



FOR REGISTRATION REGISTER OF DEEDS
Willie L. Covington
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Prepared by and return to William A. Anderson, III P.O. Box 51579, Durham, NC 27717-1579

STATE OF NORTH CAROLINA
COUNTY OF DURHAM

DECLARATION
OF
BALDWIN LOFTS CONDOMINIUM

THIS DECLARATION OF CONDOMINIUM is made this 30 day of March, 2011, by BALDWIN LOFTS, LLC, a North Carolina limited liability company (the "Declarant"). Declarant hereby states and declares as follows:

WITNESSETH:

WHEREAS, Declarant is the Owner of certain real property located in the City of Durham, Durham County, North Carolina, more particularly described on Exhibit A attached hereto, upon which is one building intended to contain residential condominium units, a commercial condominium unit and certain other improvements; and

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

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

ARTICLE I
DEFINITIONS

The 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 amended.

Articles or Articles of Incorporation means the articles of incorporation filed with the office of the North Carolina Secretary of State which establishes Baldwin Lofts Condominium Association as a North Carolina not-for-profit corporation.

Association means the Unit Owners' association as defined by the Act, and also means the Baldwin Lofts Condominium Association, the not-for-profit corporation by which the Unit Owners' association shall operate the Condominium.

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.

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. Rules and Regulations of the Association shall be attached to the Bylaws as an appendix.

Building means the structure containing Units which comprises a part of the Property.

Common Elements means all portions of the Condominium other than the Units.

Common Expenses means the expenses for which the Unit Owners are liable to the Association consisting of expenditures made by, or financial liabilities of, the Association including, but not limited to, expenses of administration, maintenance, insurance, operations, repair or replacement of the Common Elements, allocations to general operating reserves and any authorized additions thereto, any amount for general working capital and general operating reserves, amounts for a reserve fund for replacements, and to make up any deficit in assessments for Common Expenses for any prior year and any expense or liability covered by the levy of a special assessment. Residential Expenses shall mean those expenses for which only the Residential Unit Owners are liable. Commercial Expenses shall mean those expenses for which only the Commercial Unit Owners are liable.

Commercial Tenant means a lessee or sublessee of a Commercial Unit or any portion of a Commercial Unit.

Commercial Unit means any non-residential Unit created by the recording of this Declaration that is intended for, and restricted to, non-residential commercial use.

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

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

Condominium Documents means this Declaration and the Articles of Incorporation and Bylaws (including the Rules and Regulations) for the Association.

Declaration means this Declaration of Condominium, as it may be amended from time to time, which shall be recorded in the Durham County Registry together with the Plat, thereby establishing Baldwin Lofts Condominium by subjecting the Property to the Act.

Declarant means Baldwin Lofts, LLC, a North Carolina limited liability company, and its successors and assigns.

Limited Common Elements means the portion of the Common Elements allocated for the exclusive use of one or more but fewer than all of the Units by the Declaration or by operation of N.C.G.S. § 47C-2-102(2) and (4) of the North Carolina Condominium Act.

Owner or Unit Owner has the same definition as Co-owner as set forth in this Article 1.

Period of Declarant Control 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; or, (iii) the date upon which Declarant voluntarily surrenders control of the Condominium to the Association.

Plat means the survey of the Property and the plans for the Condominium, said Plat consisting of Sheets 1 through 12, inclusive, and being recorded in the Durham County Registry in Condominium Plat Book 12, Pages 15 through 37, inclusive. The Plat is hereby incorporated herein by reference and is made an integral part of this Declaration.

Property means and includes the underlying land, the Buildings, all other improvements and structures thereon, as described in Exhibit A attached hereto and incorporated herein by reference, and all easements, rights and appurtenances belonging thereto.

Residential Unit means any Unit created by this Declaration that is intended for, and restricted to, residential use.

Special Declarant Rights means all of Declarant's reserved rights as defined in the Act and in 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 3.2 hereof and which are shown on the Plat.

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 II

SUBMISSION OF PROPERTY TO CONDOMINIUM ACT

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

2.2 Condominium Name. The name of the Condominium shall be "Baldwin Lofts Condominium".

2.3 Plat and Plans. The Property is located in the City of Durham, Durham County, North Carolina. Attached hereto as Exhibit A is a legal description of the Property, which Property is more particularly shown on the Plat. The architectural plans filed as part of the Plat show and describe the Units and certain Limited Common Elements.

2.4 Number of Units. Declarant hereby establishes within the Property thirteen (13) Units and does hereby designate all such Units for separate ownership. The maximum number of Units permitted in the Condominium is thirteen (13). Subject to the provisions of section 3.6, subdivision of Units is prohibited. Unit boundaries are described in below section 3.2 and on the Plat. Identifying Unit numbers and Unit locations are also shown on the Plat.

More specifically, by recording this Declaration, Declarant hereby establishes twelve (12) Residential Units and one (1) Commercial Unit.

2.5 Association Membership. Each Owner shall be a member of the Association. Owners shall be entitled to a vote in the Association in accordance with the Fractional Shares as set forth on Exhibit B.

2.6 Limited Common Elements Generally. Other than those portions of Common Elements allocated by operation of N.C.G.S. § 47C-2-102(2) or (4) and those created and allocated by operation of section 4.2 below, there are no additional Limited Common Elements.

2.7 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 Plat;
- (b) To construct and maintain any sales office, management office, or model or guest rooms in any of the Units or on any of the Common Elements shown on the Plat;
- (c) During the Period of Declarant Control, to appoint and remove any officers or Executive Board members; provided, however, that: (i) not later than sixty (60) days after the conveyance of twenty-five (25%) of the Units to Owners other than Declarant, at least one (1) member and not less than twenty-five (25%) of the Members of the Executive Board shall be elected by Owners other than Declarant; and (ii) not later than sixty (60) days after conveyance of fifty percent (50%) of the Units to Owners other than Declarant, not less than thirty-three (33%) of the members of the Executive Board shall be elected by Owners other than Declarant;
- (d) To use those easements through any Common Elements which are reasonably necessary for the purpose of making any improvement indicated on the Plat, or otherwise necessary for the exercise of these Special Declarant Rights or otherwise discharging its obligations or rights hereunder;
- (e) To place "For Sale" or "For Rent" signs advertising Units on any part of the Common Elements or within any Units owned by the Declarant; and
- (f) To assign, collaterally or otherwise, in whole or in part, to its successors in title, 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.

These Special Declarant Rights shall expire one year after Declarant's conveyance in fee of the last Unit owned by Declarant.

ARTICLE III
DESCRIPTION OF UNITS; USE; REPAIRS; RESTRICTIONS
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

3.1 General Description of Units. All of the Units are more particularly shown on the Plat, which is incorporated herein in the same manner as if expressly set forth in this section 3.1. The Plat provides the relative locations of all the Units, the Unit numbers, the square footage area of each Unit, and depicts the Unit boundaries that are further described in section 3.2 below, which together with this Declaration shall constitute a complete description of the Units within the Condominium.

3.2 Unit Boundaries. The vertical and horizontal perimetric boundaries of each Unit shall consist of the unfinished perimeter walls, the subfloors (whether wood or concrete), and the bottom surfaces of the ceiling joists, as applicable, and all as more particularly shown and described on the Plat. More specifically, the horizontal plane of the bottom surface of the ceiling joists within a Unit shall be the upper boundary thereof and the horizontal plane of the top surface of the subfloor (whether wood or concrete) of each Unit shall be the lower boundary thereof. All lath, furring, 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.

3.3 Unit Owners' Responsibilities for Maintenance and Repair

- (a) Each Owner shall be responsible for the maintenance and repair of her Unit. All Unit 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. Repair and replacement of exterior windows and entry doors serving Residential Units shall be the responsibility of the Association and the cost of such repair or replacement shall be borne by the Owner of the Unit served by such windows or doors. Repair and replacement of the exterior storefront windows on the first floor, the first level storefront entry doors into the Commercial Unit, and the back exit from the southwest stairwell shall be the direct responsibility of the Owner of the Commercial Unit served by such storefront windows or doors, 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 outlined in the Rules and Regulations. 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) Each Owner shall be responsible for any damage to her Unit or to any other Unit or any of the Common Elements 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 (prohibited), and similar kinds of activity, which directly or indirectly causes damage to any other Unit or to any of the Common Elements. Unit Owners may change their entry door locks from time to time so long as any new lock installed is coordinated with the Association and is keyed to the building master key system.

- (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.

3.4 Uses of Units; Use Restrictions. It is the intent of the Declarant that the Property be developed and maintained as an attractive, well maintained mixed-use development. To that end, the following covenants, conditions and restrictions are hereby placed on the Property.

(a) Restrictions Applicable to All Units.

- i. The Owners shall each comply with all laws, statutes, codes, rules, orders, decrees, ordinance, regulations and requirements, now or hereafter enacted or promulgated by the United States of America, State of North Carolina, the County of Durham, or the City of Durham, and any other entity or agency now or hereafter having jurisdiction over the Property or any portion thereof; and 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 for the purposes of this section 3.4(a)(ii), "Indemnifying Owner") 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 "Indemnatee") from and against any and all claims against Indemnatee 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 Indemnatee, 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 Indemnatee by reason of any such claim, Indemnifying Owner, upon notice from Indemnatee, covenants to resist or defend such action or proceeding with attorneys reasonably satisfactory to Indemnatee. (Any counsel for the insurance company providing insurance against such claim, action or proceeding shall be presumed reasonably satisfactory to Indemnatee.)
- 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 (except as required by law), or which would otherwise be in violation of 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 Property, to increase above the commercially reasonable rates available for similar purposes. No Unit Owner shall modify or alter any Common Elements (including Limited Common Elements) without the prior written consent of the Association, including the Association's written approval of such Unit Owner's plans for the proposed work, and such work shall be subject to the construction rules in Section 3.6(d). The plans for the Unit Owner's work shall explain the impact of the proposed work on other Units and the Building's systems, and the plans shall be made to minimize such impact.
- 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 a key to such Unit or Limited Common Element under the control of the Association.

- 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 (including flammables) or allow the storage or use of such substances or materials anywhere on the Property in any manner not sanctioned by law for the temporary storage and use of such substances or materials. Each Owner shall maintain its Unit 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 Property 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. Except as permitted by applicable law, including regulations of the Federal Communications Commission, no television antenna, dish, radio receiver or sender or other similar device shall be attached to or installed in the exterior portion of any Unit or to the Common Elements without the express prior written permission of the Association, and no such device shall be attached to or installed on or in any Limited Common Element without the prior written consent of the Unit Owner(s) of Units to which such affected Limited Common Elements are allocated.
- vii. All garbage and items to be recycled shall be placed only in the designated receptacles for pickup by the City of Durham, its agent, or other private contractor.
- viii. Declarant or Association may make changes in any Unit or in the Common Elements at any time to meet mandatory requirements of applicable law.
- ix. Any lease of any Unit shall expressly provide that occupancy thereunder must be in a manner consistent with the Condominium Documents shall provide that the terms and conditions of the Condominium shall be complied with by the lessee. Any lease entered into by a Unit Owner pursuant to the provisions of this paragraph shall be deemed to contain the requirements set forth in the Condominium Documents whether or not they are actually contained therein, and the lessor and the lessee of any such lease shall be bound by these provisions. Upon any lease of a Unit, the Unit Owner shall provide the Association with the name, address, telephone number and, if available, electronic mail address of the lessee(s).
- x. No Owner shall in any way puncture, tear, cut or otherwise damage the gypsum board which is hung on the perimeter walls and certain ceilings of the Units in violation of the applicable building codes; provided, however, this restriction shall be construed to permit the normal hanging of pictures or shelves.
- xi. 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).

- xii. All construction projects by Unit Owners shall be completed within nine (9) months of commencing work on any Unit to minimize the disturbance to other Owners.
 - xiii. As of the recording of this Declaration, the Building is recognized as an "historic landmark" by the City of Durham and by Durham County. This status means that the real estate taxes for the Building are abated by fifty percent (50%). No Unit Owner shall take any action or make any omission that causes the City or County to retract the historic landmark status, it being understood that applicable law may change or the applicable governmental authority may take action that withdraws or ends the historic landmark status and the associated abatement of real estate tax.
 - xiv. There shall be no smoking in any part of the Condominium. This prohibition expressly prohibits smoking within any Units or any portion of the Common Elements, and expressly prohibits the smoking of any substance by any method, including, without limitation, cigarettes, cigars, pipes, and all other smoking devices intended for the smoking of tobacco or any other substance.
 - xv. Unit Owners shall not store anything within or on the Common Elements without the prior approval of the Association; provided, however, that a Unit Owner may store or place things on Limited Common Elements allocated exclusively to his Unit subject to the other provisions of this Declaration. The Association may make reasonable rules and regulations regarding the storage of things within or on the Common Elements.
 - xvi. Grilling using charcoal grills, gas grills, other grill type or any open flame device is prohibited on the Property or within ten (10) feet of the Building by North Carolina Fire Code. This provision is not intended to prohibit a restaurant in the Commercial Unit from cooking in its kitchen on a kitchen grill installed and operated in accordance with all applicable law and regulations or the lawful use of gas stoves in the Units.
- (b) Restrictions Applicable to Commercial Units. The Commercial Unit shall be used only for commercial, non-residential purposes. No pets or animals shall be kept in a Commercial Unit, except that the Commercial Owner (or Commercial Tenant) may permit seeing-eye dogs. No Commercial Owner or Commercial Tenant shall use any Unit for any of the following uses nor enter into any agreements or leases with any party which uses, or intends to use, any Unit for any of the following uses, and no such use shall be permitted:
- i. Bowling alley;
 - ii. Funeral parlor or related business;
 - iii. Industrial, processing or manufacturing use;
 - iv. Adult bookstore or adult movie store;
 - v. Massage parlor, "strip" or similar club or establishment;
 - vi. So-called "head shop";
 - vii. Dry cleaners (except as a "drop off" site for off-site cleaning);

- viii. Photography stores which develop film on-site (unless the store is required by the terms of its lease to properly store and dispose of processing chemicals and other, photographic waste materials in accordance with all applicable federal, state and local laws, rules and regulations);
- ix. Pet store, kennel, veterinary practice, or similar use that involves the housing of animals;
- x. Day care or group home (to the extent such uses can be prohibited by law);
- xi. Check cashing, payroll lending, or cash advance services;
- xii. Bail bonding services;
- xiii. Pawn shop;
- xiv. Warehousing operation;
- xv. Gun shop or any shop selling weapons;
- xvi. Nightclubs, dance clubs, live music venues, and bars; provided, however, this prohibition is not intended to prohibit bars and/or live music ancillary to a restaurant within the Commercial Unit. Amplified music is prohibited after 10:00 p.m.; provided, however, this limitation on amplified music is not intended to prohibit recorded music from being played through a speaker system, or Muzak or any similar system so long as the use of such system does not interfere with the use and enjoyment of the Residential Units by the Residential Unit Owners. These rules about music are intended to prevent the use of the Commercial Unit from constituting a nuisance to the Residential Unit Owners, and any dispute over these rules shall be resolved in consideration of the goal of the reasonable use and enjoyment of the Residential Units by the Residential Unit Owners; and
- xvii. Beauty supply stores, salons, spas, barber shops or similar uses.

(c) Restrictions Applicable to Residential Units.

- i. The Residential Units shall be used only for residential, noncommercial purposes.
- ii. Except to the extent such uses are required by law to be permitted, no Residential Unit may be used for day care or group home purposes.
- iii. No unusual, disturbing or objectionable odor or noise shall be permitted to emanate from any Residential Unit.
- iv. No Residential Unit Owner shall sweep or throw any debris, dirt or other substance into any Common Element or from any window or balcony, patio or terrace or permit any occupant or guest to engage in such activities.
- v. All leases of Residential Units shall be for an initial term of six (6) months or longer; provided, however, that that this lease term limitation shall not apply to any Unit owned by Declarant.

- (d) Restrictions to Run with Land. The 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 the 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 Property.
- (e) Special Rules for Signs, Banners, and Flags.
- (i) General Rules. Except as required by law, no signs, banners, or flags or of any type shall be posted, hung or erected by any Owner or any other person on any part of the Common Elements except as permitted by this subsection 3.4(e) or by the prior approval of the Association.
- (ii) Residential Units. "For Sale," "For Lease" or other similar signs not exceeding two square feet in size for the purpose of marketing the Residential Unit are permitted to be hung in a window for not more than one hundred twenty (120) days in any twelve (12) month period.
- (iii) Commercial Units. Commercial Owners and Commercial Tenants may place signs, banners and flags within the Commercial Unit (including the windows) and below the second story windows on the ground floor façade or rear façade without the approval of the Association so long as such installation is in conformance with this subsection. Signs, banners, and flags installed by the Commercial Unit Owner shall: 1) advertise the businesses situated in the Commercial Unit, 2) be in compliance with all local sign ordinances and historic regulations, and 3) have an aesthetic consistent with the historic character of the building and standards for a Class A building. The signs may be lit so long as: x) the light resulting from any sign does not directly shine or reflect into any of the Residential Units, and y) the Commercial Unit Owner or Commercial Tenant continuously maintains the lighting of the sign. The Association shall not cause a Commercial Owner to change signage, which was in place when the Association was formed. The Commercial Owner shall be responsible, solely at its own cost, for the maintenance, replacement and repair of all signage for the Commercial Unit. If upon written notice by the Association, the Commercial Unit Owner has failed to conduct the required repair or maintenance, the Association may complete such repair or maintenance and the Commercial Unit Owner will reimburse the Association for such costs.
- (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 City of Durham or the County of Durham, there shall be only one political sign per Unit displayed, and such sign shall not exceed two feet by two feet.

3.5 Assessments for Common Expenses.

- (a) Periodic Assessments for Common Expenses. The Association shall have the power to levy, and all Unit Owners shall be obligated to pay, periodic assessments imposed by the Association to meet all Association Common Expenses. Payment of the periodic assessments 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 after the adoption of any proposed budget, the Executive Board shall provide a summary of the budget to all Unit Owners, and shall set a date for a meeting of the Unit Owners to consider ratification of the budget not less than fourteen (14) or less than thirty (30) days after mailing of the summary. There shall be no requirement that a quorum be present at the meeting for the purpose of ratifying the budget. Subject to the approval rights of the Commercial Unit Owner, the budget shall be ratified at that meeting unless the Unit Owners constituting seventy five percent (75%) of the total votes in the Association reject the budget. If the proposed budget is rejected, the periodic budget last ratified shall be continued until such time as the Unit Owners ratify a budget proposed by the Executive Board.
- (b) 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 and Bylaws or a release of any Unit Owner from the obligation to pay the assessments, or an installment thereof for that or any subsequent year, but the assessment fixed for the preceding year shall continue until a new assessment is fixed. No Unit Owner may exempt himself from liability for his contribution towards the Common Expenses by waiver of the use or enjoyment of any of the Common Elements or by abandonment of his or her or its Unit.
- (c) 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.
- (d) 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 any 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.
- (e) 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 twenty dollars (\$20.00) or ten percent (10%) of the payment which is late, together with all expenses, including attorney's fees, incurred by the Board in any proceeding brought to collect such unpaid assessments. The Board shall have the right and duty to attempt to recover such

assessments, together with interest thereon, and the expenses of the proceeding, including attorney's fees, in an action to recover the same brought against such Unit Owner, or by foreclosure of the lien on such Unit granted by N.C.G.S. § 47C-3-116. With regard to the subordinate nature of such liens as it relates to mortgages recorded prior to the recording of any evidence of such lien, the provisions of N.C.G.S. § 47C-3-116(b), as amended, shall be controlling.

- (f) 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), promptly 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.
- (g) Water; Other Utilities. The Association will maintain the water account for the Building in its name. The Commercial Unit will have a water submeter and will be responsible for reimbursing the Association in accordance with its actual usage as determined by the submeter. Residential Units will be billed by the Association for water in accordance with the Common Expense liability and Assessments for each Unit. The Association shall determine an equitable method of payment for any other utility service serving more than one Unit that is not separately metered.

3.6 Alterations; No 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 Buildings or the mechanical, plumbing or electrical systems. Declarant may make changes in any Unit or in the Common Elements at any time to meet mandatory requirements of applicable law.
- (b) Unit Owners may remove the physical partitions between adjoining Residential Units according to N.C.G.S. § 47C-2-111 (provided such adjoining Residential Units are owned by the same Residential Unit Owner). No legal boundary shared by a Unit shall be relocated by any Owner other than Declarant, and no physical partition between any Residential Unit and the Commercial Unit shall be removed. Any removal of partitions between Units or creation of apertures between Units shall be subject to below subsection 3.6(d). Declarant expressly reserves the right to relocate the boundaries of any two or more Units owned by Declarant by amending this Declaration in accordance with N.C.G.S. § 47C-2-112(a), and Declarant reserves the right to recombine two or more Residential Units into one larger Residential Unit.
- (c) Subdivision of Units is prohibited; provided, however, that the Owner of a Residential Unit created by recombining two or more Residential Units may subdivide such Residential Unit into Residential Units having substantially the same unit boundaries as shown on the Plat originally recorded with this Declaration. Any subdivision shall be in conformance with the Act and subject to the rules of this Section 3.6.

- (d) Prior to the commencement of any work to remove or rebuild partitions between adjoining Units or create any apertures between Units the Unit Owner shall:
 - (i) Notify the association in writing of the intent to commence work and provide for waivers of all mechanics' and materialmens' 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, other consulting fees, and repair or damage to Common Elements.
- (e) Per subsection 3.4(a)(xii), all construction by Unit Owners (Commercial and Residential) shall be completed within nine (9) months of commencement.
- (f) In accordance with Section 3.4(a)(iii), any improvements made by a Unit Owner to a Limited Common Element allocated exclusively his specific Unit shall only be done with the prior written consent of the Association, including approval of plans for the work, except that Unit Owners shall not be required to first obtain the consent of the Association for the maintenance, repair or replacement of the heating, ventilation and air conditioning equipment serving their Units. All improvements are the sole responsibility of the Unit Owner and the costs of such will be borne entirely by the Unit Owner. The responsibility and cost to maintain, replace, repair, and insure such improvements are the sole responsibility of the Unit Owner. In accordance with Sections 3.3(b) and 3.3(c), if any such improvements cause damage to the Unit, any other Unit or any of the Common Elements, the cost to repair such damage will be borne by the Unit Owner of the Unit to which the Limited Common Elements are allocated.

Declarant hereby reserves the right to enforce the provisions of this subsection at law or equity.

ARTICLE IV **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 Property 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:

- (a) The Limited Common Elements specified in section 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, including satellite dishes and mailboxes) are allocated to the Units served by those Limited Common Elements.
- (b) The Limited Common Elements specified in section N.C.G.S. § 47C-2-102(4) (being any shutter, awning, window box, doorstep, stoop, deck, porch, balcony, patio and all exterior doors, windows 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.
- (c) Hallways, stairwells, landings, janitorial/mechanical closets and the portions of the elevator shaft(s) above the ground floor that serve some but fewer than all of the Units are Limited Common Elements allocated to the Units served by those Limited Common Elements. These are shown on the Plat.
- (d) 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.
- (e) The rooftop deck area on the fourth floor is a Limited Common Element allocated exclusively to the Residential Units. The rooftop deck areas on the fifth floor and above are Limited Common Elements allocated exclusively to Unit 402. All rooftop deck areas are shown on the Plat.
- (f) Portions of the basement are Limited Common Elements allocated exclusively to the Commercial Unit. Other portions of the basement are Limited Common Elements allocated exclusively to the Residential Units. These areas are shown on the Plat.

Subject to the other provisions of this Declaration, the Association shall be responsible for the maintenance, replacement and repair of the Limited Common Elements and the cost for such maintenance, repair or replacement shall be borne by the Unit Owner so benefited by the Limited Common Element, as more specifically set forth in the Bylaws. In the event that a Unit Owner has installed improvements to a Limited Common Element allocated exclusively to his Unit, and such improvements must be altered by the Association to maintain, repair or replace the Limited Common Element, the cost of such alterations shall be borne by the Unit Owner of the Unit to which such Limited Common Elements are allocated. Unit Owners shall be directly responsible for arranging for the maintenance, repair or replacement of their HVAC systems and for payment of the same.

4.3 Special Rules Relating to Unit 402. The entry point for satellite network access to the Building is located within the roof deck Limited Common Element allocated to Unit 402 on the fifth floor. Any improvements made to the Limited Common Elements allocated to Unit 402 must be done in

accordance with Sections 3.6(d) and 3.6(f), shall not restrict access to the satellite network entry point to the Building, and must ensure the privacy of Unit 401. Except in cases of emergency, the Association shall, prior entering Unit 402 to obtain access to the rooftop deck Limited Common Elements allocated to 402 on the fifth and sixth floors, deliver written notice of the planned entry under the door of Unit 402 no fewer than twenty four (24) hours prior to entry, and immediately prior to entering Unit 402, the Association or its contractors shall give a courtesy knock on the door of Unit 402.

4.4 Parking. There is no motor vehicle parking in the Condominium

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 eighty percent (80%) of the votes in the Association, including eighty percent (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 V

AMENDMENT AND TERMINATION OF CONDOMINIUM

5.1 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 seventy-five (75%) 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. Any amendment purporting to vitiate, reduce, or impair any right of Declarant shall be void and of no effect unless executed by Declarant.
- (b) Every amendment shall be prepared, executed, recorded and certified by the Association and shall be effective only when recorded in the Durham County Registry.
- (c) Subject to the exceptions of N.C.G.S. § 47C-2-117(a), no amendment which changes the boundaries on any Unit or which alters the Allocation 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; and any such amendment, upon execution and certification by the Declarant or Association and recording by the Durham County Registry, shall be effective upon recording. In addition, for so long as Declarant has the right to appoint the majority of the members of the Executive 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.

- (e) No amendment shall 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 certain mortgagees of Unit Owners as set forth in Article XIII hereof.

5.2 Termination. Subject to Article XIII hereof, the dedication of the Property to the Condominium 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 unanimous 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 thirty (30) days prior written notice of such termination. Except as otherwise provided for herein, termination of the Condominium shall be in accordance with the Act.

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

ARTICLE VI **ALLOCATION OF INTEREST IN COMMON ELEMENTS AND COMMON** **LIABILITIES; VOTES IN ASSOCIATION**

The allocated interest of the title and interest appurtenant to each Unit and the Unit Owner's title and interest in the Common Elements of the Property and the proportionate share in the revenues, if any, and Common Expenses, and the votes in the Association for each Unit are stated on Exhibit B attached hereto and incorporated herein by reference (the "Fractional Shares").

ARTICLE VII **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 Baldwin Lofts Condominium Association. Each Unit Owner shall have voting rights in the Association as set forth in Article VI hereof. The administration of the Condominium, and consequently of 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 said 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, said corporation, limited liability company, partnership, trust, unincorporated entity or other 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 VIII

GENERAL CONDITIONS; MISCELLANEOUS MATTERS

8.1 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.

8.2 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.

8.3 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 recorded Plat for the Property and amendments thereto. The acceptance of a deed of conveyance or the entering into of a lease for any portion of the Property 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 Land and shall bind any person having at any time any interest or estate in such Unit as though such provisions were made a part of each and every deed of conveyance or lease.

8.4 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.

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

8.6 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.

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

8.8 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.

8.9 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.

8.10 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 Property, which will carry out the intent of the Declarant as expressed herein, and which will preserve the Property as a site for an attractive, well-maintained, mixed use community.

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

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

8.11 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.

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

8.13 Protections for Commercial Unit Owner. Notwithstanding anything in the Condominium Documents to the contrary, the Association, the Executive Board, the officers of the Association, or the Residential Owners shall take no action that changes any material aspect of the following without the prior written consent (which shall not be unreasonable withheld, conditioned or delayed) of the Commercial Unit Owner or affirmative vote of the Commercial Unit Owner at a duly called meeting of the Unit Owners pursuant to the Bylaws:

- (a) Common Elements and Limited Common Elements on the first floor and basement floors of the Building unless the Limited Common Elements are allocated exclusively to one or more Residential Units and not the Commercial Unit;
- (b) Building access through the entry door(s) into the Commercial Unit or the two back doors that serve as fire ingress and egress for the Building and the Commercial Unit;
- (c) the back stairwell (i.e., the southwest stairwell) below the second floor, the elevator below the second floor, or the front or rear façades of the Building below the second story windows;
- (d) the use restrictions or signage rules applicable to the Commercial Unit in the Condominium Documents;
- (e) plans for the repair or reconstruction of any portion of the Building affecting the basement or first floor of the Building or front or rear façade below the second story windows;
- (f) the fire alarm or sprinkler system in the Building;
- (g) the termination of the Condominium or the dissolution of the Association; and
- (h) the Association budget.

The Commercial Unit Owner shall not exercise the foregoing rights in any way contrary to law or applicable regulations. For example, and not by way of limitation, the Commercial Unit Owner shall not refuse to consent to anything necessary for compliance with Federal National Mortgage Association (Fannie Mae) or other governmental requirements applicable to condominiums, such as budget reserve requirements.

ARTICLE IX **INSURANCE; RECONSTRUCTION AND REPAIR**

9.1 Insurance. The Association shall be required to obtain and maintain insurance policies that include the minimum coverages of (i) one hundred percent (100%) replacement coverage on the Building, including the Units, less a commercially reasonable deductible amount, (ii) liability insurance coverage of at least \$1,000,000 per occurrence and \$2,000,000 per accident, and (iii) fidelity bond coverage covering the Executive Board members, officers and employees of the Association in a reasonable amount. The Association shall be required to insure all the Units at one hundred percent (100%) replacement coverage; however, 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. The Association's policy insurance will not cover improvements made by Unit Owners to Limited Common Elements.

9.2 Insurance Obtained by Owners. Each Owner shall obtain and keep continuously in force additional fire and casualty and extended coverage insurance upon his Unit, his personal property, public liability insurance, and such other insurance coverage as he may desire. Each Residential Owner 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. The Commercial Owner shall obtain and maintain public liability insurance coverage in the amount of at least \$1,000,000 per occurrence, and at least \$2,000,000 in the aggregate, for bodily injury, including death, of persons and property damage. The Commercial Owner's policies shall contain provisions waiving 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 all Owner's insurance policies shall waive 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.

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

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

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 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 within 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 the right of access to each Unit to inspect the same to remove violations therefrom and to maintain, repair or replace Common Elements contained therein or elsewhere on the Property.

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, or its agent, 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 effect 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.

ARTICLE XI **LENDER CONSENT**

The Land and the Buildings are currently encumbered by the lien of that Deed of Trust and Security Agreement Collateral Includes Fixtures dated October 31, 2003 as executed and delivered by Declarant to Chicago Title Insurance Company as Trustee, for the benefit of Self-Help Ventures Fund and recorded in Book 4171, Page 967, Durham County Registry, as modified by that Substitution of Trustee and Amendment to Deed of Trust and Security Agreement dated August 22, 2008 as executed and delivered by Declarant to Self-Help Services Corporation as Trustee, for the benefit of Self-Help New Markets III, LLC and recorded in Book 6043, Page 605, Durham County Registry. A Consent of Lender executed by said Trustee and said Bank consenting to the execution and recordation of this Declaration is attached hereto as Exhibit C and made a part of this Declaration.

ARTICLE XII **GENERAL ASSOCIATION MATTERS**

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

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 XIII **RIGHTS OF FIRST LIEN HOLDERS**

This Article XIII 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 XIII, this Article XIII shall control.

13.1 Notices of Action. A holder, insurer or guarantor of a first mortgage on a Unit which is entitled to the certain rights set forth in Section 9 of HUD Handbook 4265.1, Chg 4, Appendix 24 issued by the U.S. Department of Housing and Urban Development and which has given to the Association a written request stating the name and address of such holder, insurer or guarantor and the Unit number

(hereinafter referred to as an "Eligible Holder"), will be entitled, and the Executive 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 Common 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 held, insured or guaranteed by an Eligible Holder;

(d) any delinquency in the payment of assessments or charges owed by a Unit Owner subject to the mortgage that is held, insured or guaranteed by an Eligible Holder, where such delinquency has continued for a period of sixty (60) days; or

(e) Any lapse, cancellation or material modification of any insurance policy maintained by the association pursuant to Article IX hereof.

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 Property requires the approval of the Eligible Holders of first mortgages on Units to which at least fifty-one percent (51%) of the votes of Units subject to mortgages held by such Eligible Holders 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 Property, the approval of the Eligible Holders of first mortgages on Units to which at least sixty-seven percent (67%) of the votes of Units subject to a mortgage 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 the Declaration and the original plans and specifications unless the approval is obtained of the Eligible Holders of first mortgages on Units to which at least fifty-one percent (51%) of the votes of Units subject to mortgages held by Eligible Holders are allocated.

(c) Amendment of Condominium Documents. The approval of the Eligible Holders of first mortgages on Units to which at least fifty-one percent (51%) of the votes of Units subject to a mortgage 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; or
- (xiv) Any amendment to a provision in the Condominium Documents which is for the express benefit of holders or insurers of first mortgages on Units.

[signature and acknowledgment page follow]

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

DECLARANT:

Baldwin Lofts, LLC

By: Greenfire, LLC, its managing member

By: *Michael Lemanski*

Name: Michael Lemanski

Title: Manager

STATE OF NORTH CAROLINA
COUNTY OF DURHAM

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document: Michael Lemanski.

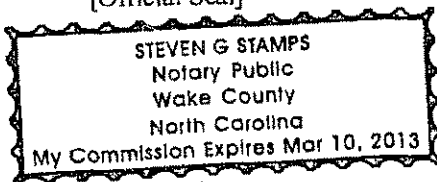
Date: 3-30-2011

Steven G. Stamps
Notary Public

Print Name: STEVEN G-STAMPS

My commission expires: 3-10-13

[Official Seal]



**EXHIBIT A
TO
DECLARATION
OF
BALDWIN LOFTS CONDOMINIUM**

Legal Description of Property

BEING all of that parcel containing .12 acres as shown on the plat entitled "Final Condominium Plat for: Baldwin Lofts, LLC of: The Baldwin Building, Baldwin Lofts Condominium" by S.D. Puckett & Assoc., Inc. dated November 30, 2010, and recorded in Condominium Plat Book 12, Page 15, Durham County Registry, to which plat reference is made for a more particular description of same.

**EXHIBIT B
TO
DECLARATION
OF
BALDWIN LOFTS CONDOMINIUM**

Fractional Shares and Votes Allocated to Units

This Exhibit B shows the Fractional Shares of each Unit for purposes of calculating the expenses common to all the Units and for the purpose of determining the interest in the Common Elements allocated to each Unit and the votes in the Association allocated to each Unit.

Unit Number	Fractional Share	% of Total
201	1	6.250%
202	1	6.250%
203	1	6.250%
204	1	6.250%
205	1	6.250%
301	1	6.250%
302	1	6.250%
303	1	6.250%
304	1	6.250%
305	1	6.250%
401	1.5	9.375%
402	1.5	9.375%
C1 (Commercial Unit)	3.0	18.750%
TOTAL	16.0	100.000%

IN WITNESS WHEREOF, Lender and Trustee have caused this instrument to be executed and effective as of the day and year first above written.

LENDER:

Self-Help New Markets III, LLC

By: Self-Help Manager, LLC, its managing member

By: Self-Help Ventures Fund, its managing member

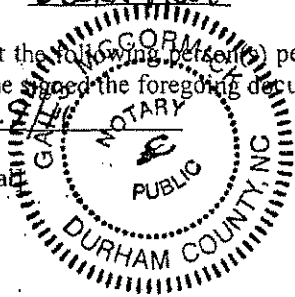
By: [Signature]
Name: BRIAN M. SCHNEIDERMAN
Title: VP

STATE OF NORTH CAROLINA
COUNTY OF DURHAM

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document: BRIAN SCHNEIDERMAN

Date: 3/2/12

[Official Seal]



[Signature]
Notary Public

Print Name: GAIL S. MCCORMICK

My commission expires: 2-17-2012

TRUSTEE:

Self-Help Services Corporation

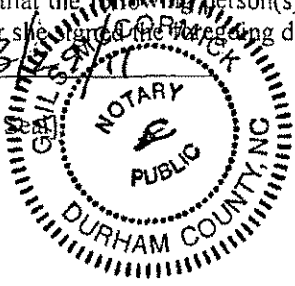
By: [Signature]
Name: BRIAN M. SCHNEIDERMAN
Title: VP

STATE OF NORTH CAROLINA
COUNTY OF DURHAM

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document: BRIAN SCHNEIDERMAN

Date: 3/2/12

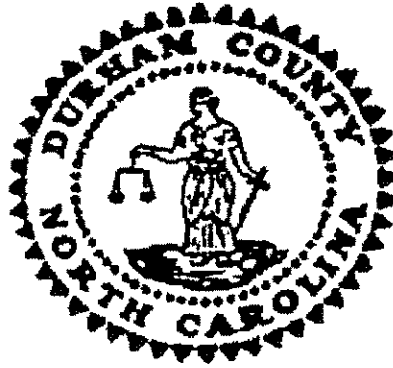
[Official Seal]



[Signature]
Notary Public

Print Name: GAIL S. MCCORMICK

My commission expires: 2-17-2012



WILLIE L. COVINGTON
REGISTER OF DEEDS, DURHAM COUNTY
DURHAM COUNTY COURTHOUSE
200 E. MAIN STREET
DURHAM, NC 27701

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and/or cancellation.

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