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MARY SUE OOTS
REGISTER OF DEEDS
NEW HANOVER CO. NC

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DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS
OF
112 MARKET ST. CONDOMINIUMS
AND
BYLAWS
OF
112 MARKET ST. CONDOMINIUMS P.O.A., INC.

RETURNED TO *James Godbey*
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STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS OF
112 MARKET ST. CONDOMINIUMS
AND
BYLAWS OF
112 MARKET ST. CONDOMINIUMS P.O.A., INC.

THIS DECLARATION AND BYLAWS, made on the ____ day of May, 2000, by JOHN
V. SUTTON, JR., AND TERI L. SUTTON, hereinafter called "Declarant";

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property located in the City of
Wilmington, New Hanover County, North Carolina, and more particularly described as
follows:

BEING PART OF LOTS 1 AND 2, BLOCK 152, CONTAINING .09 ACRES, MORE OR
LESS, AND BEING THE SAME PROPERTY AS DESCRIBED IN A DEED RECORDED
IN BOOK 1994, AT PAGE 503, NEW HANOVER COUNTY PUBLIC REGISTRY.

WHEREAS, the Declarant desires to dedicate the real property to individual
condominium ownership as shown on Exhibit "B".

NOW, THEREFORE, Declarant hereby declares that all of the real estate described
in Exhibit "A" and shown on Exhibit "B", hereto attached and incorporated by reference,
shall be and the same is hereby dedicated to individual condominium ownership pursuant to
Chapter 47C of the General Statutes of North Carolina as amended, as hereinafter provided
and to that end does hereby publish and declare that all of the said property to be known as
"112 MARKET ST. CONDOMINIUMS" shall be held, sold and conveyed subject to the

following easements, restrictions, covenants, conditions, uses and obligations which are for the purpose of protecting the value and desirability of and which shall run with the real property and be binding on all parties have 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.

PART 1

DEFINITIONS

Unless it is plainly evident from the context that a different meaning is intended, the following words and terms shall have the following meanings:

Section 1. Act. The North Carolina Condominium Act, Chapter 47C of the North Carolina General Statutes.

Section 2: (Reserved)

Section 3: Allocated interests. The undivided interests in the Common Elements, the common expense liability, and in the Association allocated to each unit.

Section 4: Assessment. A share of the funds required to the payment of common expenses which from time to time is assessed against the unit owner by the Association.

Section 5: Association. The non-profit Corporation to be known as **112 MARKET ST. CONDOMINIUMS P.O.A., INC.**, the entity responsible for the operation of the condominium pursuant to the Act, which entity includes both the unit owners acting as a group in accordance with the Bylaws and Declaration.

Section 6: Building(s). The building fronting on Market Street, and located on Three (3) levels, as shown on Exhibit "B-1", attached hereon, and herein designated as a brick and frame building, herein converted to condominium ownership. The Building as herein defined consists of all of Unit 1-A and Unit 1-B, as set forth in Declaration of Covenants, Conditions and Restriction of **112 MARKET ST. CONDOMINIUMS**, as provided and defined in said document recorded in Book _____, at Page _____, and as shown on Condominium Plat

Map 12, at Page 12, in the New Hanover County Registry. All Condominium Units of 112 MARKET ST. CONDOMINIUMS are apportioned out of and consist of the entirety of 112 MARKET ST. CONDOMINIUMS, and all units are subject to the Covenants, Conditions and Restrictions of that Condominium Declaration, in addition to such provisions as contained herein.

Section 7: Bylaws. The bylaws of the association.

Section 8: Common Elements. All portions of the condominium other than the units.

Section 9: Common Expenses. Expenditures made by or financial liabilities of the Association, together with any allocations to reserves.

Section 10: Common Expense Liability. The liability for common expenses allocated to each unit pursuant to the Act and this Declaration.

Section 11: Condominium. The condominium means 112 MARKET ST. CONDOMINIUMS and any additions annexed thereto by supplemental declarations. Upon the recording of this Declaration the term Condominium, as used herein, includes only that real estate described upon Exhibits "A" and "B", attached hereto, being all of Unit 1-A and Unit 1-B as shown on Exhibits "B", "B-1", "B-2", "B-3", and "B-4" is submitted to condominium ownership by this Declaration, and any additions thereto annexed by Supplemental Declaration.

Section 12: Declarant. Means JOHN V. SUTTON, JR., and TERI L. SUTTON, their heirs, successors and assigns.

Section 13: Declaration. This Declaration of Covenants, Conditions and Restrictions, as it may be from time to time amended or supplemented.

Section 14: Development Rights. Those rights hereby reserved by the Declarant for themselves, their grantees or assigns, to subdivide either unit and create or withdraw units, common elements or limited common elements within the Condominium.

Section 15: Executive Board. The body designated in the declaration to act on behalf of the Association.

Section 16: Eligible Mortgage Holder or Eligible Holders. The holder of a first mortgage or lien on a unit who has requested notice of certain matters from the Association.

Section 17: Limited Common Elements. Portions of the common elements allocated by the declaration for the exclusive use of one unit or the other unit but not both units, or, if additional units are created, portions allocated by the declaration as amended for the exclusive use of one or more, but not all of the units.

Section 18: Member. Every person or entity who holds membership in the Association.

Section 19: Owner. The record owner, whether one or more persons or entities, of a fee simple title to any unit which is a part of the Property, together with an undivided interest in the common elements as hereinafter set forth, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 20: Plat. The plat or plats of the condominium recorded or to be recorded in the Office of the Register of Deeds of New Hanover County. Plat or Plats shall be re-recorded upon final construction of the separation walls to reflect the actual location of such walls and to show the true dimensions of the units.

Section 21: Property. The buildings and improvements only, herein dedicated to condominium ownership, located upon the real estate described in Exhibits "A" and "B", attached hereto and incorporated herein by reference, together with any buildings and improvements as may be subsequently subjected to this Declaration by annexation in the manner herein provided.

Section 22: Supplemental Declaration. A document filed by Declarant to annex all or a portion of the real property and/or the buildings or improvements located thereon, described in Exhibits "A" and "B", to this Condominium in the manner provided herein.

Section 23: Unit or Condominium Unit. A physical portion of the condominium designated for separate ownership or occupancy.

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CONDITIONS, AND RESTRICTIONS

ARTICLE I
GENERAL

Section 1: Declarant hereby submits the Property to the provisions of North Carolina Condominium Act, codified as Chapter 47C of the General Statutes of North Carolina, as amended (the "Act"). The Property will be administered in accordance with the provision of the Act, the Declaration and the Bylaws.

Section 2: The name of the condominium shall be "112 MARKET ST. CONDOMINIUMS".

Section 3: The Property is located in the City of Wilmington, New Hanover County, North Carolina, at 112 Market Street and is further described as in Exhibit "A", attached hereto. The Plat shown on Exhibits "B"1-4, shall be the plat or plats of the condominium recorded in Condo Map Book 12 at Page 12, in the Office of the Register of Deeds of New Hanover County. (herein plat)

Section 4: Declarant does hereby establish within the Property Two (2) Units, and does hereby designate all of such units for separate ownership. Reference is hereby made to the plat for a separate description of the boundaries of each unit, identified by number, said plat being by this reference incorporated herein.

Section 5: Each owner shall be a member of the Association. Each owner shall be entitled to a vote in the association based upon such owner's percentage of square feet in the building as set forth on Exhibit "C". The owners' percentage shall be adjusted by re-recording of plat or plats, upon future subdivision of additional units, to reflect the actual location of walls and to show the true dimensions of the units.

Section 6: (Reserved) Easements and licenses appurtenant.

ARTICLE II
PROPERTY RIGHTS

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Section 1: Ownership of a unit shall vest fee simple title to such unit in the owner.

Section 2: Every owner shall own an undivided interest in the common elements and shall have a right and easement of enjoyment in the common elements which shall be appurtenant to and shall pass with the title to every unit. The undivided interest of every unit owner in the common elements shall be proportionate to the total number of units in the condominium: Upon the recording of this Declaration, the owners of each unit shall own a percentage of undivided interest in the common elements as set forth on Exhibit "C". The undivided interests in the common elements and the right and easement of enjoyment in such common elements are subject to the following:

(a) (Reserved)

(b) the Association shall have the right to suspend the voting rights of any owner for any period during which any assessment against his unit remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;

(c) the Association shall have the right to adopt such rules and regulations as may be needed to regulate the use and enjoyment of the common elements;

(d) (Reserved)

(e) the Declarant and the Association shall have the right to dedicate or transfer, or encumber all or any part of the common elements subject to approval by the owners as provided in North Carolina General Statutes 47C-3-112.

Section 3: Any owner may delegate his right of enjoyment to the common elements to members of his family or tenants.

Section 4: Each owner of a unit originally conveyed from Declarant, subject to approval of Declarant, and the Declarant shall have the right to subdivide such originally conveyed unit, or unit owned by Declarant, into "Sub" units. Upon approval and construction such "sub" units shall have property rights as herein provided and shall be subject to Section 2, (a) through (e). Such "sub" unit owner shall have an undivided interest in the common elements proportionate to the square footage in the building provided that the total "sub" units created under this provision shall have the same total percentage of ownership interest in the common elements as did the original owner/purchaser from the Declarant. Each "sub" unit owner shall have fee simple title to such unit and shall be subject to all provisions of this Declaration of Covenants, Conditions and Restrictions. This provision applies to units as shown on Exhibit "B-2"- "B-4".

ARTICLE III

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1: The Declarant, for each unit owned with the Property, and each owner by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, hereby covenants and agrees to pay the Association: (1) annual assessments or charges, if any, and (2) special assessments for capital improvements, if any, such assessments to be established and collected as hereinafter provided. The liability of each owner for the common expenses of the Association shall be proportionate to such owner's square footage to the total square footage in the condominium. Any assessment levied against a unit remaining unpaid for a period of Thirty (30) days or longer shall constitute a lien on that unit when filed of record in the office of the Clerk of Superior Court of New Hanover County and shall accrue interest at a rate set by the Association not to exceed 18% per annum. The Association may bring an action at law against any owner, or foreclose the lien against the Property. Fees (including attorneys' fees), charges, late charges, fines, and interest are also enforceable as assessments.

Each such assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessment shall not pass to his successors in title unless expressly assumed by them.

Section 2: The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage and ad valorem taxes. Sale or transfer of any unit shall not affect the assessment lien. The sale or transfer of any unit pursuant to mortgage or tax foreclosure or any proceeding in lieu thereof, however, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such unit from liability for any assessments thereafter becoming due or from the lien thereof.

Section 3: The annual assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents and in particular for the acquisition, improvement and maintenance of the condominium, services and facilities devoted to this purpose, and for the use and enjoyment of the common elements. The Association may also levy a special assessment payable in a manner as specified by the Association for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the common elements, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of a majority of the members.

Section 4: Reserved.

PARTY WALLS

Section 1: The walls and flooring connecting adjacent units are "party walls" and are situated on, or about, the boundary line separating such units.

Section 2: All flooring and any other materials constituting any part of the walls, floors, or ceilings are a part of the common elements, pursuant to North Carolina General Statutes 47C-2-102(1), in 112 MARKET ST. CONDOMINIUMS and not a part of this Declaration.

To the extent any duct, wire, conduit, or any other fixtures lies partially within and partially outside the designated boundaries of a unit, any portion thereof serving only that unit is a limited common element allocated exclusively to that unit, and any portion thereof serving more than one unit or any portion of the common elements is a part of the common elements, pursuant to North Carolina General Statutes 47C-2-102(2).

Any decks, porches, balconies, patios and all other exterior doors and windows or other fixtures designated to serve a single unit but located outside the unit's boundaries are limited common elements allocated exclusively to that unit, pursuant to North Carolina General Statutes 47C-2-102(4).

Section 3: Each wall which is built as a part of the construction of a unit and placed on the dividing line between the units shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 4: The cost of reasonable repair and maintenance of a party wall shall be shared by the owners who make use of the wall in proportion to such use.

Section 5: Notwithstanding any other provisions of this Article, an owner who by his negligent or willful act causes a party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 6: The right of any owner to contribution from any other owner under this Article shall be appurtenant to the land and shall pass to such owner's successors in title.

Section 7: If any owner desires to sell his unit, such owner may, in order to assure a prospective purchaser that no adjoining unit owner has a right of contribution as provided in this Article IV, request of the adjoining unit owner a certification that no right of contribution exists, whereupon it shall be the duty of the adjoining unit owner to make such certification immediately upon request and without charges; provided, however, that where the adjoining unit owner claims a right of contribution, the certification shall contain a recital of the amount claimed.

Section 8: In the event of any dispute arising concerning a party wall, or under the provisions of this Article, such dispute shall be settled by arbitration as provided by the laws of North Carolina as then existing.

ARTICLE V

EXTERIOR MAINTENANCE

Section 1: The Association shall provide maintenance for the common elements only. Each unit owner shall be responsible for all maintenance, throughout the interior of the unit, including the performance of the following, as needed: Paint, repair, replace and care of ceilings. Maintenance of exterior building surfaces, trees, shrubs, walks, and other exterior improvements are common area expenses.

Section 2: In the event that the need for maintenance, repair, or replacement is caused through the willful or negligent act of an owner, his family, guests, invitees, or tenants, the cost of such maintenance, replacement, or repairs shall be subject to and become a part of the assessment to which such unit is subject.

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No building, fence, wall, or other structure or improvement shall be commenced, erected or maintained upon the condominium, nor shall any exterior addition or change therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location for the same shall have been submitted to and approved in writing by the Executive Board.

The exterior color of a building cannot be changed unless the color scheme of the entire condominium is similarly changed. Any such change requires the unanimous approval of the owners at a duly called meeting at which a quorum is present.

ARTICLE VII
USE RESTRICTIONS

Section 1: Each of the units shall be used and occupied for residential purposes and/or such commercial purposes as may be permitted by the City of Wilmington Zoning ordinance for the district in which the condominium is located. No other use may be made of any unit without the express written approval of the Executive Board. No unit may be divided or subdivided into a smaller unit nor any portion thereof sold or otherwise transferred, except as herein provided.

Section 2: No noxious or offensive activity shall be conducted upon any unit. No alcohol sales shall be permitted upon any unit, nor shall anything be done thereon which may be or may become an annoyance or nuisance.

Section 3: No animals or reptiles of any kind shall be kept or maintained in any unit except that dogs, cats or other household pets may be kept or maintained provided that they are not kept or maintained for commercial purposes. All household pets shall be kept on a leash at all times when outside the units.

Section 4: No outside radio or television antennas, including satellite dishes or receivers, shall be erected on any unit unless and until permission for the same has been granted the executive board.

Section 5: No signs shall be permitted on or about the units unless approved by the Declarant, or the Board of Directors, or its designee.

**ARTICLE VIII
EASEMENTS**

In addition to easements and rights established and/or reserved elsewhere in this Declaration, the following easements, rights and limitations are hereby established as covenants and burdens running with the real property and the improvements thereon.

Section 1: Declarant shall have a reasonable construction easement across the entire building for the purpose of constructing improvements on the units. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded 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.

Section 2: All units and common elements shall be subject to easements for the encroachment of improvements on adjacent units to the extent that such improvements actually encroach, including, but not limited to, such items as overhanging eaves, stoops, misaligned common wall foundation footings and walls, provided such encroachment does not interfere with the reasonable use of the common elements or units so encroached upon.

Section 3: Declarant shall have a reasonable construction easement across the common elements for the purpose of constructing improvements on the units. Declarant shall also have such easements through the common elements as may be reasonably necessary for the purpose of discharging a declarant's obligations or exercising special Declarant's rights as provided herein.

Section 4: The Declarant reserves the right to grant easements for utilities to service the project which may or may not be recorded prior to sale and conveyance of the first unit. The Declarant also reserves, for themselves, their successors and assigns, non-exclusive and alienable easements over all drive ways, access ways, and parking lots for access to other areas, which are owned, or hereafter acquired, by Declarant for purposes of development.

Section 5: 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, and mortgage holders, and any other person or entity having an interest in the condominium.

**ARTICLE IX
GENERAL PROVISION**

Section 1: All powers granted in the Declaration or the Bylaws to the Association shall be exercisable by the Executive Board, except as expressly provided in the Declaration, the Bylaws, or the Act.

Section 2: The Association may adopt and enforce reasonable rules and regulations not in conflict with the Declaration and supplementary thereto, as more fully provided in the Bylaws.

Section 3: The Association shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, 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 90 days, any unit owner, or other holder of an interest in the condominium may undertake the enforcement of the provisions of the Declaration at his own expense.

Section 4: Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 5: The covenants and restrictions of this Declaration shall run with and bind the land, for a term of Twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of Ten (10) years. Provided, however, that this Declaration may be amended during the first Twenty (20) year period, or any subsequent period by an instrument signed by 100% of the unit owners. Any amendment must be recorded.

Section 6: The fiscal year of the Association shall begin on the first day of January and end the 31st day of December of each year, except that the first fiscal year shall begin on the date of incorporation.

IN WITNESS WHEREOF, the Declarant has hereunto set his hand, all as of the day and year first above written.

John V. Sutton
JOHN V. SUTTON, JR., DECLARANT
Teri L. Sutton
TERI L. SUTTON, DECLARANT

STATE OF NORTH CAROLINA, COUNTY OF BRUNSWICK

I, a Notary Public for the aforesaid county and state, do hereby certify that JOHN V. SUTTON, JR., and TERI L. SUTTON, personally appeared before me this date and acknowledged the execution of the foregoing document. Witness my hand and official seal this 1st day of March, 2000.

My Commission Expires: 12-22-03

Donna J. Faircloth
NOTARY PUBLIC



STATE OF NORTH CAROLINA
New Hanover County
The Foregoing/ Annexed Certificate(s) of

Donna J. Faircloth

Notary (Notaries) Public is/ are certified to be correct.

This the 1 day of May 2000

Mary Sue Oatis, Register of Deeds
by *Mavis Ann Stover*
Deputy/Assistant