaration that shall contain a new allocation of Voting Interests calculated in accordance with the foregoing formula, which shall be substituted for **Exhibit B** attached hereto.

The Articles or Bylaws may also provide for class voting, where Residential Units have the ability to make decisions about matters that exclusively affect the Residential Units and/or residential portion of the Condominium, and the Non-Residential Units have the ability to make decisions that exclusively affect the Non-Residential Units and/or Non-Residential portions of the Condominium.

## **ARTICLE 7**

### **ADMINISTRATION AND BYLAWS**

7.1 Association; Bylaws. Declarant has caused to be incorporated under the laws of the State of North Carolina a nonprofit corporation known as Towne Place Condominium Owners' Association, Inc. Each Unit Owner shall have voting rights in the Association as set forth in Article 6 hereof. The administration of the Condominium by the Association shall be in accordance with the provisions of the Bylaws.

7.2 Automatic Membership in Association. Each Unit Owner shall automatically become and be a member of the Association upon being conveyed a fee interest in a Unit. 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 such Unit and filed with the Secretary of the Association. Further, should such Unit Owner be a corporation, limited liability company, partnership, trust, unincorporated association or other entity, such entity must designate, in a certificate signed by an officer, manager, partner or other authorized representative of such entity, the name of the individual authorized to vote on behalf of such entity, which certificate shall be 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. If such certificate is not filed with the Secretary of the Association, the Association shall be entitled to recognize and rely upon the authority of any individual who states that he or she represents such entity with respect to matters involving such entity's membership in the Association, including the right to vote, unless the lack of authority of such individual is manifest.



## **ARTICLE 8** **ASSESSMENTS**

8.1 Taxes. Every Unit, together with its Common Element Interest, shall be separately assessed and taxed by each assessing authority for all types of taxes authorized by law. Each Owner shall be liable solely for the amount taxed against his individual Unit.

### 8.2 Assessments for Common Expenses.

(a) Annual Assessments for Common Expenses. The Association shall have the power to levy, and all Unit Owners shall be obligated to pay, Annual Assessments imposed by the Association to meet all Association Common Expenses. Except as otherwise provided in this Declaration or in the Bylaws, each Unit shall be responsible for an equal share of the Common Expenses, all in accordance with Section 6.2. Payment of the Annual Assessment shall be in equal monthly installments on or before the first day of each month, or in such other reasonable manner as the Board shall designate so long as the assessments are levied at least annually. Within thirty (30) days of the Board's adoption of a proposed budget for the Association for the next fiscal year, the Board shall furnish all Unit Owners with a summary of the budget, advise the Owners of the amount of the Annual Assessments payable by each of them, and notice the Owners of date and time of the meeting at which budget ratification will be considered, such meeting to be held not less than fourteen (14) and not more than thirty (30) days after the mailing of the budget summary.

(b) Commencement of Assessments. Assessments for all Units shall begin as of the date of the first conveyance of a Unit to an Owner other than Declarant; provided, however, that assessments shall not begin for any particular Unit until: (a) the interior construction and upfitting of that Unit has been substantially completed and accepted in writing by the contract purchaser for that Unit (or, if there is no contract purchaser, by Declarant), and (b) a permanent certificate of occupancy for that Unit has been issued by the Town of Carolina Beach Building Standards Department. Declarant's final payment to its contractor shall be conclusive evidence that it has accepted the interior construction and upfitting of all Units. Any contract purchaser's closing of the purchase of a Unit shall be conclusive evidence that it has accepted the interior construction and upfitting of that Unit.

(c) Declarant's Obligation for Assessments. With respect to Units owned by it, Declarant's obligations to pay assessments for Common Expenses may be satisfied in the form of cash payments to the Association or "in kind" contributions of services that would otherwise be included within Common Expenses, or any combination of the foregoing.

(d) 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 this Declaration or the 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 Common Elements or by abandonment of his or her or its Unit.

(e) Special Assessments. All Unit Owners shall be obligated to pay special assessments imposed by the Association to meet the costs of, among other things, capital improvements, repair or replacement of the Common Elements, allocations to reserves and other extraordinary expenses.

(f) Records. The Board shall keep detailed records of the receipts and expenditures according to the Bylaws, and the Association's financial records shall be available to the Owners as prescribed in the Bylaws. Upon written request from an Eligible Holder, the Association shall prepare and furnish within a reasonable time an audited financial statement of the Association for the immediate preceding fiscal year.

(g) Default in Payment of Assessments. The Board shall take prompt action to collect any periodic and special assessments, or portions 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 any assessments as determined by the Board, such Unit Owner shall be obligated to pay a late charge of the greater of \$20.00 or 10% of the payment. The Board shall have the right and duty to attempt to recover such assessments and late charges 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, provided that the Association acts in accordance with 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. § 47C-3-116(d), as amended, shall be controlling.

(h) Statement of Assessments or Other Charges. The Board shall, within ten (10) days of a request and for a reasonable fee not to exceed Ten Dollars (\$10.00), provide any purchaser, Unit Owner, lender or prospective lender so requesting the same in writing, with a written statement of all unpaid assessments 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.

(i) Utilities. If utility services serving Units are separately metered for each Unit, then each Unit Owner will maintain those utility accounts in her own name and be responsible for direct payment of the bills. For any utility services serving Units that are not separately metered for each Unit, the Association will maintain the utility account and utility charges will be included in the assessments levied by the Association, based on objective measurements of use if available, and otherwise based on as equitable allocation of use to be reasonably determined by the Association.

8.3 Initial Working Capital Assessment for Residential Units. Upon the conveyance of every Unit from the Declarant to the first purchaser, such purchaser shall pay to the Association an initial working capital assessment in the amount of two (2) months of the against the Unit purchased for the purpose of capitalizing the Association.

8.4 Common Surplus. The term "**Common Surplus**" means and refers to all funds and other assets of the Association, including excess of receipts of the Association from assessments, rents, profits and revenues from whatever source, over the amount of Common Expenses. The Common Surplus shall be owned by the Owners in the same proportion as their respective shares of Common Expense Liabilities, as provided in Section 6.2, provided, however, that the Common Surplus shall be held by the Association in the manner and subject to the terms, provisions and conditions of this Declaration imposing certain limitations and restrictions upon the use and distribution thereof. Except for distribution of any insurance proceeds, which shall be made in the manner provided in Article 9, or upon termination of the Condominium, any attribution or distribution of Common Surplus which may be made from time to time shall be made to the then Owners in proportion to their respective shares of Common Expense Liabilities.

## **ARTICLE 9**

### **INSURANCE; RECONSTRUCTION AND REPAIR**

9.1 Insurance Obtained by the Association. The Association shall be required to obtain and maintain insurance policies that include the minimum coverages of (i) property insurance in an amount not less

than 100% replacement coverage on the Building(s), including the Units and Common Elements, at the time such insurance is purchased and at the time of each renewal thereof (specifically excluding the cost of any personal property supplied or installed by Owners and any and all fixtures installed in a Unit by or for an Owner after such Unit has been conveyed to such Owner by the Declarant and any other items that are not expressly required to be insured by the Association pursuant to Section 47C 3 113 of the Act), with a commercially reasonable deductible; (ii) liability insurance coverage of at least \$1,000,000 per occurrence and \$2,000,000 per accident; (iii) fidelity insurance coverage covering the Board members, officers and employees of the Association in a reasonable amount; and (iv) any other insurance required to be obtained by the Act or determined reasonably necessary by the Board. The Association shall not be responsible for insuring improvements and betterments made to those Units by the Unit Owners. Additional provisions governing insurance are contained in the Bylaws.

9.2 Premiums. Premiums for insurance policies purchased by the Association, and any amounts paid as a result of a deductible (unless such deductible is the responsibility of an Owner as provided in Article 5), shall be paid by the Association and charged as a Common Expense. Provided however, the Board, in its reasonable discretion, may bifurcate the insurance policy premiums (and benefits) between the two Buildings, in which case all provisions hereof (regarding premiums, benefits, deductibles, etc.) shall be bifurcated, where Building One Unit Owners pay the premium for their Building and Building Two Unit Owners pay the premium for their Building. The Association shall maintain at all times sufficient funds in its reserve account in order to cover the cost of any deductible amounts required under the property insurance policy maintained pursuant to this Article 9. Notwithstanding the preceding sentence, if a casualty occurs wholly within the boundary of one Unit and does not affect any other Unit or Common Elements, the Owner of such Unit shall be wholly responsible for any deductible amount in such policy of insurance relating to such claim, the payment of which shall be subject to the Association's right to make assessments and liens.

9.3 Insurance Obtained by Owners. Each Owner shall obtain and keep continuously in force additional fire and casualty and extended coverage insurance upon his Unit and his personal property, public liability insurance, and such other insurance coverage as he may desire. Each Owner of a Residential Unit shall obtain and maintain public liability insurance coverage in the amount of at least \$100,000 for bodily injury, including death, of persons and property damage, arising out of a single occurrence. Each owner of a Non-Residential Unit shall obtain and maintain public liability insurance coverage in the amount of at least \$500,000 for bodily injury, including death, of persons and property damage, arising out of a single occurrence. All such insurance policies shall include, to the extent reasonably available, provisions waiving (i) any right of the insurer to subrogation claims against the association and against unit owners and their household members, employees and invitees, as well as their tenants and such tenant's employees and invitees; and (ii) any right of the insurer to contribution or proration because of the association's casualty and public liability policy.

At the request of the Association or Declarant, each Owner shall certify at the closing of the purchase of a Unit that such an individual policy has been obtained.

9.4 Reconstruction. In the event of casualty loss or damage to the Condominium the provisions of N.C.G.S. § 47C-3-113(h) shall govern all matters pertaining to reconstruction and repair, subject to this Declaration's definition of Allocated Interest.

## **ARTICLE 10** **EASEMENTS**

10.1 Reserved Easements. The Declarant expressly reserves such easements through the Common Elements as described in N.C.G.S. § 47C-2-116. The Association shall have the right at any time to

grant easements for utility purposes for the benefit of the Condominium, 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 Plats and Plans. 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.

10.2 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 encroachments 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 Association; (c) repair or restoration of the Building or any Unit made necessary because of damage by fire or other casualty; or (d) 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(s) stand.

10.3 Other Condominium Easements. Each Unit Owner shall have a nonexclusive easement in common with all Unit Owners to use the Common Elements, including 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. To the extent that there are Common Elements passing through or encroaching into Units, each Unit shall be subject to a nonexclusive easement in favor of all other Unit Owners 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 Association shall have a reasonable right of access to each Unit and the Limited Common Elements allocated to such Unit to maintain, repair or replace Common Elements contained therein or elsewhere on the Condominium, and each Owner shall have access though other Units and Limited Common Elements allocated thereto as is reasonably necessary for the Owner to conduct the maintenance, repair and replacement of his Unit.

10.4 Construction Easement. 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.

10.5 Emergency. The Association shall have a right of entry upon the Common Elements, Units and any Limited Common Elements to make emergency repairs or to carry out its duties to address emergencies, and a reasonable right of entry upon the Units to make other repairs, improvements, replacement or maintenance made for the benefit of the Unit entered or another Unit.

10.6 Appurtenant. All easements granted herein 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, mortgagees, and any other person or entity having an interest in the Condominium.

10.7 Other Easements and Agreements. There are certain other recorded easements and agreements which may encumber or are appurtenant to the Condominium. They are as follows:

- a. All matters shown on the Plats and Plans.
- b. All matters shown on maps recorded in Map Book 65, Page 235; Map Book 3, Page 23; Book of Maps 2, Page 104; Book 39, Page 323, New Hanover County Registry,
- c. Easement recorded in Book 1196, Page 612, New Hanover County Registry.

**ARTICLE 11**  
**LENDER CONSENT**

The Land and the Building are currently encumbered by the lien of those certain (i) deeds of trust executed and delivered by Declarant a Trustee for the benefit of Select Bank & Trust Company and recorded in Book 6170, Page 2571 and Book 6225, Page 1556; and (ii) that certain Assignment of Leases and Rents recorded in Book 6170, Page 2592 and Book 6225, Page 1576, all of the New Hanover County Registry. A Consent of Lender executed by said lender is attached hereto as **Exhibit D** and made a part of this Declaration.

**ARTICLE 12**  
**GENERAL ASSOCIATION MATTERS**

12.1 **Powers of the Board.** All powers granted in the Declaration or the Bylaws to the Association shall be exercisable by the Board, except as otherwise expressly provided in the Declaration, the Bylaws, or the Act.

12.2 **Rules and Regulations.** 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. A copy of the Rules and Regulations that exist as of the filing of this Declaration are attached to the Bylaws as an appendix. Notwithstanding anything herein to the contrary, the Association shall adopt no Rules and Regulations that prohibit or impair any lawful use of the Non-Residential Units.

12.3 **Enforcement by Association.** 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.

**ARTICLE 13**  
**RIGHTS OF ELIGIBLE HOLDERS**

This Article 13 shall govern notwithstanding any other provision of the Condominium Documents, and to the extent that there is a conflict between any other provision of the Condominium Documents and this Article 13, this Article 13 shall control.

13.1 **Notices of Action.** An Eligible Holder will be entitled, and the Board shall cause to be delivered, timely written notice of the following:

(a) any proposed amendment of the Condominium Documents effecting a change in (i) the boundaries of any Unit or the exclusive easement rights appertaining thereto; (ii) the interests in the Common Elements or Limited Common Elements appertaining to any Unit or the liability for Common Expenses thereto; (iii) the Voting Interests allocated to any Unit; or (iv) the purposes to which any Unit or the Common Elements are restricted;

(b) any proposed termination of the Condominium;

(c) any condemnation loss or any casualty loss which affects a material portion of the Condominium or which affects any Unit on which there is a first mortgage;

(d) any delinquency in the payment of assessments or charges owed by a Unit Owner subject to a first mortgage, where such delinquency has continued for a period of sixty (60) days;

(e) any lapse, cancellation or material modification of any insurance policy maintained by the Association pursuant to Article 9 hereof; or

(f) any proposed action by the Association, the Board, or the Owners, which under the terms of the Condominium Documents requires the consent of all or any portion of the Eligible Holders.

13.2 Approval Rights of Eligible Holders. The approval of Eligible Holders shall be required in the instances hereinafter set forth:

(a) Termination of Condominium.

(i) Upon Casualty or Condemnation. Any election to terminate the Condominium after substantial destruction or a substantial taking in condemnation of the Condominium requires the approval of the Eligible Holders who hold mortgages on Units to which at least fifty-one percent (51%) of the votes of Units subject to mortgages are allocated.

(ii) In Absence of Casualty or Condemnation. In any election to terminate the Condominium in the absence of substantial destruction or a substantial taking in condemnation of the Condominium, the approval of the Eligible Holders who hold mortgages on Units to which at least sixty-seven percent (67%) of the votes of Units subject to mortgages appertain shall be required to terminate the Condominium.

(b) Restoration or Repair. Any restoration or repair of the Condominium after a partial condemnation or damage due to an insurable hazard shall be substantially in accordance with this Declaration and the original plans and specifications unless the approval is obtained of the Eligible Holders who hold mortgages on Units to which at least fifty-one percent (51%) of the votes of Units subject to mortgages are allocated.

(c) Amendment of Condominium Documents. The approval of the Eligible Holders who hold first mortgages on Units to which at least fifty-one percent (51%) of the votes of Units subject to mortgages appertain, shall be required to amend materially any provisions of the Condominium Documents or to add any material provisions thereto, which establish, provide for, govern or regulate any of the following:

- (i) Voting;
- (ii) Assessments, assessment liens or subordination of such liens;
- (iii) Reserves for maintenance, repair and replacement of the Common Elements;
- (iv) Insurance or fidelity bonds;
- (v) Rights to the use of Common Elements;

- (vi) Responsibility for maintenance and repair of the Common Elements;
- (vii) Expansion or contraction of the Condominium or the addition, annexation or withdrawal of property to or from the Condominium;
- (viii) Boundaries of any Unit;
- (ix) The interests in the Common Elements or Limited Common Elements;
- (x) Convertibility of Units into Common Elements or of Common Elements into Units;
- (xi) Leasing of Units;
- (xii) Imposition of any right of first refusal or similar restriction on the right of a Unit Owner to sell, transfer, or otherwise convey his or her Unit in the Condominium;
- (xiii) Establishment of self-management by the Association where professional management has been required by HUD, VA, FHA, FNMA, FHLMC, or Ginnie Mae;
- (xiv) Any amendment to a provision in the Condominium Documents which is for the express benefit of Eligible Holders; or
- (xv) Amendment to a provision in the Condominium Documents which be of a material adverse nature to any mortgagee that holds a first mortgage on a Unit.

13.3 Notices to Eligible Holders. All notices and requests for approval sent by the Association to an Eligible Holder pursuant to this Article 13 shall be sent in the manner provided in Section 5 of Article 10 of the Bylaws. If an Eligible Holder fails to approve or disapprove a request for approval presented to it pursuant to this Article 13 within sixty (60) days following its receipt thereof, the Eligible Holder shall be deemed to have approved the request.

#### ARTICLE 14

#### AMENDMENT AND TERMINATION OF CONDOMINIUM

##### 14.1 Amendment of Declaration.

(a) Except in cases of amendments by the Declarant, the Association, or certain Unit Owners pursuant to the exceptions provided in N.C.G.S. § 47C-2-117(a), the Declaration may be amended only by vote or agreement of Owners to which at least 67% of the total votes in the Association are allocated. Provided, however, where the act or approval of a greater percentage of the vote of Unit Owners is expressly required by this Declaration, the Act, or the Association's Articles of Incorporation or Bylaws, this Declaration may not be amended to decrease such greater percentage of votes without the consent of Unit Owners holding that greater percentage of votes. Without limiting the foregoing, for so long as Declarant holds any Special Declarant Rights (as described in Section 2.5 hereof), Declarant shall have the right to file amendments to this Declaration in order to exercise such Special Declarant Rights, without the consent or joinder of any other Owners or their mortgagees.

(b) Every amendment shall be prepared, executed, recorded and certified by the Association and shall be effective only when recorded in the land records of the county in which the Condominium lies.

(c) Subject to the exceptions of N.C.G.S. § 47C-2-117(a), no amendment which alters the allocation formulas of Common Elements and Common Expenses for a Unit shall be valid unless the same has been signed or consented to by the Owner(s) so affected.

(d) Notwithstanding the foregoing, this Declaration may be amended by the Declarant or Association without the consent of any Owner in order to comply with any provisions of law or to correct manifest errors herein. In addition, for so long as Declarant has the right to appoint the majority of the members of the Board of the Association and to the extent permitted by law, this Declaration and the other Condominium Documents may be amended by the Declarant without the consent of any Owner in order to comply with the rules, regulations and policy statements promulgated and issued by the U.S. Department of Housing and Urban Development, the Veterans' Administration, the Federal Housing Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation or the Government National Mortgage Association. Any permitted amendment by Declarant shall be effective upon execution by Declarant and recording of the amendment.

(e) No amendment shall modify, reduce or impair any rights reserved by the Declarant without the consent and joinder of Declarant.

(f) Notwithstanding anything herein to the contrary, certain types of amendments to this Declaration must be approved by Eligible Holders as set forth in Article 13 hereof.

14.2 Termination. Subject to Article 13 hereof, the dedication of the Property to the Condominium Declaration herein shall not be revoked, or the Property removed from the Act except that the Condominium may be terminated and the Property removed from the provisions of the Act by at least 90% agreement of Unit Owners, as evidenced by execution of a termination agreement, or ratification thereof, by such Owners, provided that all the mortgagees of the Units (including those mortgagees of Unit Owners who did not consent) are provided with sixty (60) days prior written notice of such termination. Except as otherwise provided for herein, termination of the Condominium shall be in accordance with the Act.

14.3 Statutory Compliance. No amendment or termination that is contrary to, or inconsistent with, any requirements or provisions of the Act shall be valid.

## **ARTICLE 15**

### **GENERAL CONDITIONS; MISCELLANEOUS MATTERS**

15.1 Common Elements Not Partitioned. Unless otherwise herein provided, the Common Elements and Limited Common Elements shall remain undivided and no Unit Owner shall bring any action for partition and/or division of same.

15.2 Common Elements Not Severable from Units. The undivided interest in the Common Elements and Limited 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.

15.3 Provisions and Covenants Applicable to Units. Each Unit Owner shall comply with the provisions this Declaration, all exhibits hereto, and authorized amendments hereto. 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 Plats and Plans and amendments thereto. The acceptance of a deed of conveyance or the entering into of a lease for any portion of the Condominium 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 by the Association 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 Condominium 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.

15.4 Nonuse Not Exemption of Liability for Common Expenses. No Unit Owner 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.

15.5 All Users of Property Subject to Declaration. All present or future Unit Owners and any other person that might use the facilities of the Condominium 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.

15.6 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 deed of trust encumbering 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 this section shall not be construed to prevent the Association from filing and claiming liens for such unpaid assessments and enforcing the same as provided by law, and provided that such assessments shall be subordinate to such deed of trust. Any sale or transfer of a Unit pursuant to a foreclosure shall not relieve the purchaser or transferee of a Unit from liability for, nor the Unit so sold or transferred from, any Common Expenses thereafter becoming due.

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

15.8 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.

15.9 Gender and Number. The use of the feminine gender in this Declaration shall be deemed to refer to the masculine 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.

15.10 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 the Act, the provisions of the Act shall control. In all cases, the provisions of this Declaration shall be given that reasonable interpretation or construction which will best affect consummation of the general plan of land use restrictions and affirmative obligations of the Condominium, which will carry out the intent of the Declarant as expressed herein, and which will preserve the Condominium as a site for an attractive, well-maintained, 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 Condominium 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 this Declaration 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 Condominium, is intended to foster the creation, preservation or enhancement of economic or intangible value associated with the Condominium, and does touch and concern, benefit and burden and run with the Condominium.

15.11 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.

15.12 Exhibits. All the exhibits to this Declaration shall be an integral part of this instrument and are hereby incorporated by reference.

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

TOWN PLACE ISLANDER, LLC

By: [Signature]  
Name: Matthew T. Murphy  
Title: Manager

STATE OF NORTH CAROLINA

COUNTY OF New Hanover  
(County where acknowledgment taken)

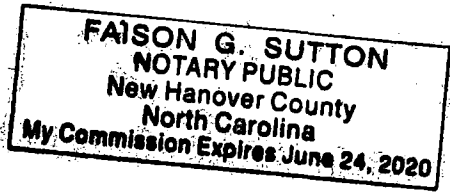
I certify that the following person personally appeared before me this day, acknowledging to me that he or she signed the foregoing document: Matthew T. Murphy  
[Insert name of person signing, not title]

Today's Date: October 21, 2019

Faison G. Sutton  
[Notary's signature as name appears on seal]

Faison G. Sutton  
[Notary's printed name as name appears on seal]

My commission expires: 6-24-2020



[Affix Notary Seal in Space Above]

**EXHIBIT A**  
**TO DECLARATION OF TOWNE PLACE CONDOMINIUM**

**Legal Description of the Land**

Being all of Area A containing 0.30 AC +/-, as shown on the map entitled "Recombination Plat for Town Place Islander, LLC et.al." recorded in Map Book 65, Page 235 in the Office of the Register of Deeds of New Hanover County, North Carolina, reference to which is hereby made for a more particular description.

**EXHIBIT B  
TO DECLARATION OF TOWNE PLACE CONDOMINIUM**

**Table of Allocated Interests**

This table may be amended from time to time in accordance with the Declaration.

		<u>Voting Interest</u>		<u>Common Element Interest</u>
		35% & 65% of	100	Equal for all Units
<b>Unit #'s</b>	<b>Type</b>	<b>% of # of Votes</b>	<b>Votes / unit</b>	
201	Residential	5%	5.417	1/13
202	Residential	5%	5.417	1/13
203	Residential	5%	5.417	1/13
204	Residential	5%	5.417	1/13
301	Residential	5%	5.417	1/13
302	Residential	5%	5.417	1/13
303	Residential	5%	5.417	1/13
304	Residential	5%	5.417	1/13
401	Residential	5%	5.417	1/13
402	Residential	5%	5.417	1/13
403	Residential	5%	5.417	1/13
404	Residential	5%	5.417	1/13
	<b>Total Residential</b>	<b>65%</b>	<b>65.000</b>	
<b>G-1</b>	<b>Non-Residential</b>	<b>35%</b>	<b>35.000</b>	<b>1/13</b>
		<b>100%</b>	<b>100</b>	<b>13</b>

**EXHIBIT C  
TO DECLARATION OF TOWNE PLACE CONDOMINIUM**

**Limited Common Area**

**Parking Space and Storage Closet Allocations**

This table may be amended from time to time in accordance with the Declaration. The Identifying Numbers of the Parking Space and Storage Closets referenced below are shown on the Plats and Plans.

<b>Unit #'s</b>	<b>Type</b>	<b>Parking Space Number</b>	<b>Storage Closet Number</b>
<b>201</b>	<b>Residential</b>	<b>12</b>	<b>S-201</b>
<b>202</b>	<b>Residential</b>	<b>3</b>	<b>S-202</b>
<b>203</b>	<b>Residential</b>	<b>7</b>	<b>S-203</b>
<b>204</b>	<b>Residential</b>	<b>11</b>	<b>S-204</b>
<b>301</b>	<b>Residential</b>	<b>5</b>	<b>S-301</b>
<b>302</b>	<b>Residential</b>	<b>1</b>	<b>S-302</b>
<b>303</b>	<b>Residential</b>	<b>6</b>	<b>S-303</b>
<b>304</b>	<b>Residential</b>	<b>10</b>	<b>S-304</b>
<b>401</b>	<b>Residential</b>	<b>4</b>	<b>S-401</b>
<b>402</b>	<b>Residential</b>	<b>2</b>	<b>S-402</b>
<b>403</b>	<b>Residential</b>	<b>8</b>	<b>S-403</b>
<b>404</b>	<b>Residential</b>	<b>9</b>	<b>S-404</b>
<b>G-1</b>	<b>Non-Residential</b>	<b>N/A</b>	<b>N/A</b>

EXHIBIT D  
TO DECLARATION OF TOWNE PLACE CONDOMINIUM

CONSENT OF MORTGAGEE

Select Bank & Trust Company is the holder of those certain Deeds of Trust encumbering the property described in the foregoing Declaration of Towne Place Condominium (the "Declaration"), said Deeds of Trust having been filed in Book 6170 at Page 2571 and Book 6225, Page 1556 in the Office of the Register of Deeds of New Hanover County (collectively with related Assignments executed in favor of the bank recorded in Book 6170, Page 2592 and Book 6225, Page 1576 of the New Hanover County Registry (collectively, the "Security Instruments"), and as holder of such Security Instruments, does hereby consent to the terms, conditions and covenants in the foregoing Declaration and agrees that the liens of said Security Instruments are subordinate to and subject to the terms, conditions and covenants contained in said Declaration.

In witness whereof, Select Bank & Trust Company has caused this Consent of Mortgagee to be signed in its company names by its duly authorized manger or officer.

Select Bank & Trust Company

By: [Signature]  
Name: BRENT BOSWELL  
Title: VICE PRESIDENT

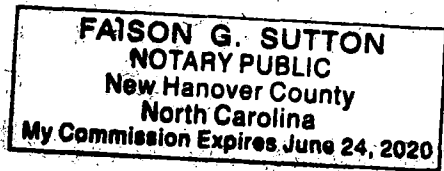
STATE OF North Carolina  
COUNTY OF New Hanover  
(State and county where execution acknowledged)

I, a Notary Public, certify that the following person personally appeared before me this day, acknowledging to me that he or she signed the foregoing document: Brent Boswell  
[Name of person signing, not title]

Today's Date: October 22, 2019

[Signature]  
[Notary's signature as name appears on seal]

Fauson G. Sutton  
[Notary's printed name as name appears on seal]



My commission expires: 6-24-2020

[Affix Notary Seal in Space Above]

TAMMY THEUSCH  
BEASLEY  
Register of Deeds

# New Hanover County Register of Deeds

320 CHESTNUT ST SUITE 102 • WILMINGTON, NORTH CAROLINA 28401  
Telephone 910-798-4530 • Fax 910-798-7716



\*\*\*\*\*

State of North Carolina, County of NEW HANOVER  
Filed For Registration: 10/23/2019 04:20:01 PM  
Book: RB 6256 Page: 2252-2283  
32 PGS \$90.00  
Real Property \$90.00  
Recorder: ANDREA CRESWELL  
Document No: 2019034616

\*\*\*\*\*

**DO NOT REMOVE!**

This certification sheet is a vital part of your recorded document. Please retain with original document and submit when re-recording.