

Prepared by and Return to: Thomas C. Grella, P.O. Box 3180, Asheville, NC 28802

STATE OF NORTH CAROLINA)
TRANSYLVANIA COUNTY)

AMENDMENT TO
DECLARATION OF UNIT
OWNERSHIP – GLEN CANNON
CONDOMINIUMS THREE

THIS AMENDMENT TO DECLARATION OF UNIT OWNERSHIP, is made and executed this ____ day of May, 2013 pursuant to N.C.G.S. 47A-18, to Section 21 of the Declaration of Condominium of GLEN CANNON CONDOMINIUMS THREE recorded in Condominium Book 2, at Page 87, Transylvania County Registry (THE “Declaration”) and Article XI of the Bylaws attached thereto (the ‘Bylaws’) for the GLEN CANNON CONDOMINIUMS ASSOCIATION THREE (“Association”), an incorporated association having its principal office in Transylvania County, North Carolina.

W I T N E S S E T H :

WHEREAS, it is the desire of the members of the Glen Cannon Condominiums Association Three by and through their officers to amend the Declaration of Condominium and Bylaws of the Association attached thereto; and

WHEREAS, not less than seventy-five percent (75.0%) of the Board of Directors have voted to adopt certain amendments to the Declaration and the Association Bylaws as hereinafter set forth; and

WHEREAS, not less than seventy-five percent (75.0%) of the entire membership of the Association have also voted in favor of adopting identical amendments to the Declaration and the Association Bylaws;

NOW THEREFORE, the undersigned, by and on behalf of the Association, amend the Declaration of the Condominium, and the Bylaws of the Association attached thereto, as recorded in Condominium Book 2, at Page 87 (the “Prior Recordings”), as follows:

1. Each and every term and provision of the original Declaration, including each and every Exhibit thereto, is incorporated herein by reference, and is effective except as modified and amended by the terms and provisions of this Amendment.

2. That the Declaration is amended as follows:

a. The portion of the first sentence of Section 2(c) prior to the colon, shall be deleted and replaced with the following:

““Common Areas and Facilities”, unless otherwise provided in this declaration or lawful amendments thereto shall mean everything in the Condominium other than the Units, including without limitation, the following”

b. Sections 7 and 8 of the Declaration are deleted in their entirety and replaced with the following Section 7 entitled “Maintenance, Repair, Replacement, Alteration” (with Section 8 no longer in existence):

“A. By the Association.

The Association shall be responsible for the proper maintenance, repair and replacement of all of the Common Areas and Facilities, and other portions of the Condominium specifically required herein be maintained, repaired and replaced by the Association pursuant to other terms and provisions of this Declaration. The cost of such work shall be charged to all Unit Owners as a common expense, provided, however, that the Board of Directors may elect not to maintain, repair or replace all or a portion of such Common Areas and Facilities or other areas to be maintained by the Association if in the opinion of a majority of the Board of Directors such maintenance, repair, or replacement was necessitated by the negligence, misuse, intentional act, or neglect of a Unit Owner, in which event such Unit Owner shall be responsible for such repair, replacement or maintenance. Alternatively, if the Board of Directors determines that such maintenance, repair or replacement was necessitated by the negligence, misuse, intentional act, or neglect of a Unit Owner, the Association may undertake such repair, maintenance, or replacement and assess the responsible Unit Owner for all costs related thereto. Further, if damage, for which a Unit Owner is legally responsible and which is not covered by insurance provided by the Association pursuant to Section 11 below is inflicted on any Common Area and Facilities, the Association may direct such unit owner to repair such damage or the association may itself cause the repairs to be made and recover the costs thereof from the responsible unit owner.

B. By the Unit Owner.

1. Subject to the terms and provisions of Section 11(c)(2) below, and except for the portions of the Owner’s Unit required to be maintained, repaired and replaced by the Association, each Unit Owner is responsible for maintenance, repair and replacement of his own Unit. Each Unit Owner shall keep the Unit and its equipment, appliances and

appurtenances in good order, condition and repair and in a clean and sanitary condition. Each Unit Owner shall perform this responsibility in such manner as shall not unreasonably disturb or interfere with the other Unit Owners. Each Unit Owner shall promptly report to the Board of Directors any defect or need for repairs for which the Association is responsible.

2. The Owner of any Unit to which Limited Common Areas and Facilities is appurtenant shall perform the normal maintenance for such respective Limited Common Areas and Facilities, including keeping it in a clean and sanitary condition, free and clear of snow, ice and any accumulation of water and shall also make all repairs thereto caused or permitted by such Unit Owner's negligence, misuse or neglect. Notwithstanding the above, all structural repair or replacement to the Unit (including boundary walls to the exterior of the innermost wall covering or paint of such walls, and floors and ceilings to the exterior of the innermost surface of such floors and ceilings), and all repairs to utility lines, conduits, wires, plumbing, pipes, ducts, flues, or any other fixture serving a Unit and either located outside of the Unit or within the boundary walls, ceilings and floors of the Unit, shall be made by the Association.

C. Additions, Alterations, Renovations or Improvements by the Owners.

1. Common Areas and Facilities, or Limited Common Areas and Facilities. No Member shall paint, improve or alter any Common Areas and Facilities, or Limited Common Areas and Facilities, including without limitation, the exterior portion of the Owner's Unit (such as including without limitation the patio, porch or deck), including the exterior of any doors and windows, nor shall any Owner paint or alter the exterior of a Building, without the prior written consent of the Board of Directors. If any application to make such alterations to any Common Areas and Facilities, or Limited Common Areas and Facilities, requires execution by the Association, and provided consent has been given by the Board of Directors, then the application shall be executed on behalf of the Association by an authorized Officer only, without however incurring any liability or expense on the part of the Board of Directors, the Association or any of them to any contractor, subcontractor or materialman on account of such addition, alteration or improvement, or to any person having claim for injury to person or damage to property arising therefrom.

2. Units. Except as otherwise prohibited herein, a Unit Owner may make any improvements or alterations to his Unit that do not impair the structural integrity or mechanical systems or lessen the support of any portion of the Condominium, or cause a violation of any law or regulation. No Owner shall make any structural addition, alteration or improvement in or to its Unit without the prior written consent of the Board of Directors.

c. Sections 11, 12 and 13 11 of the Declaration are deleted in their entirety and replaced with the following Section 11 entitled "Insurance Policies and Casualty Damage" (with Sections 12 and 13 no longer in existence):

“A. Required Insurance.

1. Casualty Insurance. The Association shall maintain casualty insurance (fire and extended coverage) upon the Condominium, other than the items inside the Units (improvements and betterments (other than replacements of the same type and quality) made by a Unit owner not being insured by the Association’s policy) in the name of, and payable to, the Association, as trustee for all Unit owners and security holders as their interests may appear, to be disbursed pursuant to the terms of this Declaration and the Act. Such insurance shall be in an amount of not less than full replacement value of all such insured improvements, and shall insure against such all risks of direct physical loss commonly insured against including fire and extended coverage perils, and shall contain such other provisions in accordance with any requirements of the Act. For purposes of the insurance required under this paragraph, and notwithstanding any other definition of “Unit” in this Declaration, Unit shall be defined to include all boundary walls of the Unit (to the exterior of the innermost wall covering or paint of such walls), and all floors and ceilings (to the exterior of the innermost surface of such floors and ceilings), and shall also include all utility lines, conduits, wires, plumbing, pipes, ducts, flues, or any other fixture serving a Unit and either located outside of the Unit or within the boundary walls, ceilings and/or floors of the Unit.

2. Public Liability Insurance. The Association shall maintain public liability insurance for the benefit of, and naming as insureds, the Unit Owners and occupants, the Association, the Board, the manager, if any, and their respective officers, directors, agents and employees, in such amounts and with such coverage as shall be determined by the Board; provided that the public liability insurance shall be for at least One Million Dollars (\$1,000,000.00) per occurrence for death, bodily injury and property damage. Said insurance shall contain a severability-of-interest endorsement precluding the insurer from denying liability because of negligent acts of any insured. All insureds shall be insured against liability arising out of or in connection with the use, ownership or maintenance of the Common Areas and Facilities and any Limited Common Areas and Facilities.

3. Fidelity Coverage. Fidelity coverage shall be maintained by the Association in commercial blanket form covering each director and officer of the Association, any employee or agent of the Association and any other person handling or responsible for handling funds of the Association. Any fidelity coverage shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of “employee” or similar expression and shall contain an appropriate endorsement to cover persons who serve without compensation. The premiums on said policy shall be a Common Expense.

4. Other Insurance. The Association may procure such other insurance as is permitted by the Act and the premiums thereof shall be a Common Expense.

5. Insurance Trustee. The Board may engage an insurance trustee, and pay any cost thereof as a Common Expense. The duty of the insurance trustee shall be to receive such

proceeds as are paid to it and to hold the same in trust and disburse the same in the manner as elsewhere stated in this Declaration, the Bylaws or as by law provided, or as hereafter directed by the Board of Directors, for the benefit of the insured(s).

6. Individual Policy for Unit Owners. Except as otherwise provided herein, any Unit Owner may obtain insurance of any kind or nature, at said Unit Owners own expense, to the extent and in the amount such Unit Owner deems necessary. No such insurance shall be in conflict herewith, nor shall it provide that contribution as against the insurance purchased by the Association is available. If a casualty loss is sustained and a reduction in the amount of the Association's proceeds occurs due to the insurance purchased by a Unit Owner under this Section, such Unit Owner must reimburse the Association to the extent of such reduction upon demand; and, by acceptance of the deed to a Unit, assigns the proceeds of his insurance, to the extent of such reduction, to the Association.

B. Policy Terms and Provisions.

1. Insurance policies carried pursuant to subsections (A)(1) above must provide that:

- (a) Each Unit Owner is an insured person under the policy with respect to liability arising out of his interest in the Common Areas and Facilities or membership in the Association;
- (b) The insurer waives its right to subrogation under the policy against any Unit Owner or members of the Owner's household;
- (c) No act or omission by any Unit Owner, unless acting within the scope of his authority on behalf of the Association, will preclude recovery under the policy; and
- (d) If, at the time of a loss under the policy, there is other insurance in the name of a Unit Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

2. Insurance policies carried pursuant to subsections (A)(1) and (A)(2) above must provide that the insurer issuing the policy may not cancel or refuse to renew the policy until 30 days after notice of the proposed cancellation or nonrenewal has been mailed to the association, each unit owner and each mortgagee or beneficiary under a deed of trust to whom certificates or memoranda of insurance have been issued at their respective last known addresses.

3. If either of the insurance described in subsection (A)(1) or (A)(2) above are not reasonably available, the Association promptly shall cause notice of that fact to be hand-delivered or sent prepaid by United States mail to all unit owners.

4. Premiums upon insurance policies purchased by the Association in accordance with the terms of this Section 11 shall be paid by the Association and allocated as a Common Expense.

C. Damage, Loss and Process

1. Any loss covered by the property policy under subsections (A)(1) above shall be adjusted by the Association, but the insurance proceeds for that loss shall be payable to any insurance trustee designated for that purpose, or otherwise to the Association (as determined by the Board of Directors in its reasonable determination as being in the best interest of the Association and its members), and not to any mortgagee or beneficiary under a deed of trust. The insurance trustee or the Association shall hold any insurance proceeds in trust for unit owners and lienholders as their interests may appear. Subject to the provisions of subsection (C)(2) below, the proceeds shall be disbursed first for the repair or restoration of the damaged property, and Unit Owners and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored, or the condominium is terminated.
2. Any portion of the condominium for which insurance is required under this Section 11 which is damaged or destroyed shall be repaired or replaced promptly by the Association unless (1) the condominium is terminated, (2) repair or replacement would be illegal under any State or local health or safety statute or ordinance, or (3) the Unit Owners decide not to rebuild by an eighty percent (80%) vote, including one hundred percent (100%) approval of Owners of Units not to be rebuilt or Owners assigned to Limited Common Areas and Facilities (if any) not to be rebuilt. If a loss is required to be insured pursuant to Section 11(A)(1) above, the cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense. If the entire condominium is not repaired or replaced, (1) the insurance proceeds attributable to the damaged Common Areas and Facilities shall be used to restore the damaged area to a condition compatible with the remainder of the condominium, (2) the insurance proceeds attributable to Units and Limited Common Areas and Facilities (if any) which are not rebuilt shall be distributed to the owners of those Units and the Owners of the Units to which those Limited Common Areas and Facilities (if any) were allocated or to lienholders, as their interest may appear, and (3) the remainder of the proceeds shall be distributed to all the Unit Owners or lienholders, as their interest may appear, in proportion to their Common Areas and Facilities percentage interest. If the Unit Owners vote not to rebuild any Unit, that Unit's allocated interests are automatically reallocated upon the vote as if the Unit had been condemned under G.S. 47C-1-107(a), and the Association promptly shall prepare, execute, and record an amendment to this Declaration reflecting the reallocations. Notwithstanding the provisions of this paragraph, the provisions of G.S. 47C-2-118 are incorporated herein and shall govern the distribution of insurance proceeds if the condominium is terminated.
3. That the Bylaws are amended as follows: Article VII, Section 4 of the Bylaws is deleted in its entirety and replaced with the following:

“4. Except as prohibited by the Declaration, an Owner may make any improvements or alterations to such Owner’s Unit that do not impair the structural integrity or mechanical

systems or lessen the support of any portion of the Condominium, or cause a violation of any law or regulation. In accordance with the terms of Section 7 of the Declaration, no Owner shall make any structural addition, alteration or improvement in or to such Owner's Unit without the prior written consent of the Board of Directors."

IN WITNESS WHEREOF, the Glen Cannon Condominium Association Three has caused this instrument to be executed by its duly authorized officers, this the ____ day of May, 2013.

GLEN CANNON CONDOMINIUMS ASSOCIATION THREE

By: _____
President

Attest: _____
Secretary

STATE OF NORTH CAROLINA

COUNTY OF BUNCOMBE

I, _____, a Notary Public of the County and State aforesaid, certify that _____, personally came before me this day and acknowledged that he/she is Secretary of GLEN CANNON CONDOMINIUMS ASSOCIATION THREE, and that by authority duly given and as the act of the Association, the foregoing instrument was signed in its name by its President, sealed with its seal and attested by _____ as its Secretary.

WITNESS my hand and Notarial Seal, this the _____ day of May, 2013.

Notary Public

My Commission Expires: _____