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JUDITH A. GIBSON REGISTER OF DEEDS MECKLENBURG COUNTY, NC	

MASTER DECLARATION OF
COVENANTS CONDITIONS AND RESTRICTIONS
FOR PROSPERITY POINTE

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FOR PROSPERITY POINTE**

This Master Declaration of Covenants, Conditions and Restrictions for Prosperity Pointe (this "Declaration") is made the 14 day of December, 2006 by DMC Holdings, LLC, a North Carolina limited liability company (together with its successors and assigns, "Declarant").

STATEMENT OF PURPOSE

A. Declarant is the owner of those certain parcels of real property located in Mecklenburg County, North Carolina and more particularly described on Exhibit A attached hereto and incorporated herein by reference (together with all improvements thereon, collectively the "Property") which Declarant intends to develop as a mixed-use development to be generally known as Prosperity Pointe (the "Development").

B. Declarant desires to provide for the preservation of the property values and amenities in the Development and for the maintenance of the Property, and therefore desires to subject the Property (together with such additions thereto as may be made as provided herein) to the covenants, restrictions, easements, charges, liens and assessments hereinafter set forth (collectively, the "Covenants") in order to comprise a uniform and harmonious mixed-use development with continuity of design, maintenance and operation.

C. Declarant intends to divide the Property into separate parcels (each, a "Parcel") to be owned by Declarant or conveyed some other party, and each Parcel will contain one or more Buildings (defined below).

AGREEMENT

NOW, THEREFORE, Declarant hereby declares and consents that the Property is and shall be held, transferred, leased, mortgaged, developed, occupied, used and otherwise disposed of subject to the Covenants more particularly set forth in this Declaration, said Covenants being appurtenant to each Parcel and to run with the title thereto.

ARTICLE 1. DEFINITIONS

1.1. **Definitions.** When used in this Declaration, unless the context shall prohibit or otherwise require, the following terms shall have the following meanings (all definitions being applicable to the singular and plural forms of such terms and without regard to gender):

1.1.1. "Architect" shall mean Childrey Robinson Associates or any other architectural firm selected or approved by Declarant consisting of architects and engineers reputable and experienced in the design and construction of mixed-use buildings similar to those contemplated as part of the Development.

1.1.2. "Assessment" shall mean a Parcel Owner's (defined below) share of the Expenses (defined below) from time to time assessed against its respective Parcel in the manner herein provided. The plural form of this term is "Assessments."

1.1.3. "Association" shall mean Prosperity Pointe Association, Inc., a North Carolina non-profit corporation, its successors and assigns. The Owner(s) of each Parcel within the Development shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of a Parcel. The Association shall be governed accordance with the Association's Bylaws;

provided that each Owner shall be entitled to cast, upon any vote to be taken by the members of the Association, a number of votes equal to the number of square feet comprising such Owner's Parcel.

1.1.4. "Banking Use" shall have the meaning ascribed to such term in Section 1.1.19 herein.

1.1.5. "Building" shall mean any building from time to time located on any Parcel.

1.1.6. "Common Elements" shall mean any improved or unimproved areas within any Parcel which are made available for the general use, enjoyment, convenience and benefit of the Parcel Owners and the Development generally. Except as may be otherwise specifically provided herein, the Common Elements shall not include any Buildings or improvements within a Building, but shall include streets (whether public or private and including street lighting), roadways, driveways, sidewalks, pedestrian walks, parking areas, utility lines and fixtures, traffic and identification signs, landscaped areas (some or all of which may be within medians, side embankments or otherwise within a right of way of a public street adjoining any portion of the Property, decorative effects, garbage facilities, and storm water drainage and retention facilities).

1.1.7. "Easement Area" shall mean any portion of the Property, on in or over which is located any of the easements declared and established by this Declaration and any improvements therein located.

1.1.8. "Financial Services Institution" shall mean any entity engaged in any one or more of the following activities: (a) the operation of a Principal Financial Institution (defined below) or other institution that accepts deposits of money, whether accomplished by means of full service, express service, or motorbank facilities; (b) the operation of a stock brokerage firm; (c) the operation of a mortgage broker; (d) the operation of a finance company, mortgage company or any other institution that lends money; (e) investment banking; (f) insurance brokerage; or (g) the offering of any other financial services or products. Bank of America, N.A., is, as of the date hereof, permitted to offer by law.

1.1.9. "Expense" shall mean any expense described in Section 5.3.

1.1.10. "Legal Requirement" shall mean any and all statutes, orders, decrees, laws, rules and regulations of all federal, state and local governments, departments, commissions, boards and courts, which now or at any time hereafter are applicable to and enforceable against the Property or any portion thereof, or any use, manner of use or condition of the Property or any portion thereof.

1.1.11. "Manager" shall mean the person or entity responsible for discharging the management obligations set forth in this Declaration. The initial Manager shall be the Declarant. Declarant shall continue as Manager until any of the following occurs: (i) Declarant elects to no longer act as Manager and notifies the Parcel Owners in writing of such election; or (ii) Declarant fails to perform its respective management obligations set forth herein in a timely fashion and such failure continues for a period of thirty (30) days after receipt of written notice from any Parcel Owner stating that Declarant is not performing said obligations. If Declarant ceases to be Manager, then the Association shall appoint a new Person (defined below) to act as Manager. Such appointment shall require the affirmative vote of the Parcel Owners then owning a majority of the total square footage of all the Parcels. Any new Manager shall continue as Manager unless same resigns or is removed by the same procedures set forth in this Section 1.1.11.

1.1.12. "Mortgage" shall mean any deed of trust, mortgage or similar instrument at any time and from time to time constituting a lien upon or security title to any interest or estate in the Property or any portion thereof as reflected in the Official Records (defined below).

1.1.13. "Official Records" shall mean the official records of the Office of the Register of Deeds of Mecklenburg County, North Carolina.

1.1.14. "Parcel" shall have the meaning set forth in the Statement of Purpose of this Declaration.

1.1.15. "Parcel Owner" or "Owner" shall mean a Person owning fee simple title to any Parcel or any common, joint or limited interest therein, as shown in the Official Records, subject to the following conditions:

(a) the trustor, mortgagor or grantor under a Mortgage and not the trustee, mortgagee, grantee or beneficiary under a Mortgage shall be deemed the "Parcel Owner" unless the trustee, mortgagee or grantee is a "mortgagee-in-possession" following a default under such Mortgage or has acquired fee simple title to such Parcel by foreclosure under a power of sale, judicial foreclosure or deed-in-lieu of foreclosure and has so certified to Manager in writing;

(b) tenants, residents and lessees of a Parcel shall not be deemed Parcel Owners;

(c) Declarant shall be deemed a Parcel Owner so long as it retains ownership of a Parcel;

(d) with regard to any Parcel having multiple concurrent ownership (for example, ownership by the owners of the separate condominium units within a condominium), such owners shall jointly and severally comprise the "Parcel Owner" for such Parcel, subject to the provisions of Article 8 herein.

1.1.16. "Permittee" shall mean any Person that is a tenant, subtenant, licensee, employee, agent, guest, invitee, independent contractor or mortgagee of a Parcel Owner, its successors and assigns.

1.1.17. "Person" shall mean a natural person, corporation, partnership, limited liability company or other legal entity or any combination thereof.

1.1.18. "Plans and Specifications" shall mean the general architectural drawings and site plans prepared by the Architect in connection with the planning of the Development.

1.1.19. "Principal Financial Institution" shall mean any entity which conducts retail or wholesale banking operations, which include, but are not limited to, receiving deposits or making loans to the general public (whether done by a commercial bank, savings bank, savings and loan association, credit union, a mutual or thrift association or other entity or an affiliate of any such entity (e.g., Wachovia Bank, BB&T Bank, First Citizens Bank, etc.) and whether accomplished by means of full service, express service, or motorbank facilities, automated teller machines or other self-service banking devices or otherwise (all or any one or more of the above being hereinafter referred to as a "Banking Use."

1.1.20. "Property" shall have the meaning set forth in the Statement of Purpose of this Declaration.

1.1.21. "Reasonable Attorneys' Fees" shall mean reasonable attorneys' fees actually incurred, based on actual hourly rates of the attorneys providing such services, notwithstanding any statutory presumption to the contrary.

ARTICLE 2. GRANT AND RESERVATION OF EASEMENTS

Declarant hereby creates, declares and grants and reserves the easements set forth in this Article 2 for the mutual and reciprocal benefit of the Parcel Owners, their successors and assigns and, subject to Section 2.7 herein, such Parcel Owners' Permittees.

2.1. Utilities and Mechanical Equipment. To the extent such utilities and maintenance facilities are not separate and distinct for each Parcel, reciprocal non-exclusive easements over each Parcel as are necessary for the furnishing of water, electricity, storm and sanitary sewer, gas, telephone, television, communications, security systems, other utilities and services as are necessary or desirable for the construction, maintenance and operation of the Buildings. Unless such utilities are separate and distinct for a Parcel or Building, such utilities shall be maintained, repaired and replaced by Manager and the cost of such maintenance, repair and replacement shall be deemed an Expense. Nothing in this Section 2.1, or elsewhere in this Declaration, shall be construed to permit the installation of overhead power lines within the Development, and such installation is expressly prohibited.

2.2. General Construction Easements. Reciprocal, non-exclusive easements over the Common Elements for access and temporary encroachments by contractors and subcontractors (and the equipment and employees thereof) during the construction of the Buildings together with related improvements to the extent reasonably necessary; provided, however (i) each Parcel Owner shall exercise its rights under this Section 2.2 in such a manner as to minimize disruption of the other Parcel Owners' quiet enjoyment of their respective Parcels; (ii) any access and encroachment activities permitted by this Section 2.2 shall be completed as soon as reasonably possible once commenced; (iii) no easement is herein granted to any Parcel Owner for the storage of materials or equipment upon any other Owner's Parcel; and (iv) each Parcel Owner exercising its rights under this Section 2.2 agrees to and does hereby indemnify the other Parcel Owners from any loss, costs and damages or expenses incurred by such other Parcel Owners as a result of the exercise by the indemnifying Parcel Owner of its rights hereunder.

2.3. Common Elements. Reciprocal, non-exclusive easements over each Parcel as are reasonably necessary for access to, and the use and enjoyment of, all Common Elements.

2.4. Emergency Access. Reciprocal non-exclusive easements over each Parcel by each of the respective Parcel Owners for emergency ingress, egress and access.

2.5. Driving and Parking. Subject to the Declarant's right to designate or restrict, either temporarily or permanently, reserved parking spaces, reciprocal non-exclusive easements for (i) vehicular and pedestrian access, ingress and egress and (ii) parking of automobiles, motorcycles, trucks and other light delivery vehicles, over all or any portion of each Parcel which may be designated from time to time as parking or driveway areas.

2.6. No Rights In Public. Nothing in this Article 2 shall be deemed to create any easements or rights in or for the benefit of the general public. Declarant, for itself and each Parcel Owner, hereby reserves the right to close temporarily, to the extent reasonably practicable, upon fifteen (15) days prior written notice (which may be given by posting in conspicuous locations upon the relevant portions of the Property) to occupants of the Buildings, all or any portion of the private easements, to the extent necessary or appropriate under applicable law to prevent any claims of dedication for public use.

2.7. Rights of Permittees. Each Parcel Owner shall be entitled to designate from time to time which, if any, of its Permittees shall be entitled to utilize and enjoy the easements created under this Article 2, it being the intent of Declarant that no independent rights shall be created by this Declaration as to any such

Permittees except for those which may be terminated or withdrawn at any time by the Parcel Owner through whom such rights were derived.

2.8. Scope of Easements. Each of the easements created by this Declaration shall (unless expressly provided herein to the contrary) be perpetual in duration and shall, both as to the benefits and the burdens thereof, run with the title to, and burden the title to, the Property and each portion thereof.

ARTICLE 3. MANAGEMENT AND MAINTENANCE OBLIGATIONS

3.1. Responsibilities. Subject to Section 3.2, the Manager shall have the following responsibilities with respect to the Property:

3.1.1. Utilities. To the extent not separately metered, to maintain the utility facilities of the Buildings and pay all utility bills described in Subsections 3.2.2 and 3.2.3 herein.

3.1.2. Assessment Responsibility. To assess each Parcel Owner as provided in Article 5 herein.

3.2. Maintenance Obligations. To insure the full and complete use of the Development and to preserve and enhance the attractiveness and value of the Buildings, the Parcel Owners shall have the following obligations:

3.2.1. Property.

(a) Any and all maintenance, repair or replacement pursuant to the easements reserved in Article 2 herein which solely benefit any one Parcel Owner shall be done by and at the sole cost and expense of such Parcel Owner, and shall be done in a manner so as to minimize, to the extent reasonably possible, any interruption and interference to the other Parcel Owners, the other Parcels and the improvements thereon. After any such maintenance, repair or replacement pursuant to such easements, the other Parcels shall be left in a clean condition, with all debris removed therefrom, and with all property thereof or thereon returned to, or as close as reasonably practicable to, the condition in which such property existed immediately prior to such maintenance, repair or replacement.

(b) Any and all maintenance, repair or replacement pursuant to the easements reserved in Article 2 herein which benefit all Parcels and improvements thereon, shall be done by Manager and shall be done in a manner so as to minimize, to the extent reasonably practicable, any interruption and interference to the Parcel Owners and their respective Parcels. After the maintenance, repair or replacement pursuant to such easements, the Parcels shall be left in a clean condition, with all debris removed therefrom, and with all property thereof or thereon returned to, or as close as reasonably practicable to, the condition in which such property existed immediately prior to such maintenance, repair or replacement. The cost and expense of all such maintenance, repair or replacement provided pursuant to this Subsection 3.2.1(b) shall be borne by each of the Parcel Owners based on a ratio equal to the total square footage that all Buildings located on such Parcel bear to the total square footage of all Buildings located within the Development. For purposes of the preceding sentence, the square footage of a Building shall be measured from external wall to external wall and counting each floor, and shall include the footprint of any "drive through" or automated facilities. Subject to the provisions of

Section 9.12 herein, within fifteen (15) days following the receipt by any Parcel Owner from Manager of statements of costs and expenses incurred in connection with such maintenance, repair and replacement, the Parcel Owners shall reimburse Manager for such Parcel Owner's share of such costs and expenses, and such costs and expenses shall constitute a lien against such Owner's Parcel, binding on such Parcel Owner and its successors in title.

(c) Without limitation, the exercise of the rights and easements set forth in this Section 3.2.1 shall be subject to (i) the indemnification provisions of Section 6 herein and (ii) the restrictions regarding the exterior of each Building contained in Section 7 herein.

(d) Except as otherwise specifically provided herein, each Parcel Owner shall maintain and repair its Buildings and related improvements and, in the event of a casualty to such Buildings or improvements, each Parcel Owner shall be solely responsible for the restoration, repair and reconstruction of such Buildings or improvements.

3.3. Water and Sewer. Water shall be separately metered, if possible, and paid directly by each Parcel Owner to the applicable governmental authority. If separate metering is not possible, then such water and sanitary sewer supplied to the Property by the applicable governmental authority shall be metered through one meter and billed to Manager, who shall be responsible for paying the applicable governmental authority for the water and sanitary sewer supplied to the Property. If feasible, after passing through this common meter, the water and sanitary sewer shall then be individually metered to each of the Parcel Owners. Such Parcel Owners shall each pay Manager for the water and sanitary sewer supplied to their respective Parcels, and such payments by the Parcel Owners for water and sanitary sewer charges shall be made within fifteen (15) days after receipt of a statement therefor from Manager. Additionally, Manager is hereby granted the right to enter those portions of the Property necessary to read the applicable water meters. In the event that separate metering of the Parcels is not feasible, the water and sanitary sewer charges shall be apportioned between the Parcel Owners and assessed on a fair and equitable basis agreed upon by such Parcel Owners (or established by contract between Declarant and a particular Parcel Owner) based on usage and, in the absence of such an agreement, such determination shall be submitted to arbitration in accordance with the provisions of Section 9.12 herein.

3.4. Gas and Electric. Gas and electricity supplied to the Property shall be separately metered, if possible, and paid directly by the respective Parcel Owners. If separate metering is not feasible, then gas and electricity supplied to the Property shall be metered through central meters and billed to Manager. The gas and electricity charges shall then be apportioned between the Parcel Owners and assessed on a fair and equitable basis agreed upon by the Parcel Owners (or established by contract between Declarant and a particular Parcel Owner) based on usage and, in the absence of such an agreement, such determination shall be submitted to arbitration in accordance with the provisions of Section 9.12 herein.

3.5. Insurance.

3.5.1. Property Insurance. Each Parcel Owner shall keep its Buildings, related improvements and any Common Elements located on its Parcel, insured against damage and destruction by fire, earthquake, vandalism and other perils in the amount of the full replacement value thereof. The insurance shall include an extended coverage endorsement of the type required by institutional lenders to repair and restore such Buildings, related improvements and Common Elements.

3.5.2. Liability Insurance. Each Parcel Owner shall maintain contractual and comprehensive general liability insurance, including public liability and property damage, with a minimum combined single limit of liability of Two Million and No/100 Dollars (\$2,000,000.00) for personal injuries or deaths of persons occurring in or about its respective Parcel and Buildings (which policy may be in the form of a primary liability policy with minimum limits of One Million and No/100 Dollars (\$1,000,000.00) per occurrence and Two Million and No/100 Dollars (\$2,000,000.00) in the aggregate, with the balance of such coverage provided by an umbrella liability insurance policy).

3.5.3. Increase in Insurance. The amounts of coverage and deductibles required by this Declaration are subject to review at the end of each three-year period commencing January 1, 2007. At each review, if necessary to maintain the same level of coverage that existed on the date hereof, the amounts of coverage shall be increased to the lesser of:

- (a) the amounts of coverage carried by prudent owners of comparable retail and/or office and/or apartment buildings in the Charlotte, North Carolina area; or
- (b) one hundred twenty-five percent (125%) of the previous insurance amounts carried during the immediately preceding three-year period.

Any Parcel Owner may initiate the insurance review set forth in this Section 3.5.3, and request appropriate increases based upon such review within sixty (60) days after the expiration of such three-year period. If all the Parcel Owners do not agree to the amount of the increase, then the Parcel Owner requesting the increase may submit the dispute to arbitration under Section 9.12 herein within thirty (30) days of the request for the increase.

3.5.4. Insurance Criteria. Insurance policies required by this Declaration shall:

- (i) be issued by insurance companies licensed to do business in the State of North Carolina or by surplus lines companies. Such companies must have general policyholder's ratings of at least "A" and a financial rating of at least "XI" as published in the most current Best's Insurance Reports available on the date such insurance policy is issued. If the Best's ratings are changed or discontinued, the Parcel Owners shall agree to an equivalent method of rating insurance companies. If the Parcel Owners cannot agree they shall submit the dispute to arbitration under Section 9.12 herein;
- (ii) with respect to casualty insurance, name Manager as an additional insured as its interest may appear; lenders or tenants may also be added as additional insureds in a blanket policy;
- (iii) provide that the insurance not be canceled or materially changed in the scope or amount of coverage unless thirty (30) days' advance notice is given to Manager;
- (iv) have deductibles not greater than \$10,000.00 (subject to adjustment pursuant to Subsection 3.2.4(c) herein);
- (v) be maintained during the entire term of this Declaration.

3.5.5. Evidence of Insurance. Promptly following the date hereof, and upon each renewal of its insurance policies, each Parcel Owner shall give reasonable satisfactory evidence of insurance to the other Parcel Owners. The certificate shall specify amounts, types of coverage and the insurance criteria listed in Subsection 3.2.4(d). The policies shall be renewed or replaced and maintained by the Parcel Owner responsible for that policy. If any Parcel Owner fails to give the required evidence of insurance within thirty (30) days after notice of demand for same, the other Parcel Owners or Manager may obtain and pay for that insurance and receive reimbursement from the Parcel Owner required to have the insurance.

3.6. Limitation of Liability. Manager shall not be obligated to take any action hereunder with regard to the management of the Easement Areas, Common Elements and the Property to the extent that the cost thereof exceeds the funds available to Manager to pay such costs pursuant to the assessment powers set forth in Article 5 herein.

ARTICLE 4. COMMON ELEMENT COSTS

4.1. Common Elements Expenses. Manager shall be responsible for maintaining, repairing and replacing all Common Elements. Each Parcel Owner shall be responsible for its share of the Assessment for such work (the "Common Elements Expenses"). Common Elements Expenses shall include all reasonable costs and expenses incurred by Manager in maintaining, operating, supplying, repairing and replacing the Common Elements in a first-class condition as required by the terms of this Declaration, excluding however, real estate taxes applicable to the Common Elements, which shall be borne in full by the Parcel Owner owning the Parcel containing such Common Elements. Without limiting the generality of the foregoing, Common Elements Expenses shall include the following:

4.1.1. Costs of the general maintenance and repair of all paved surfaces, including all streets (including street lighting), roadways, sidewalks, walkways, parking areas and all curbing related thereto. Such maintenance and repair shall include, without limitation, structural repair, patching, re-striping, repairing and resurfacing such areas when appropriate.

4.1.2. Costs of keeping in repair and replacing (when necessary) traffic and directional signs and markers.

4.1.3. Costs of maintaining, repairing and providing power to the electrical system which serves the Common Elements and the lighting system which illuminates the Common Elements, including the maintenance and repair of all lighting facilities and standards and replacement of lights.

4.1.4. Costs of mowing, trimming, planting, replanting, pruning and otherwise maintaining all landscaped areas (some or all of which may lie within public rights of way), including, without limitation, the maintenance, repair, replacement and operating of any irrigation system that may be employed.

4.1.5. Costs, fees and charges related to the use of any common utility facilities, including, without limitation, the maintenance, repair and replacement of the common utility facilities.

4.1.6. Costs of any permits, licenses, fees and approvals required with respect to the Common Elements, except for any permits, licenses, fees and approvals required in connection with the initial construction of the Common Elements.

4.1.7. The verifiable salaries, wages, benefits and other compensation for personnel providing services on or within the Common Elements for the benefit of the Common Elements (including,

without limitation, janitors, maintenance personnel and security guards), with proper cost allocations to the extent any such personnel provide services other than for the Common Elements.

4.1.8. Payments to outside contractors for services on or within the Common Elements for the benefit of the Common Elements.

4.1.9. Costs related to the collection, removal and disposal of garbage and other waste from the Property.

4.1.10. Costs related to the collection and control of storm water drainage on and across the Property, including, without limitation, the maintenance, repair and replacement of any storm water drainage or retention facilities and any assessments levied by the Association.

4.1.11. Costs of complying with any governmental laws, statutes, rules, regulations and ordinances affecting the operation of the Common Elements, including, without limitation, environmental laws and zoning ordinances.

4.1.12. Any other reasonable costs related to the use, maintenance, operation, repair and replacement of the Common Elements in a first-class condition, including, without limitation, insurance costs, customary and reasonable management fees cap, pest control costs, painting, cleaning, snow and ice removal, sweeping and janitorial services, signs, holiday and seasonal decorations and special promotion events.

ARTICLE 5. ASSESSMENTS

5.1. Covenant to Pay. Each Parcel Owner, by acceptance of a deed for its Parcel, whether or not it shall be so expressed in such deed, shall be deemed to covenant and agree to pay to Manager the Assessments established and collected as provided in Section 5.4 herein.

5.2. Purpose of Assessments. Assessments levied by Manager shall be used exclusively for the purposes set forth in Section 5.3 herein. Assessments shall be made only with respect to Expenses actually paid or incurred by Manager.

5.3. Assessments. The Expenses to be funded by Assessments are as follows:

5.3.1. Subject to Subsection 3.2.1 herein, the expenses of maintenance, operation, repair and replacement of the Easement Areas, if any, including, without limitation, the cost of labor, equipment and materials incurred in connection therewith as described in such Subsection 3.2.1;

5.3.2. To the extent not separately metered, and subject to Subsections 3.2.2 and 3.2.3 herein, utility charges for utilities serving the Buildings;

5.3.3. The Common Elements Expenses as set forth in Article 4 herein.

5.4. Method of Assessments. From time to time, Manager may levy Assessments against a Parcel Owner for one of the categories of Expenses set forth in Section 5.3 herein. The Parcel Owners shall be obligated to pay such Assessment in accordance with the provisions of the applicable Section of this Declaration under which such Expenses shall arise.

5.5. Priority of Lien for Assessments. All sums assessed against any Parcel pursuant to this Declaration, together with court costs, reasonable attorneys' fees, late charges and interest as provided herein,

shall be secured by an equitable charge and continuing lien on such Parcel in favor of Manager. Such lien shall be superior to all other liens and encumbrances on such Parcel except only for liens of ad valorem taxes and liens of first priority Mortgages filed in the Official Records prior to the date of filing in the Official Records of any lien for past due Assessments.

All Persons acquiring other liens or encumbrances on any Parcel after this Declaration shall have been recorded in the Official Records shall be deemed to consent that such liens or encumbrances shall be inferior to such future liens for Assessments as provided herein, whether or not such prior consent shall be specifically set forth in the instruments creating such liens or encumbrances, except for holders of liens of first priority Mortgages filed in the Official Records prior to the date of filing of record of any lien for past due Assessments.

5.6. Effect of Nonpayment of Assessments; Remedies of Manager. Any Assessments or any portion thereof that are not paid when due shall be deemed delinquent. Any Assessment delinquent for a period of more than fifteen (15) days shall incur a late charge in an amount equal to four percent (4.0%) of the delinquent amount, and Manager shall cause a notice of delinquency to be given to any delinquent Parcel Owner (and any mortgagee of which Manager has actual notice) within fifteen (15) days following the date such Assessment shall have been due. If any Assessment has not been paid within (30) days of the due date therefor, the entire unpaid balance of the Assessment may be accelerated at the option of Manager and, if so accelerated, shall thereupon become forthwith due and payable in full. The continuing lien and equitable charge of such Assessment shall include such late charge, interest on the amount of the delinquent installment at a rate of the greater of (a) the "Prime Rate" as published by the Wall Street Journal in effect as of the date of such nonpayment, plus five percent (5%), or (b) the maximum rate of interest permitted under North Carolina law (the "Default Rate"), from such due date until such payment is received, all costs of collection (including reasonable attorneys' fees and court costs), and any other amounts provided or permitted hereunder or by law. If the Assessment remains unpaid after sixty (60) days from the original due date, Manager may institute suit to collect such amounts and to foreclose its lien. [The equitable charge and lien provided for in this Article 5 shall be in favor of Manager for the use and benefit of all Parcel Owners; and each Parcel Owner, by its acceptance of a deed to a Parcel, vests in Manager and Manager's agents the right and power to sue or otherwise proceed against such Parcel Owner for the collection of such charges and/or to foreclose such liens, provided that the other Parcel Owners shall have the same enforcement right and power should Manager fail to do so. Manager shall have the power to bid on the delinquent Owner's Parcel at any foreclosure sale and to acquire, hold, lease, mortgage and convey the same.]

5.7. No Abatement. No diminution or abatement of Assessments shall be claimed or allowed by any Parcel Owner by reason of any alleged failure of Manager to take action or perform any function required to be taken or performed by Manager under this Declaration, or for inconvenience or discomfort arising from the making of improvements or repairs that are the responsibility of Manager, or from any action taken by Manager to comply with any law, ordinance, order, or directive of any municipal or other governmental authority (except for the gross negligence or the intentional acts or omission of Manager), the obligation to pay such Assessments being a separate and independent covenant on the part of each Parcel Owner.

5.8. Payment Certificates. Within ten (10) days after receipt of a written request therefor, Manager shall furnish to the applicable Parcel Owner a written certificate stating the type and amount of then outstanding Assessments for which such Parcel Owner is liable and whether said Assessments have been paid in full. Such a certificate shall be conclusive evidence for the benefit of all Parcel Owners of the payment of any Assessment therein stated to have been paid.

5.9. Accounting. Manager shall maintain accurate books and records and provide an accounting to each Parcel Owner for the actual payment of the Expenses for each calendar year within ninety (90) days.

5.10. Future Assessments. If Manager fails to impose Assessments under this Article 5 for any period of time, such failure shall not operate to diminish, affect or waive Manager's authority to impose any such Assessments for future periods, as such authority is granted pursuant to this Article 5.

5.11. Subordination of Lien to Mortgages. The lien for Assessments provided under this Article 5 shall be subject to and subordinate to any Mortgage on any Parcel and the sale or transfer of any Parcel which is subject to any mortgage or other deed of trust. Accordingly, in the event of a foreclosure or proceeding in lieu thereof with respect to any Parcel, such proceeding shall extinguish the lien relative to any such Assessment which became due prior to such proceeding. Additionally, no sale or transfer of any Parcel shall operate to relieve such Parcel from any liability for any Assessments thereafter becoming due or from the lien thereof, and the liens provided for in this Article 5 shall continue to be subordinate and subject to the applicable Mortgage(s) or deeds of trust applicable to such Parcel.

ARTICLE 6. COMPLIANCE WITH LAWS; REMOVAL OF LIENS; ZONING; USE RESTRICTIONS

6.1. Compliance with Laws. The Parcel Owners:

6.1.1. Shall each comply with all laws, statutes, codes, rules, orders, decrees, ordinances, regulations and requirements now or hereafter enacted or promulgated by the United States of America, State of North Carolina, County of Mecklenburg, City of Charlotte and any other entity or agency now or hereafter having jurisdiction over the Property or any portion thereof, and shall have made all payments of taxes and other charges, the nonpayment of which entitles the unpaid party to assert a lien on such Parcel, if noncompliance or nonpayment by one Parcel Owner with respect to its Parcel or any part thereof would subject any other Parcel Owner to civil or criminal liability, or would jeopardize the full force or effect of any certificate of occupancy issued to such other Parcel Owner or for its Building, or would jeopardize such other Parcel Owner's right to occupy or utilize beneficially its respective Parcel or any part thereof, or would result in the imposition of a lien against any of the property of any other Parcel Owner; and

6.1.2. Shall each comply with all rules, regulations and requirements of any insurance rating bureau having jurisdiction over the Property or any portion thereof or the requirements of any insurance policy affecting insurance coverage on the other Owners' Parcels if noncompliance by any such Parcel Owner with respect to its Parcel or any portion thereof would (i) increase the premiums of any policy of insurance maintained by the other Parcel Owners or the premiums of any policy of insurance maintained by the other Parcel Owners, (ii) render the other Parcels uninsurable, or (iii) create a valid defense to the other Parcel Owners' right to collect insurance proceeds under policies insuring such other Owners' Parcels; provided further, however, that if such compliance is hereafter required solely because of the nature of the use, possession of management of or activities in the other Owners' Parcels, such other Parcel Owners shall be liable for the cost and expense of such compliance. If at any time any Parcel Owner so obligated to comply (the "Non-complying Owner") shall not proceed diligently with any such compliance and such failure to proceed shall adversely and materially affect any of the other Parcel Owners, then the Parcel Owner requesting such compliance (the "Requesting Owner") may give written notice to the Non-Complying Owner specifying the respect or respects in which the cure of such noncompliance is not proceeding diligently and, if upon expiration of twenty (20) days after the receipt of such notice, any such cure of the noncompliance is still not proceeding diligently, then the Requesting Owner may cause such compliance to occur by taking all appropriate steps to carry out the same. The Requesting Owner shall be entitled to reimbursement upon demand from the Non-Complying Owner for all costs and expenses incurred by Requesting Owner in connection with causing any such compliance to occur, including interest at the Default Rate from the date of payment by the Requesting Owner of these costs and expenses to the date of reimbursement of the Requesting Owner.

6.2. Owner's Indemnity. Each Parcel Owner (hereinafter in this Section 6.2, the "Indemnifying Owner") covenants and agrees, at its sole cost and expense, to indemnify and hold harmless the other Parcel Owners, their partners, agents, directors, officers, employees and members (hereinafter in this Section 6.2, collectively referred to as the "Indemnitees") from and against any and all claims against Indemnitees 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 Indemnitees, arising from the Indemnifying Owner's Parcel 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 attorneys' fees, expenses and liabilities incurred with respect to any such claim, action or proceeding arising therefrom. If any action or proceeding is brought against the Indemnitees by reason of any such claim, then the Indemnifying Owner, upon notice from the Indemnitees, covenants and agrees to resist or defend such action or proceeding with attorneys reasonably satisfactory to the Indemnitees. Provided that the applicable insurance company shall acknowledge full coverage of the Indemnitees, any counsel for the insurance company providing insurance against such claim, action or proceeding shall be presumed reasonably satisfactory to Indemnitees.

6.3. Zoning and Subdivision Compliance. Without limiting the provisions of Section 6.1(A) herein, no Parcel Owner shall make any alterations or allow any use of their respective Parcels or take or fail to take any action which would violate the provisions of the governing zoning or subdivision ordinance and regulations or alter the use of its Parcels so as to violate such governing zoning or subdivision ordinance and regulations.

6.4. Use Restrictions. It is the intent of the Declarant that the Development shall be constructed and maintained as a first class, mixed-use development consistent with other similar mixed-use developments in the Charlotte, North Carolina market. To that end, no Parcel Owner shall enter into any agreements or leases with respect to its respective Parcel unless such agreements or leases are solely with first class office and retail users and occupants of sound financial condition and good repute. The Parcel Owners shall neither use any space in any Buildings or any portion of the Parcels for any of the following uses nor enter into any agreements or leases with any party which uses, or intends to use, any space in any Building for any of the following uses, and no such uses shall be permitted:

6.4.1. A business or use of which (a) creates strong, unusual or offensive odors, fumes, dust or vapors (provided, however, this restriction shall not be deemed to prohibit the operation of a dry cleaning establishment); (b) is a public or private nuisance; (c) emits noise or sounds which are objectionable due to intermittence, beat, frequency, shrillness or loudness (provided, however, this restriction shall not be deemed to prohibit the operation of a restaurant with outdoor seating, provided that any music broadcast outdoors shall not be objectionably loud); (d) creates unusual fire, explosive or other hazards; (e) has flashing lights or signs, strobe lights, search lights or loudspeakers; or (f) has phonographs, radios or video screens within any exterior portion of the Building;

6.4.2. A storage warehouse, manufacturing, refining or agricultural operation, second hand or surplus stores, mobile home park or trailer court, laundromat, pool or billiard hall, massage parlor, tattoo parlor or body piercing parlor or establishment, bowling alley or skating rink, movie theatre, funeral parlor, animal boarding facilities, residential dwellings other than hotel/motel, any establishment exhibiting pornographic materials (defined herein as any store which maintains as a material portion of its inventory such items which are by law not available for the sale or rental to children under fifteen (15) years old because such items expressly deal with or depict human sexuality) or which sell drug related paraphernalia, adult entertainment, "strip" or similar club or establishment, flea market, video arcade or gambling facility.

6.4.3. For that period commencing as of the date hereof and ending on the date that is ten (10) years following such date, other than that certain Parcel within the Development more particularly

described on Exhibit C attached hereto, there shall be no other Principal Financial Institution within the Development, and no other person or entity within the Development shall be permitted to utilize more than twenty percent (20%) of such person's or entity's space or Building (whether as a tenant, Parcel Owner or other occupant) for the purpose of conducting a Banking Use or use as a Financial Services Institution; provided, however, this restriction shall not be construed to prohibit the operation of an insurance brokerage firm or a real estate brokerage firm within the Development, provided that no more than twenty percent (20%) of such firm's or entity's space is not utilized, or anticipated to be utilized, for the purpose of conducting a Banking Use or for the uses described in subsections (a) (to the extent such use is not affiliated with a Principal Financial Institution), (c), (d), (e) or (g) included in the definition of a Financial Services Institution as set forth in Section 1.1.8 herein. Further, Landlord agrees that this restriction shall run with the land comprising the Development, and shall be binding on Landlord and its successors and assigns.

ARTICLE 7. CONSTRUCTION; ALTERATIONS

7.1. Construction of Buildings. Prior to the commencement of construction of any Building, any Parcel Owner desiring to construct such Building shall submit to Manager original construction drawings, schematics, site plans, elevations and architectural drawings for the proposed Building. Manager and Architect shall review such plans and determine, within thirty (30) days following receipt of such plans, if the proposed construction complies with the overall schematic design of the Development as indicated in the Plans and Specifications. If it is determined that the proposed Building is not consistent with the Plans and Specifications, then, within such thirty (30) day period, Manager shall notify the Parcel Owner of such decision and shall detail the inconsistencies. Parcel Owner shall revise its plans and resubmit to Manager for review and approval. Upon approval of Manager, the Parcel Owner shall promptly undertake and diligently pursue the completion of the Building, and in no event shall such construction take longer than twelve (12) months from the date such construction commenced to complete. Each Parcel Owner shall in its design and construction cooperate with Manager in all reasonable respects in the construction of the Common Elements on such Parcel Owner's Parcel. In addition to any other legal or equitable rights or remedies to which Manager may be entitled to enforce its rights under this Section 7.1, Manager shall be entitled to obtain injunctive relief. In any event, no more than one Building shall be constructed on any one Parcel. Notwithstanding the foregoing, any Building within the Development shall comply with the Design Guidelines attached hereto as Exhibit B and incorporated herein by reference, and no construction nor modification thereof shall be approved unless it so complies with such Design Guidelines.

7.2. Alterations.

7.2.1. Except as otherwise expressly required or permitted, any Parcel Owner (hereinafter in this Article 7, "Altering Owner") may, at any time, at such Altering Owner's sole cost and expense, make additions, improvements or alterations (hereinafter in this Article 7, "Alterations") to its Buildings provided that such Alterations comply with the balance of this Section 7.2 and all of the other provisions of this Article 7.

7.2.2. No Parcel Owner shall be entitled to make any Alterations without the prior written consent of Manager if such Alterations will:

- (a) diminish the benefits afforded to any other Parcel Owner by any easement or interrupt any other Parcel Owner's use or enjoyment of any easement;
- (b) impair the structural integrity of the Building (or any portion thereof) or necessitate the erection of additional external columns, bearing walls, or other structures outside of the Building, or require relocation of existing utilities;

- (c) materially affect facilities benefiting any other Parcel Owners;
- (d) alter the façade or exterior appearance of the Building, including designs, colors or materials;
- (e) increase or decrease the width of dimension of the Building beyond the then-existing width or dimension of the Building; or
- (f) be inconsistent with (or completed with materials below) the first class standards of the Development.

7.2.3. If, at any time, the Altering Owner proposes to make any Alterations which require or could possibly require the consent of Manager, then before commencing or proceeding with such Alterations, the Altering Owner shall deliver to Manager a copy of the plans and specifications showing the proposed Alterations and a reference to this Section 7.2. If Manager consents to such Alteration or states that its consent is not required, the Altering Owner may proceed to make its Alterations substantially in accordance with said plans and specifications. Manager shall make a good faith, diligent effort to respond to the Altering Owner within fifteen (15) days after its receipt of said plans and specifications from the Altering Owner showing proposed Alterations. If the Altering Owner has not requested Manager's consent to any proposed Alterations, and if in the good faith opinion of Manager, the Altering Owner has violated or will violate the provisions of Section 7.2.1 or 7.2.2, Manager believing a violation exists shall notify the Altering Owner of its opinion that the Alterations or proposed Alterations violate or will violate the provisions of Section 7.2 A or B herein and shall specify the respect or respects which its provisions are or will be violated. If Manager in good faith asserts a violation of Section 7.2.1 or 7.2.2 then the Altering Owner shall not commence with the Alterations or proceed with the Alterations, if already commenced, until the matter has been resolved. In addition to any other legal or equitable rights or remedies to which Manager may be entitled by reason of an Altering Owner's violation or likely violation of the provisions of this Section 7.2, Manager shall be entitled to obtain injunctive relief to enjoin any such violation.

7.3. If any matter arises between the Parcel Owners with respect to whether any Alterations or proposed Alterations violate the provisions of Section 7.2.1 or 7.2.2, then the Parcel Owners may submit such matter to arbitration in accordance with the provisions of Section 9.12 herein.

7.4. The Parcel Owners, in making Alterations, shall (i) perform all work in a good and workmanlike manner and in accordance with good construction and engineering practices, (ii) comply with all applicable federal, state and local laws, statutes, ordinances, codes, rules, regulations and orders, and (iii) comply with all the applicable provisions of this Declaration. Each Parcel Owner shall, to the extent reasonably practicable, make Alterations within its Parcel in such a manner as to minimize any noise, vibration, particulates and dust infiltration or other disturbance which would disturb an occupant or occupants of the other Parcels.

ARTICLE 8. PARCEL DECLARATIONS; MULTIPLE OWNERSHIP OF PARCELS

8.1. Parcel Declaration. Any Parcel Owner may record an additional declaration which is specific to that Owner's Parcel (a "Parcel Declaration"); provided, however, that (i) such Parcel Declaration does not conflict with this Declaration and (ii) so long as Declarant owns any portion of the Property, Declarant's prior written consent (which consent shall not be unreasonably withheld) is obtained.

8.2. Multiple Ownership of Parcels. Any Parcel Owner may, by the recordation of a Parcel Declaration, provide for concurrent ownership of such Owner's Parcel (for example by filing a declaration of

condominium). In such event, the Parcel Declaration must, at a minimum, provide the following: (1) the method by which the voting rights of the concurrent owners shall be allocated and exercised; (2) that an association shall be formed (a "Parcel Owners Association") which association shall be a North Carolina nonprofit corporation; (3) with regard to any amendment to this Declaration requiring the signature of Parcel Owners, the signature of the president of the Parcel Owners Association for such Parcel shall constitute the signature of the Parcel Owner for said Parcel; (4) with regard to any assessment against such Parcel, such assessment shall be served to the president of the respective Parcel Owners Association, which association shall then be responsible for determining the proper allocation of such assessment among the concurrent owners, and for collecting such assessment and remitting the same on behalf of the concurrently owned Parcel; (5) any shortfall on account of the failure of one or more concurrent owner to remit his or her portion of the assessment levied against the concurrently owned Parcel shall be a charge and continuing lien against the entire concurrently owned Parcel and each portion thereof; and (6) any notice to be served upon the owners of the concurrently owned Parcel shall be deemed served if delivered to the president of the Parcel Owners Association.

ARTICLE 9. MISCELLANEOUS PROVISIONS

9.1. Effective Date. The Covenants created and imposed by this Declaration shall be effective upon the recordation of this Declaration in the Official Records.

9.2. Binding Effect. The benefits and burdens of each easement and the obligations of each covenant set forth in this Declaration shall run with the title to the land and the particular property interests and shall bind or benefit the Parcel Owners thereof, their respective heirs, successors, successors-in-title, legal representatives and assigns.

9.3. Severable. Whenever possible, each provision of this Declaration shall be interpreted in such a manner as to be effective and valid, but if the application of any provision of this Declaration to any Person or any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given without the invalid provision or application, and to this end the provisions of this Declaration are declared to be severable.

9.4. Notices. Any notices, requests or other communications required or permitted to be given under this Declaration shall be in writing and shall be delivered by hand or courier (including United Parcel Service, Federal Express and other such services) or mailed by United States certified mail, return receipt requested, postage prepaid and addressed to each Parcel Owner (and any mortgagee of which Manager has actual notice) at its address to be provided to Manager. Any such notice, request or other communication shall be considered given on the date of such hand or courier delivery or deposit in the United States mail, and shall be considered received on the date of hand or courier delivery or on actual receipt following deposit in the United States mail as provided above. Rejection or other refusal to accept or inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice, request or other communication. By giving written notice in the manner provided in this Section 9.4, which shall be effective on receipt or attempted delivery at the last recorded address of the receiving Parcel Owner, any Parcel Owner may from time to time and at any time change its mailing address under this Declaration. Any notice, request or other communication required or permitted to be given by any Parcel Owner may be given by such Parcel Owner's counsel.

9.5. Governing Law. This Declaration shall be governed by, construed under, and enforced in accordance with the laws of the State of North Carolina.

9.6. Waiver. No consent or waiver, express or implied, by any Parcel Owner to or of any breach or default by any other Parcel Owner in the performance by such other Parcel Owner of the obligations

thereof under this Declaration shall be deemed or construed to be a consent or waiver to or of any other breach or default in the performance by such other Parcel Owner of the same or any other obligations of such other Parcel Owner under this Declaration. Failure on the part of any Parcel Owner to complain of any act or failure to act of any other Parcel Owner or to declare such other Parcel Owner in default irrespective of how long such failure continues, shall not constitute a waiver by such Parcel Owner of the rights thereof under this Declaration.

9.7. Procedure to Terminate, Amend or Rescind. The provisions of this Declaration may be abrogated, modified, rescinded, terminated or amended in whole or in part only by declaration in writing, executed and acknowledged by all of the Parcel Owners (which shall include the consent of each such Parcel Owner's respective mortgagees, if any) and duly recorded in the Official Records; but this Declaration may not be otherwise abrogated, modified, rescinded, terminated or amended, in whole or in part; provided, however, no modification to this Declaration that affects the use restriction set forth in Subsection 6.4.8 herein shall be permitted without the express written consent of the Owner of the Parcel described in Exhibit C attached hereto and any tenant occupying such Parcel. The Parcel Owners may execute a supplement to this Declaration, at such time as construction of any new improvements is completed, for the purpose of more specifically describing the location upon the Property, or within or upon the improvements then constructed, of the easements and rights of access created and declared hereby, in the event that any Parcel Owner shall deem that such greater specificity is necessary or appropriate; and such supplement shall be recorded in the Official Records.

9.8. Counterparts. This Declaration may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall comprise but a single instrument.

9.9. Joint Venture or Partnership. Nothing contained in this Declaration shall be construed to create the relationship between the parties hereto or the beneficiaries hereof of principal and agent, of mortgagee and mortgagor, of partners, of joint venturers, or of any association with each other, or so as to render any of such parties liable for the debts or obligations of the other.

9.10. Rule Against Perpetuities. Declarant states the understanding, intent and desire of the Parcel Owners that the provisions of this Declaration are not and shall not be subject to the Rule Against Perpetuities or any other rule of law with respect to the remoteness of the vesting of property interests, and hereby covenants not to make any contrary assertion, contention, claim or counterclaim, or seek the benefit of the Rule Against Perpetuities or other such rule of law, in any action, suit or other legal proceeding involving this Declaration. In the event, however, that the Rule Against Perpetuities, or any rule of law with respect to the remoteness of the vesting of property interests, shall limit the time within which any property interest granted herein must vest, then such vesting shall occur only within the period of time permitted for such vesting by the Rule Against Perpetuities or such other rule of law, which period of time the Parcel Owners agree, for their mutual convenience, shall be measured as that period commencing on the date of this Declaration and terminating on the date which is twenty-one (21) years from and after the date of death of the last survivor of the now living descendants of (i) George W. Bush, President of the United States, and (ii) her Majesty Queen Elizabeth II, Queen of the United Kingdom of Great Britain and Northern Ireland. In the event that the future vesting of such property rights ever shall be so limited in time, Declarant hereby states the further mutual intent and desire of the Parcel Owners to amend or supplement this Declaration, if and to the extent permitted by law, at some future time to cause such future property rights to be valid, enforceable and exercisable throughout the term of this Declaration.

9.11. Exhibits. All Exhibits referred to herein and attached hereto are deemed incorporated herein by reference with the same force and effect as if each Exhibit were set forth in the body of this Declaration in its entirety.

9.12. Arbitration. Any controversy or claim that arises under this Declaration and is expressly made subject to arbitration by the provisions of this Declaration shall be settled by arbitration in Charlotte, North Carolina, according to the Commercial Arbitration Rules of the American Arbitration Association, as amended and in effect on the date notice is given of the intention to arbitrate, and according to the standard for resolution expressly set forth in the applicable Sections of this Declaration under which arbitration is sought; provided, however, that the arbitrators shall have no authority to award punitive or consequential damages. The determination of the arbitrators shall be final, binding and conclusive on the parties and, upon application of any party, judgment may be rendered thereon by any court having jurisdiction. This Section 9.12 or other section of this Declaration shall not be deemed to require the submission to arbitration of any controversy or claim arising out of or relating to this Declaration, or the breach hereof, other than those controversies and claims expressly stated in this Section 9.12 or other sections of this Declaration.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

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

DMC Holdings, LLC

By: _____

David M. Campbell
Manager

STATE OF NORTH CAROLINA

COUNTY OF Mecklenburg

I, Catherine A Barnes a Notary Public for said County and State, certify that David M. Campbell, Manager of DMC HOLDINGS, LLC, a limited liability company, and being either being personally known to me ~~or proven by satisfactory evidence (said evidence being _____)~~ personally appeared before me this day and acknowledged the voluntary due execution of the foregoing instrument on behalf of the company as its act and deed.

Witness my hand and official stamp or seal, this 14 day of December, 2006

Catherine A Barnes

Notary Public

My commission expires: 04-20-2008

JOINDER OF TRUSTEES IN AND OWNER AND HOLDER OF DEED OF TRUST

X HOLDINGS, LLC, Trustee under, and NEWDOMINION BANK, owner and holder of (the "Beneficiary"), the deed of trust recorded in Book 21336 at page 774 of the Mecklenburg County Public Registry, for themselves and for their respective successors and assigns, join in this Declaration for the purposes of consenting to its terms. The execution of this Joinder of Trustees in and Owner and Holder of Deed of Trust by Beneficiary shall not be deemed or construed to have the effect of creating between Beneficiary and Declarant or any Parcel Owner the relationship of partnership or joint venture, nor shall anything contained herein be deemed to impose upon Beneficiary any of the liabilities, duties or obligations of any Parcel Owner or Declarant under the Declaration.

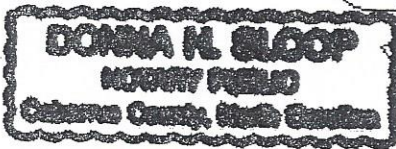
EXECUTED UNDER SEAL on the date first stated above.

NEWDOMINION BANK

By: [Signature]
Sr. Vice President

X HOLDINGS, LLC, Trustee

By: [Signature]
Manager



STATE OF North Carolina
COUNTY OF Mecklenburg

I, Donna H. Sloop, a Notary Public for said County and State, certify that Robert G. Ford, Jr., Manager of X HOLDINGS, LLC, Trustee, a limited liability company, and being either being personally known to me or proven by satisfactory evidence (said evidence being) personally appeared before me this day and acknowledged the voluntary due execution of the foregoing instrument on behalf of the company as its act and deed.

Witness my hand and official stamp or seal, this 14th day of December, 2006

[Signature]
Notary Public

My commission expires: 10/10/2011

State of North Carolina, County of Mecklenburg

I, Donna H. Sloop, a Notary Public for the above state and county certify that David J. Willingham, being either being personally known to me or proven by satisfactory evidence (said evidence being) personally came before me this day and acknowledged that s/he is Sr. V President of NEW DOMINION BANK, and that s/he as Sr. V President, being authorized to do so, executed the foregoing on behalf of NEW DOMINION BANK as its voluntary act and deed. Witness my hand and official seal, this the 14th day of December, 2006

[Signature]
Notary Public

(Official seal)
My commission expires 10/10/2011

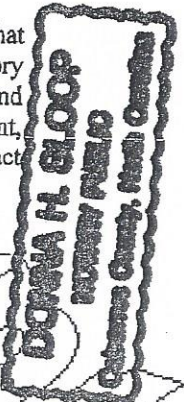
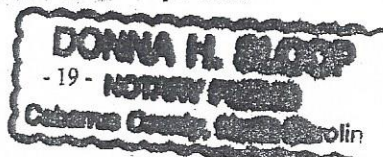


EXHIBIT A

Legal Description

Lying and being in Mecklenburg County, North Carolina, and being more particularly described as follows:

All references to book and page number made herein refer to the books maintained in the Office of the Register of Deeds for Mecklenburg County, North Carolina.

BEGINNING at point in or near northwestern margin of the variable public right of way of Mallard Creek Road (said point lying S 51-21-32 W 0.12 feet from an existing right-of-way monument in the southern boundary of property conveyed to S & R Development Co., LLC by instrument recorded in Book 18374, Page 107), and N 23-30-14 W 3.11 feet from an existing iron rod marking a southern corner of said S & R Development Co., LLC (now or formerly) property); thence from the point and place of BEGINNING S 47-45-35 W 147.89 feet to point in the northwestern margin of the variable public right of way of Mallard Creek Road; thence N 76-07-31 W 48.61 feet to a point within the right of way of Driwood Court; thence within the right of way of Driwood Court the following six courses and distances: (1) N 23-27-59 W 50.00 feet to a point; (2) S 66-18-10 W 24.32 feet to a point; (3) N 23-28-13 W 312.77 feet to a point; (4) S 66-42-33 W 5.82 feet to a point; (5) N 22-26-33 W 306.00 feet to a point; and (6) N 69-52-31 E 23.91 feet to a new iron rod; thence N 23-08-39 W 122.73 feet to an existing iron rod; thence N 54-30-14 E 90.50 feet to an existing iron rod in the variable public right of Prosperity Church Road; thence, with the southern margin of the variable public right of way of Prosperity Church Road the following two courses and distances: (1) with the arc of a circular curve to the left (having a radius of 1,082.67 feet, a chord bearing of S 62-53-05 E, and a chord distance of 336.91 feet) an arc distance of 338.28 feet to a new iron rod; and (2) S 71-53-12 E 63.23 feet to an existing iron rod; thence with the western line of property conveyed to Petro Properties, LLC by instrument recorded in Book 10390, Page 847, the following two courses and distances: (1) S 27-27-10 E 10.30 feet to an existing iron rod; and (2) S 23-41-27 E 134.84 feet to an existing iron rod (lying south 64-31-30 W 4.85 feet from a corner of said S & R Development Co., LLC (now or formerly) property; thence, with the northern line said S & R Development Co., LLC (now or formerly) property S 66-43-37 W 172.41 feet to an existing iron rod; thence, with the western line of said S & R Development Co., LLC (now or formerly) property S 23-30-14 E 343.94 feet to the point and place of BEGINNING;

containing 4.44 acres (more or less), all as shown on survey entitled Prosperity Pointe Final Subdivision Plat September 26, 2006 and signed October 8, 2006, by Kelly S. Jamison, NCPLS (L-3870)

Being the same property conveyed to DMC Holdings, LLC by instruments recorded in Book 19829, Page 539; Book 19829, Page 543; Book 19829, Page 547; and Book 19829, Page 551.

EXHIBIT B

Description of Principal Financial Institution Parcel

Lying and being in Mecklenburg County, North Carolina, and being more particularly described as follows:

All references to book and page number made herein refer to the books maintained in the Office of the Register of Deeds for Mecklenburg County, North Carolina.

BEGINNING at an existing iron rod in the northern corner of property conveyed to Ralph Mocny and Shirly Mocny by instrument recorded in Book 19865, Page 588; thence S 66-43-07 W 187.77 feet to a point, passing concrete monument at 172.41 feet; thence N 21-16-58 W 128.07 feet to a point; thence N 60-00-28 W 4.71 feet to a point; thence N 24-40-18 E 136.42 feet to a point in or near the southern margin of the variable public right of way of Prosperity Church Road; thence with the southern margin of the variable public right of way of Prosperity Church Road the following two courses and distances: (1) with the arc of a circular curve to the left (having a radius of 1,082.67 feet, a chord bearing of S 70-23-9 E, and a chord distance of 54.80 feet) an arc distance of 54.80 feet to a new iron rod; and (2) S 71-53-12 E 63.23 feet to an existing iron rod; thence with the western line of property conveyed to Petro Properties, LLC by instrument recorded in Book 10390, Page 847, the following two courses and distances: (1) S 27-27-10 E 10.30 feet to an existing iron rod; and (2) S 23-41-27 E 134.84 feet to the point and place of BEGINNING;

containing 0.78 acres (more or less), all as shown on survey entitled Prosperity Pointe Final Subdivision Plat September 26, 2006 and signed October 8, 2006, by Kelly S. Jamison, NCPLS (L-3870)

Being the same property conveyed to DMC Holdings, LLC by instruments recorded in Book 19829, Page 539; Book 19829, Page 543; Book 19829, Page 547; and Book 19829, Page 551.