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First Flight Retreat CONDOMINIUMS

DECLARATION OF CONDOMINIUM
FOR
FIRST FLIGHT RETREAT CONDOMINIUMS

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DECLARATION OF CONDOMINIUM
FOR
FIRST FLIGHT RETREAT CONDOMINIUMS

THIS DECLARATION OF CONDOMINIUM for First Flight Retreat Condominiums (the "Declaration") is made this 17th day of June, 2008 by First Flight Retreat, LLC, a North Carolina limited liability company (the "Declarant"), pursuant to the provisions of Chapter 47C of the North Carolina General Statutes, entitled the "North Carolina Condominium Act."

BACKGROUND STATEMENT

Declarant is the owner of a certain parcel of real estate located in the Town of Kill Devil Hills, Dare County, North Carolina (the "Land"), as more particularly described on Exhibit "A" attached hereto and incorporated herein by reference. Declarant desires to submit the Land and the improvements located thereon (collectively, the "Property") to the terms and provisions of the North Carolina Condominium Act.

Subject to any changes made by the Declarant as reserved in the Developmental Rights of the Declarant, the Condominium shall consist of 45 separately designated residential units, subject to Declarant's right to redesignate such unit types and subject to the right to combine and/or subdivide the units, as hereinafter set forth. The Declarant has deemed it desirable to create an incorporated owners association which will be delegated and assigned powers of maintaining and administering the common elements and facilities on the Property; of administering and enforcing the covenants and restrictions created in this Declaration; and of levying, collecting and disbursing the assessments and charges created in this Declaration; of collecting and holding replacement reserves as agent for the Unit Owners; and of taking any steps or performing any acts deemed necessary or appropriate to preserve the values of condominium units within the Property and to promote the recreation, health, safety and welfare of the Owners. In order to accomplish the foregoing, Declarant is entering into this Declaration.

STATEMENT OF DECLARATION

NOW THEREFORE, the Declarant hereby declares that all of the Property shall be held, transferred, sold, conveyed, occupied and used subject to the following covenants, conditions, easements, uses, limitations, obligations, and restrictions, all of which are declared and agreed to be in furtherance of a plan for the division of the Property into condominium units, and shall be deemed to run with the land and shall be a burden and benefit to Declarant, its successors and assigns, and any person or entity acquiring or owning an interest in the Property, and their grantees, successors, heirs, executors, administrators, devisees and assigns.

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ARTICLE I

Definitions

1.1 Definitions. The terms defined in Section 47C-1-103 of the North Carolina Condominium Act shall be deemed to have the meanings therein specified whenever they appear in the Condominium Instruments unless the context otherwise requires and except to the extent, if any, that such definitions are changed below. In addition, the other terms defined below shall be deemed to have the meanings specified whenever they appear in the Condominium Instruments unless the context otherwise requires. These definitions shall apply whether or not the defined terms are capitalized.

1.2 "Act" shall mean and refer to the North Carolina Condominium Act, which is Chapter 47C of the North Carolina General Statutes, as amended.

1.3 "Articles of Incorporation" shall mean and refer to the Articles of Incorporation for 815 South Virginia Dare Trail Unit Owners' Association, Inc. filed in the office of the Secretary of State of North Carolina and in the office of the Register of Deeds of Dare County, North Carolina, as the same may be amended from time to time.

1.4 "Assessment" shall mean and refer to the share of the Common Expenses from time to time assessed against a Condominium Unit and its Owner by the Association in the manner herein provided.

1.5 "Association" shall mean and refer to 815 South Virginia Dare Trail Unit Owners' Association, Inc., a North Carolina non-profit association incorporated under Chapter 55A of the General Statutes of North Carolina for the purpose of exercising the powers of the Association under the Act and the Condominium Instruments, a copy of the Articles of Incorporation are attached hereto as Exhibit "D".

1.6 "Board of Directors" or "Board" shall mean and refer to the board of directors of the Association, which is the governing body of the Association.

1.7 "Building" shall mean and refer to the structure in which the Units and portion of the Common Elements are located on the Property.

1.8 "Bylaws" shall mean and refer to the Bylaws of the Association, as amended from time to time, a copy of the initial Bylaws being attached hereto as Exhibit "C", and incorporated herein by reference, and all amendments to such bylaw which may from time to time be adopted.

1.9 "Common Elements" shall mean and refer to the portions of the Condominium Property which are not included in the Units, as more fully set forth in Section 4.1, provided, however, if any chute, flue, duct, wire, conduit, bearing wall, bearing column, or any other fixture 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. Included in the Common Elements are all parking areas, parking lots, landscaping, septic area, wastewater treatment facilities and any stormwater management. Included as Common Elements are the amenities of the pool, decks, fitness room and elevators. Each Unit Owner shall be the owner of an undivided interest as a tenant of the Common Elements, although



the use and obligations with respect to certain common elements shall be restricted as set forth in this Declaration and in the Bylaws.

1.10 "Common Element Interest" shall mean and refer to the percentage assigned to each Unit by this Declaration, which establishes each Unit's: (a) appurtenant undivided ownership interest in the Common Elements; (b) liability for Common Expenses; (c) interest in surplus funds of the Association; and (d) vote in the Association.

1.11 "Common Expenses" shall mean and refer to all sums lawfully assessed against the Unit Owners by the Association; expenses of administration, maintenance, repair or replacement of the Common Elements (including any Limited Common Elements) together with any allocations to reserves; expenses agreed upon as Common Expenses by the Association; and expenses declared common expenses by the provisions of the Act, this Declaration or the Bylaws.

1.12 "Condominium" shall mean and refer to the First Flight Retreat Condominiums as established by the submission of the Property to the terms of the North Carolina Condominium Act.

1.13 "Condominium Instruments" shall mean and refer to this Declaration, the Bylaws, the Plat and the Plans, including any and all exhibits, schedules, certifications and amendments thereof, as they may exist from time to time.

1.14 "Condominium Unit" shall mean and refer to a physical portion of the Condominium designated for separate ownership, the boundaries of which are hereinafter defined in Section 3.4 together with the undivided interest in the Common Elements appertaining to that Unit.

1.15 "Declarant" shall mean and refer to initially First Flight Retreat, LLC, a North Carolina limited liability company, which is the fee simple owner of the Property submitted to the Act and has executed this Declaration and any successors in interest, or any party to which it assigns its rights as Declarant under this Declaration.

1.16 "Declarant Control Period" shall mean and refer to the period prior to the earliest of: (i) the date on which Units to which seventy-five percent (75%) or more of the total Common Element Interests appurtenant to the Units have been conveyed to Unit Owners other than the Declarant; (ii) five (5) years after the date of the first conveyance of a Unit to a Unit Owner other than the Declarant; or (iii) the date specified by the Declarant in a notice to the Association that the Declarant Control Period is to terminate on that date.

1.17 "Declaration" shall mean and refer to this Declaration of Condominium as it may be amended in the future.

1.18 "Default Assessment" shall mean and refer to the Assessments levied by the Association pursuant to Section 11.6 below.

1.19 "Default Rate" shall mean and refer to an annual rate of interest that is lesser of (i) five percent above the prime rate of interest charged by the Association's bank, or such other rate as shall have been established by the Board of Directors, and (ii) the maximum rate permitted by the Act or other applicable law.



1.20 "Director" shall mean and refer to a member of the Board of the Association.

1.21 "Dispute" shall mean and refer to Sections 19.2 and 19.3 and any disagreement between two or more parties that involves: (a) the authority of the Board, under any law or under this Declaration, the Articles or Bylaws to: (i) require any Owner to take any action, or not to take any action, involving that Owner's Unit; or (ii) alter or add to a Common Element; or (b) the failure of the Association, when required by law or this Declaration, the Articles or Bylaws to: (i) properly conduct elections; (ii) give adequate notice of meetings or other actions; (iii) properly conduct meetings; or (iv) allow inspection of books and records. "Dispute" shall not include any disagreement that primarily involves title to any Unit or Common Element; the interpretation or enforcement of any warranty; or the levy of a fee or Assessment or the collection of an Assessment levied against a party.

1.22 "First Mortgagee" shall mean and refer to the holder, guarantor, and insurer of a Mortgage or a beneficiary under a Deed of Trust.

1.23 "General Common Elements" shall mean and refer to the Common Elements except for the Limited Common Elements.

1.24 "Institutional Mortgagee" shall mean and refer to one or more commercial or savings banks; savings and loan associations; trust companies; credit unions; industrial loan associations; insurance companies; pension funds; or business trusts including, but not limited to, real estate investment trusts, any other lender regularly engaged in financing the purchase, construction, or improvement of real estate; or any assignee of loans made by such a lender; or any combination of any of the foregoing entities.

1.25 "Limited Common Elements" shall mean and refer to those parts of the Common Elements which are Limited Common Elements within the meaning of the Condominium Act and which are reserved for the exclusive use of one or more, but less than all, of the Units and the Unit Owners. The Limited Common Elements existing at the time of the recordation of this Declaration are shown on the Plans, but shall also consist of any other portions of the Condominium which serve and benefit less than all of the Units.

1.26 "Limited Common Expenses" shall mean and refer to expenses separately assessed against one (1) or more but less than all of the Units. Except where the context requires otherwise, Common Expenses shall include Limited Common Expenses unless specifically noted, any reference within the Condominium Instruments to "LCE" shall refer to all classes of LCE.

1.27 "Majority Vote" shall mean and refer to a simple majority [more than fifty percent (50%)] of the votes actually cast in person or by proxy at a duly called and held meeting at which a quorum is present, with the allocations of votes among Owners in accordance with Section 5.3 Any specified percentage vote means that percentage vote with respect to the votes actually cast in person or by proxy at a duly held meeting at which a quorum is present. Any specified percentage vote of the Mortgagees means a vote by the Mortgagees of Units to which such percentage of the total number of votes appertain.

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1.28 "Management Agent" shall mean and refer to that person initially employed by the Declarant during the Declarant Control Period and the Association thereafter to perform obligations, duties and services relating to the management and maintenance of the Property and the maintenance of reserve funds in compliance with the provisions of this Declaration and the Bylaws.

1.29 "Management Agreement" shall mean and refer to any contract or arrangement entered into for purposes of discharging the responsibilities of the Board of Directors relative to the operation, maintenance, and management of the Property.

1.30 "Member" shall mean and refer to any Unit Owner.

1.31 "Mortgage" shall mean and refer to a mortgage, deed to secure debt, deed of trust, security agreement or other instrument conveying a lien upon or security title to a Condominium Unit as security for a debt or for the performance of an obligation.

1.32 "Occupant" shall mean and refer to any person, including, without limitation, any guest, invitee, tenant, lessee or family member of an Owner, occupying or otherwise using or visiting a Unit.

1.33 "Officer" shall mean and refer to an officer of the Association.

1.34 "Person" shall mean and refer to a natural person, limited liability company, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or other legal or commercial entity or any combination thereof.

1.35 "Plans" shall mean and refer to the plans and specifications of the Condominium Building and the Property prepared by Cahoon & Kasten, Architects and recorded under the name of the Condominium in the Unit Ownership File in the Office of the Register of Deeds of Dare County, North Carolina.

1.36 "Plat" shall mean and refer to the "Condominium Plat" survey for the Condominium prepared by William S. Jones, Jr., Registered Surveyor, which depicts the location of the Condominium Units and the location of Common Elements and Limited Common Elements which Condominium Plat is filed with the Plans.

1.37 "Property" shall mean and refer to the real property submitted to the Act by this Declaration as more fully described in attached Exhibit "A" and in the Plats and Plans filed in the Unit Ownership File in the Office of the Register of Deeds of Dare County, North Carolina and including all rights, privileges, easements and appurtenances belonging to or in any way pertaining to said real estate.

1.38 "Residential Units" shall mean and refer to all of the Condominium Units which are restricted to the use solely for transient residential and vacation purposes.

1.39 "Rules of Conduct" shall mean and refer to the Initial Condominium Rules attached to the Bylaws as Appendix "A" and included in the Bylaws by reference as part thereof and those other rules of conduct adopted from time to time by the Board of Directors ("Rules of Conduct"), that are deemed necessary for the enjoyment of the General Common Elements and Limited

Common Elements, respectively, provided they are not in conflict with this Declaration and the Bylaws.

1.40 "Schedule of Unit Information" shall mean and refer to the schedule attached hereto as Exhibit "B", which schedule shows for each Condominium Unit its Identifying Number, undivided interest in the Common Elements, number of votes in the Association, and share of liability for Common Expenses.

1.41 "Special Assessment" shall mean and refer to an Assessment levied pursuant to Section 11.5 below on an irregular basis.

1.42 "Special Declarant Rights" shall mean and refer to the rights reserved herein and in the Bylaws for the benefit of a Declarant, as follows: to complete the improvements indicated on the floor plans; to maintain sales offices, management offices, models and signs advertising the Condominium; to use easements through the Common Elements; to elect, appoint or remove members of the Board during the Declarant Control Period and to enter into a contract for the appointment of the management agent for the Condominium.

1.43 "Successor Declarant" shall mean and refer to any party or entity Declarant and assigns any or all of its rights, obligations, or interests as Declarant and evidenced by an assignment of record in the Office of the Register of Deeds of Dare County, North Carolina, designating such party as Successor Declarant, assigned by the transferor and the transferee. Upon such recording, Declarant's rights and obligations under the Declaration shall cease and terminate to the extent provided in such document.

1.44 "Unit" shall mean and refer to a portion of the Condominium intended for independent ownership and use, as more fully set forth and shown on the Plat and Plans consisting of enclosed rooms in the Building and bounding by the unfinished perimeter walls, ceilings, floors, doors, and windows thereof. For the purpose of defining a Unit, the terms set forth below shall be defined as follows:

1.44.1 "Unfinished Wall" shall mean and refer to the sheetrock which constitutes the interior face of a wall of a Unit.

1.44.2 "Unfinished Ceiling" shall mean and refer to the concrete slabs, unfinished sheetrock or other structural materials which constitute the ceiling of a Unit.

1.44.3 "Unfinished Floor" shall mean and refer to the concrete slab which constitutes the floor of a Unit.

Unit shall include the drywall, wall paneling, wood, tile, paint, paper, carpeting, or any other wall, ceiling, or floor covering, windows and window frames and glass, doorsteps, stoops, and interior doors and door frames. A Unit shall further include fixtures and hardware and all improvements contained within the unfinished perimeter walls, ceilings, and floors. A Unit shall include any heating and refrigerating elements or related equipment, utility lines and outlets, electrical and plumbing fixtures, pipes, and all other related equipment required to provide heating, air-conditioning, hot and cold water, electrical, or other utility services to the Unit and located within the unfinished walls, ceilings and floors; provided, however, that a Unit shall not include any of the

structural components of the Building or utility or service lines located within the Unit but serving more than one Unit.

1.45 "Unit Owner" shall mean and refer to the same meaning as Owner and means one or more persons, including the Declarant, who own a Condominium Unit. This term does not include a Mortgagee in his capacity as such, but shall include any person, firm, corporation or entity capable of holding title to real estate in North Carolina.

1.46 "Vote" shall mean and refer to the vote in the Association appertaining to each Condominium Unit.

ARTICLE II

Creation of the Condominium

2.1 Submission to the Act. Declarant hereby submits the Property to the Act. The Property and every interest therein shall, after the recording of this Declaration, be owned, held, transferred, sold, conveyed, used, leased, occupied, mortgaged and deeded in trust subject to the Act and the Condominium Instruments. Every person acquiring or having any interest in the Property, by acceptance of a deed or other instrument of any kind, whether or not such deed or other instrument is signed by such person or otherwise agreed to in writing, shall take such interest subject to the Act and to the Condominium Instruments and shall be deemed to have agreed thereto.

2.2 Name and Location. The name of the Condominium is "First Flight Retreat Condominiums ." The Condominium is located at 815 South Virginia Dare Trail in the Town of Kill Devil Hills, North Carolina.

2.3 Governing Provisions. The Condominium, the Association and each Unit Owner shall be governed by the Act, the Condominium Instruments, and any Rules of Conduct adopted by the Association pursuant to the Condominium Instruments.

ARTICLE III

Description of the Condominium

3.1 Location of the Building. The locations and dimensions of the Building in which the Units are contained are shown on the Plat and the Plans.

3.2 Delineation of Unit Boundaries. The boundaries of each Unit are delineated and designated by an identifying number on the Plat and those numbers are set forth in Exhibit "B".

3.3 Condominium Units. There are a total of 45 Residential Units in the Building. Each Condominium Unit consists of the Unit together with its undivided interest in the Common Elements. The Schedule of Unit Information attached hereto as Exhibit "B" sets forth for each Condominium Unit: its identifying number and undivided interest in the Common Elements, Vote(s) in the Association, and share of liability for Common Expenses. The Residential Units presently consist of two types: one bedroom and two bedroom and range in size from 716 square feet to 1150 square feet.

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Each Condominium Unit shall constitute for all purposes a separate parcel of real property which may be owned in fee simple and which, subject to the provisions of the Act and the Condominium Instruments, may be conveyed and encumbered like any other property. The undivided interest in the Common Elements for each Condominium Unit shall not be altered except as expressly provided by the Act and this Declaration. Such undivided interest shall not be separated from the Unit to which it appertains and shall be deemed to be conveyed or encumbered with the Unit even though such interest is not expressly mentioned or described in the conveyance or other instrument. Each Unit Owner shall automatically be a member of the Association, which Membership shall continue during the period of Ownership of the Condominium Unit by such Unit Owner.

3.4 Unit Boundaries. Each Unit shall include all the space within the boundaries thereof. The perimetrical or vertical boundaries of each Unit are the vertical planes of the interior surfaces of the metal framing of the walls of the Unit, whether such walls are exterior walls or walls separating the Unit from other Units or the Common Elements, and the vertical planes of the exterior surfaces of windows and entry doors, including sliding glass doors, if any. The parametrical Unit boundaries include the sheet rock on the Unit side of the walls, with the framing being a part of the Common Elements, and they are extended to their intersection with each other and the upper and lower horizontal boundaries of the Unit. The lower horizontal boundary of each Unit is the plane of the upper surface of the sub-floor of that Unit, and the upper horizontal boundary of each Unit is the lower surface of the ceiling joists of the Unit, with such sub-floor and framing being a part of the Common Elements. The upper and lower boundaries of each Unit include the wood, dry-wall, plaster or other material forming the ceiling or floor, as may be applicable, on the Unit side of such sub-floor or framing as the case may be and extend to their intersection with the parametrical boundaries of the Units. Window screens and all fixtures, equipment and appliances located within the boundaries of each Unit, including without limitation, portions of the heating and air-conditioning system and the hot water heater are deemed to be a part of each Unit. As provided in N.C.G.S. §47C-2-102, if any chutes, flues, ducts, conduits, wires, pipes or any other apparatus lies partially within or partially outside of the designated boundaries of a Unit, any portions thereof which serve only that Unit shall be deemed a Limited Common Element of that Unit, while any portions thereof which serve more than one Unit or any portion of the Common Elements shall be deemed a part of the Common Elements. Further, any fan coil unit mounted above the ceiling of a Unit and the air-conditioning/heating unit located outside the Unit but serving that Unit only shall be deemed to be a part of that Unit. In interpreting the Plans, the existing physical boundaries of a Unit as originally constructed or of a Unit reconstructed in substantial accordance with the original Plans thereof shall be conclusively presumed to be its boundaries rather than the metes and bounds expressed in any Plat or Plans, regardless of settling or lateral movement of the Building and regardless of minor variance between the boundaries shown on the Plans or in a deed and those variances between the boundaries shown on the Plans or in a deed and those of the Unit. If an Owner acquires an adjoining Unit, thereby becoming the common owner of adjoining Units, such Owner shall have the right (subject to the prior written approval of the Mortgagees of the Units involved and subject to the Board's approved Rules of Conduct) to remove all or any part of any intervening partition or to create doorways or other apertures therein, notwithstanding the fact that such partition may, in whole or in part, be part of the Common Elements, so long as no portion of any load bearing wall or column is materially weakened or removed and no portion of any Common Elements, other than that partition and any chutes, flues, ducts, conduits, wires or other apparatus contained therein which shall be relocated by such Owner if such facilities serve any other part of the Condominium, is damaged, destroyed, or endangered. The alterations permitted



by the preceding sentence shall not be deemed an alteration or relocation of boundaries between adjoining Units, nor an alteration of the allocated interest in the Common Elements, vote assigned to each Unit, share of liability for Common Expense assessments or other appurtenant rights or interests as such appears on the Schedule of Unit Information attached hereto as Exhibit "B".

ARTICLE IV Common Elements

4.1 Common Elements. The Common Elements shall include all portions of the Condominium that are not part of the Units, including without limitation:

- (a) General Common Elements and
- (b) Limited Common Elements.

4.2 General Common Elements. The General Common Elements shall be composed of all portions of the Condominium other than those items which are shown on the Plans, or designated in this Declaration, as Units or Limited Common Elements. The General Common Elements shall include, without limitation:

- (a) The Land;
- (b) All structural elements of the Building, including without limitation, the roof structure, foundation, load bearing walls, and all other structural elements;
- (c) All water lines, electric lines, telecommunication lines, utility lines, and sewer lines located outside public street rights of way and utility easements, serving more than one Unit and not owned by the providing utility;
- (d) Central components of the heating, ventilation, and air conditioning system, which serve more than one Unit;
- (e) The fire prevention sprinkler system and all components thereof;
- (f) The exterior walls (not including windows and doors), the stairs leading thereto, and the roof;
- (g) The elevator system and elevator lobbies;
- (h) Fire exit stairs;
- (i) The dumpster storage area;
- (j) pool and deck;
- (k) Beach access walkway and dune deck;
- (l) Wi-fi system;

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(m) Fitness Room;

4.3 Limited Common Elements. The Limited Common Elements shall be composed of those items designated on the Plans as Limited Common Elements, and shall also include any other portions of the Condominium which serve and benefit the Residential Units exclusively on a particular floor. The Limited Common Elements shall include, without limitation, the corridor and room on each residential floor, and the assigned parking spaces.

4.4 Undivided Interest of Owners in Limited Common Elements. The percentage interest in the Limited Common Elements (the "Common Elements") allocated to each Unit is proportionate to that Unit's percentage of square footage to the total square footage within the Building and is set forth in Exhibit "B" attached hereto. The percentages of undivided interest in the Common Elements allocated to each Unit shall not be changed except with: (i) the unanimous written consent of the Owners of the Units whose undivided interest in the Common Elements are changed, together with the consent of the Mortgagees of such Units; and (ii) the consent of the holders of sixty-seven percent (67%) of the votes in the Association, and the consent of fifty-one percent (51%) of the Mortgagees, unless such change affects less than all Units, is approved by the Owners and Mortgagees of such Units, and is specifically authorized elsewhere in this Declaration or in the Bylaws.

4.5 Restraint Upon Separation and Partition of Common Elements.

4.5.1 The Allocated Interests in the Common Elements which is appurtenant to a Unit shall not be separated therefrom and shall pass with the title to the Unit, whether or not separately described.

4.5.2 The Allocated Interests in the Common Elements appurtenant to a Unit cannot be conveyed or encumbered except together with the Unit.

4.5.3 The Allocated Interest in the Common Elements appurtenant to Units shall remain undivided, and no action for partition of the Common Elements shall lie.

4.5.4 Any actual or attempted conveyance, encumbrance, partition or separation affecting the Common Elements or a Unit shall be subject to the terms of this Declaration.

ARTICLE V
The Association

5.1 Organization of Association. A North Carolina non-profit corporation known and designated as 815 South Virginia Dare Trail Unit Owners' Association, Inc. (the "Association") has been organized to provide for the administration of the Property, and the Association shall administer the operation and maintenance of the Property and undertake and perform all acts and duties incident thereto in accordance with the terms of its Articles of Incorporation, the Bylaws, and the North Carolina Condominium Act

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5.2 Membership. Every Owner shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Condominium Unit. No owner, whether one or more persons, will have more than one membership per Condominium Unit owned, but all of the persons owning each Condominium Unit will be entitled to rights of membership and use and enjoyment appurtenant to such ownership.

5.3 Voting Rights. The total number of votes in the Association shall be allocated to the Units and Members in accordance with the formula of that percentage assigned to each Unit which establishes the Unit's pertinent undivided ownership interest in the Common Elements and liability for Common Expenses.

5.4 Association Management Duties. Subject to the rights and obligations of Declarant and other Owners as set forth in this Declaration and the Act, the Association shall be responsible for the administration and operation of the Property and for the exclusive management, control, maintenance, repair, replacement and improvement of the General Common Elements (including facilities, furnishings and equipment related thereto) and any Limited Common Elements, and shall keep the same in good, clean, attractive and sanitary condition, order and repair. The expenses, costs and fees of such management operation, maintenance and repair by the Association shall be part of the Assessments, and prior approval of the Owners shall not be required in order for the Association to pay any such expenses, costs and fees. The Board of Directors will exercise for the Association all powers, duties and authority vested in or obligated to be taken by the Association and not reserved to Declarant or the other Members by this Declaration, the other Condominium Instruments, the Act or other applicable law.

5.5 Owner's Negligence. In the event that the need for maintenance, repair or replacement of all or any portion of the Common Elements is caused through or by the negligent or willful act or omission of an Owner, or by any member of an Owner's family, or by an Owner's guests, invitees, licensees or tenants, then the expenses incurred by the Association for such maintenance, repair or replacement shall be a personal obligation of such Owner. If the Owner fails to repay the expenses incurred by the Association within 30 days after the notice to the Owner of the amount owed, then the failure to so repay shall be a default by the owner under the provisions of this Section, and such expenses shall automatically become a Default Assessment enforceable in accordance with Section 11.6 below.

5.6 Powers; Lien for Assessment. In the administration of the operation and management of the Property, the Association shall have and it is hereby granted the authority and power to enforce the provisions of this Declaration, to levy and collect assessments in the manner provided in the Bylaws, to file liens for unpaid assessments, and to adopt, promulgate and enforce such rules of conduct governing the use of the Units and Common Elements as the Board of Directors may deem to be in the best interest of the Association in accordance with the Bylaws. In the administration of the operation and management of the Condominium, the Association, subject to the provisions of N.C.G.S. §47C-3-105 and §47C-3-112, shall have and is hereby granted the authority and power to enforce the provisions of this Declaration, to levy and to collect assessments in the manner hereinafter provided, to adopt, promulgate and enforce such rules of conduct governing the use of the Common Elements as the Board of Directors of said Association may deem to be in the best interests of the Association and to exercise such other powers as set forth in N.C.G.S. §47C-3-102, including the right to assign future assessments, assessment rights and income of the Association.

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5.7 Notice of Membership. Any person, on becoming a Member, will furnish the Secretary of the Association with a photocopy or certified copy of the recorded deed, vesting the person with the interest required to make him a Member. At the same time, the Member will provide the Association with the single name and address to which the Association will send any notices given pursuant to the Condominium Instruments. In the event of any change in the facts reported in the original written notice, including any change of ownership, the member will give a new written notice to the Association containing all of the information required to be covered in the original notice. The Association will keep and preserve the most recent written notice received by the Association with respect to each Member.

5.8 Owner's and Association's Addresses for Notices. All Owners of each Condominium Unit shall have one and the same registered mailing address to be used by the Association or other Owners for notices, demands, and all other communications regarding Association matters. The Owner or Owners of a Condominium Unit shall furnish such registered address to the Secretary of the Association within five days after transfer of title to the Condominium Unit to such Owner or Owners. Such registration shall be in written form and signed by all of the Owners of the Condominium Unit or by such persons as are authorized by law to represent the interests of all Owners of the Condominium Unit.

5.9 Rules of Conduct.

5.9.1 Board's Power. From time to time and subject to the provisions of the Condominium Instruments, the Board of Directors may adopt, amend and repeal Rules of Conduct governing among other things and without limitation, the use and rental of the Condominium Units and the use of the Common Elements. A copy of the Rules of Conduct in effect will be distributed to each Member, and any changes in the Rules of Conduct will also be distributed within a reasonable time following the effective date of change.

5.9.2 Enforcement. The Board of Directors will provide for enforcement of the Association rules as set forth in the Bylaws. Without limiting the generality of the foregoing, the Board may suspend the voting rights of a Member after notice and hearing as provided in the Bylaws for an infraction of the rules.

5.10 Delegation by Association Board.

5.10.1 Delegation to Manager. The Association, acting through the Board, may employ or contract for the services of a Manager to act for the Association and the Board and the officers according to the powers and duties delegated to the Manager pursuant to the Bylaws or resolution of the Board. Neither the Board nor any officer of the Association will be liable for any omission or improper exercise by a Manager of any such duty, power, or function so delegated by written instrument executed by or on behalf of the Board.

5.10.2 Committees. The Association, acting through the Board, may delegate any of its rights, duties or responsibilities to any committee or other entity that the Board may choose to form.

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5.10.3 Limitation. Any delegation by the Board under this Article V is subject to compliance with the Act and the Bylaws and the requirement that the Board, when so delegating, will not be relieved of its responsibilities under the Condominium Instruments and the Act.

5.11 Acquiring and Disposing of Personal Property. The Association may acquire, own, and hold for the use and benefit of all Owners tangible and intangible personal property, and may dispose of the same by sale or otherwise, and the beneficial interest in any such property shall be deemed to be owned by the Owners in the same undivided proportion as their respective undivided interests in the Common Elements. Such interests shall not be transferable except with the transfer of a Condominium Unit. A conveyance of a Condominium Unit shall transfer ownership of the transferor's beneficial interest in such personal property without any reference thereto. Each Owner may use such personal property in accordance with the purposes for which it is intended, without hindering or encroaching upon the lawful rights of other Owners.

5.12 Capital Improvement Fund. The Association will establish and maintain an adequate reserve fund from Annual Assessments levied pursuant to Section 11.4 below for maintenance, repair or replacement of the Common Elements that must be replaced on a periodic basis and for any other facilities made available to the Association that must be replaced on a periodic basis with contribution from the Association.

5.13 Working Capital Account. The Association will also administer a working capital account funded as provided in Section 11.4.

5.14 Implied Rights and Obligations. The Association will perform all of the duties and obligations imposed on it expressly by the Condominium Instruments, together with every other duty or obligation reasonably to be implied from the express provisions of the Documents or reasonably necessary to satisfy any such duty or obligation. The Association may exercise any other right or privilege (i) given to it expressly by the Condominium Instruments, (ii) reasonably to be implied from the existence of another right or privilege given expressly by the Condominium Instruments, or (iii) reasonably necessary to effectuate any such right or privilege.

5.15 Appointment of Officers and Directors by Declarant. Until the expiration of the Declarant Control Period and subject to the limitations of the Act, Declarant will retain the exclusive powers to appoint and remove Directors and officers of the Association. Notwithstanding the foregoing, Declarant may voluntarily surrender the right to appoint and remove Directors and officers of the Association before the end of the Declarant Control Period by providing a notice to that effect to the Association and otherwise complying with the procedures for termination of this Special Declarant Right, as set forth in the Bylaws. However, upon voluntarily terminating this Special Declarant Right in advance of the expiration of the Declarant Control Period, Declarant may require throughout the period of the Declarant Control Period (had it not been voluntarily terminated) that specified actions of the Association or the Board, as described in an instrument executed and recorded by Declarant in the Office of the Register of Deeds of Dare County, North Carolina, be approved by Declarant before those actions become effective. After the Declarant Control Period, the Directors and the officers of the Association will be elected as provided in the Bylaws.



ARTICLE VI

Easements

6.1 Preamble. In addition to the easements created by the Act, the easements described in this Article VI from each Owner to each other Owner, to the Association and to the Declarant are hereby granted, reserved and established, subject to and in accordance with the following terms and conditions:

6.2 Use and Enjoyment of Common Elements. Subject to the Special Declarant Rights reserved to Declarant in this Declaration and the provisions of N.C.G.S. §47C-3-112, all of the Common Elements, except the Limited Common Elements, shall be and the same are hereby declared to be, subject to a perpetual non-exclusive easement in favor of all tenants, guests, invitees and customers, for all proper and normal purposes, and for the furnishing of services and facilities for which the same are reasonably intended for the use and enjoyment of the Condominium Units, subject to the following provisions and limitations:

6.2.1 The right of Owners to the exclusive use of the Limited Common Elements appurtenant to their respective Units.

6.3 Structural Support. Every portion of a Unit or the Common Elements which contributes to the structural support of another Unit or the Common Elements shall be burdened with an easement of structural support. No Owner shall be permitted to demolish his Unit except to the extent that such demolition may be required to repair or rebuild the Unit when the same has been partially or totally destroyed.

6.4 Utilities. To the extent that any utility line, pipe, wire or conduit serving any Unit or the Common Elements shall lie wholly or partially within the boundaries of another Unit or the Common Elements, such other Unit or the Common Elements shall be burdened with an easement for the use, maintenance, repair and replacement of such utility line, pipe, wire or conduit, such easement to be in favor of the Unit or Common Elements served by the same and the Association.

6.5 Encroachments. If any portion of the Common Elements encroaches upon any Unit, or if any Unit encroaches upon any other Unit or upon any portion of the Common Elements, as a result of the construction, reconstruction, repair, renovation, restoration, shifting, settlement or movement of any portion of the Condominium, an easement for the encroachment and for the maintenance, repair and replacement thereof shall exist so long as the encroachment exists. In the event that the Building, any Unit, any adjoining Unit, or any adjoining portion of the Common Elements shall be partially or totally damaged or destroyed as a result of fire or other casualty or as a result of condemnation proceedings, and then be repaired or reconstructed, encroachments of portions of the Common Elements upon any Unit, or of any Unit upon any other Unit or upon any portion of the Common Elements, due to such repair or reconstruction, shall be permitted, and easements for such encroachments and the maintenance, repair and replacement thereof shall exist. This easement is intended to apply to only the extent necessary and does not deprive another of a substantial property right of use.

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6.6 Encroachment Easements. Whenever building lines, or private plantings encroach upon the Common Elements, the Owner of the affected Unit is hereby granted a perpetual easement for the use of that portion of the Common Elements which is burdened with the encroachment.

6.7 Maintenance and Repair. There shall be an easement in favor of the Declarant, the Association and the Unit Owners through the Units and the Common Elements as may be reasonably necessary for the installation, maintenance, repair and replacement of Units and the Common Elements. Use of this easement shall be only upon prior notice during normal business hours, except that access may be had at any time in case of emergency.

6.8 Rights of Association. There shall be a general easement to the Association, its Directors, Officers, contractors, agency and employees (including, but not limited to any manager employed by the Association) to enter upon the Property or any portion thereof and to enter or take access through the Units and the Common Elements as may be reasonably necessary for the installation, maintenance, repair and replacement thereof, for making emergency repairs and for other work for the proper maintenance and operation of the Condominium and for the performance of their respective duties. Each Owner shall afford to other Owners and to the Association, their respective contractors, agents, representatives and employees, such access through such Owner's Unit as may be reasonably necessary to enable them to perform such work and to exercise and discharge their respective powers and responsibilities. Except in the event of emergencies, however, such easements are to be exercised only during normal business hours and upon advance notice to and with the permission of the Owner or Occupant of a Unit directly affected thereby. The Association shall have the power to grant and accept permits, licenses and easements on, over, across and through the Common Elements for the installation, maintenance, repair and replacement of utilities, roads and for other purposes reasonably necessary or useful for the proper maintenance or operation of the Condominium.

6.9 Declarant's Easements. Declarant hereby reserves such easements through the Common Elements as may be reasonably necessary for the purposes of discharging its obligations, which easements shall exist as long as reasonably necessary for such purpose.

6.10 Easements To Run With Land. All easements and rights described in this Article VI are appurtenant easements running with the land, and except as otherwise expressly provided in this Article VI shall be non-exclusive and perpetually in full force and effect, and shall inure to the benefit of and be binding upon Declarant, the Association, Unit Owners, Occupants, First Mortgagees and any other person having any interest in the Condominium or any part thereof. The Condominium and every part thereof shall be conveyed and encumbered subject to and together with all easements and rights described in this Article VI, whether or not specifically mentioned in any such conveyance or encumbrance.

6.11 Sales Activity. For as long as there are any Units owned by the Declarant, the Declarant, its designees, successors and assigns, shall have the right to use any such Units and parts of the Common Elements or Association property for guest accommodations, model apartments and sales, to show model Units in the Common Elements to prospective purchasers and tenants of Units, and to erect on the Property and signs and other promotional material to advertise or otherwise market the Units, and/or any facilities built or to be constructed upon any portion of the Condominium.

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6.12 Association Rights. The Association, the Board and the Managing Agent shall have a non-exclusive right and easement to make such use of and to enter into or upon the General Common Elements, the Limited Common Elements and the Units as may be necessary or appropriate to the performance of their duties and functions which they are obligated or permitted to perform under this Declaration

6.13 Emergency Easement. A non-exclusive easement for ingress and egress is hereby granted to all police, sheriff, fire protection, ambulance and other similar emergency agencies or persons, now or hereafter servicing the Condominium in the performance of their official duties including any property manager of the Condominium.

6.14 Agreement to Grant Additional Easements. If additional easements between portions of the Condominium are reasonably necessary to effectuate the purposes of this Declaration, provided said proposed additional easements will not unreasonably interfere with the use and occupancy of any portion of the Condominium burdened by the proposed additional easements, unreasonably affect access to, or the operation of, any portion of the Condominium burdened by the proposed additional easements or unreasonably increase the operating cost of, or create any other additional expense for, the portion of the Condominium burdened by the proposed additional easements, each Owner, and its applicable Mortgagee, hereby agrees to use its best efforts to agree upon, determine and grant such additional easements. No abandonment of any of the easements created by this Declaration shall be deemed to exist in the absence of a written agreement by the Owners whose property is benefited by the easement being abandoned; provided, however, that each Owner agrees to execute such a written agreement promptly upon demand of the other Owners at such time as any such easements created by this Declaration are no longer needed and not reasonably anticipated to be needed in the future in connection with construction, reconstruction or restoration as permitted by this Declaration. There shall be no merger of the easements created by this Declaration and fee title to any portion of the Condominium in the absence of a written agreement executed by the holders of all such interests.

6.15 Easements Appurtenant. Easements, uses and rights created herein for an Owner shall be appurtenant to its Unit, and all conveyances of and any other instruments affecting title to a Unit will be deemed to grant and reserve the easements, rights and uses provided for herein, even though no specific reference to such easements, uses and rights appears in any such instrument. Each Owner, whose Unit is subject to an easement created by this Declaration, may use the Easement Areas (as hereinafter defined) for the purposes permitted in this Declaration not inconsistent with such easement and shall also have the right to temporarily interrupt the use of such easements as may be necessary in order to perform repair work to the Units, provided that the temporary interruption does not materially interfere with the use and occupancy of another Unit.

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ARTICLE VII
Occupancy and Use Restrictions

7.1 Occupancy. Each Unit shall be used solely for residential purposes and no trade or business of any kind may be carried on therein (the lease or the rental of any Unit for transient residential purposes shall not be considered to be carrying on a trade or business).

7.2 Nuisances. No nuisances (as defined by the Association) shall be allowed on the Property, nor shall any use be allowed which is a source of annoyance to occupants of Units or which interferes with the peaceful possession or proper use of the Property by its residents, occupants or guests. No activity specifically permitted by this Declaration shall be deemed a nuisance.

7.3 No Improper Uses. No improper, offensive, hazardous or unlawful use shall be made of the Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereover shall be observed. Violations of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereover, relating to any portion of the Property, shall be corrected by, and at the sole expense of, the party obligated to maintain or repair such portion of the Property, as elsewhere herein set forth. Notwithstanding the foregoing and any provisions of the Condominium Instruments, the Association shall not be liable to any person(s) for its failure to enforce the provisions of this Section. No activity specifically permitted by this Declaration shall be deemed to be a violation of this Section.

7.4 Weight and Sound Restriction. Hard and/or heavy surface floor coverings, such as tile, marble, wood, and the like will be permitted only in areas where originally installed by the Declarant. Installation of hard surfaced floor coverings (other than by the Declarant) in any other areas is not permitted and those areas are to receive sound absorbent, less dense floor coverings, such as carpeting. Any and all replacements of hard surface floor coverings are to be of the same material as originally installed. Also, the installation of any improvement or heavy object must be submitted to and approved by the Board, and be compatible with the overall structural design of the Building. The Board of Directors may require a structural engineer to review certain of the proposed improvements, with such review to be at the Owner's sole expense. Owners will be held strictly liable for violations of these restrictions and for all damages resulting therefrom and the Association has the right to require immediate removal of violations. Applicable warranties of the Declarant, if any, shall be voided by violations of these restrictions and requirements. Each Owner, by acceptance of a deed or other conveyance of their Unit, hereby acknowledges and agrees that sound transmission in a high-rise building such as the Condominium is very difficult to control, and that noises from adjoining or nearby Units and or mechanical equipment can often be heard in another Unit. The Declarant does not make any representation or warranty as to the level of sound transmission between and among Units and the other portions of the Condominium Property, and each Unit Owner hereby waives and expressly releases any such warranty and claim for loss or damages resulting from sound transmission.

7.5 Smoking. Smoking is not permitted in any part of the Common Elements.

7.6 Antennae Satellite Dish. No Owner shall install any receiving or transmitting device which requires any exterior protrusion whatsoever, nor shall any antennae, satellite dish or other

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receiving or transmitting device be located on any terrace or decks which are visible from the exterior of the Building.

7.7 Window Treatments. For purpose of aesthetic harmony, all window treatments shall include a uniform white (or other neutral color selected by the Board) in the backing, which shall be visible from the exterior of the Unit.

7.8 Terraces. All terraces and decks which are Limited Common Elements shall be maintained in a neat and orderly appearance by the Owner of the Unit for which it is intended. Terraces and decks shall not be used for storage. The foregoing shall not prevent, however, placing and using patio-type furniture, planters and other items in such areas of same that are normally and customarily used for a residential balcony or terrace area. Grills or other cooking units are strictly prohibited on all terraces. There shall be no exterior protrusions from the Unit onto the terraces and no flags or pennants of any kind shall be allowed to be attached to the terraces.

7.9 Odors. Neither Unit Owner shall permit any offensive odors originating from its Unit to permeate any portion of the Condominium owned by the other Unit Owner; provided, however, that both Unit Owners recognize that it is difficult to control odors within the certain food preparation and garbage storage areas due to the nature of the use of those areas and, although reasonable steps to minimize odors from those areas will be taken, the provisions of this section shall be interpreted to give due consideration to the difficulty in controlling odors in these areas.

7.10 Increased Insurance Costs. No Unit Owner shall use its portion of the Condominium in a manner that will increase the cost of insurance for the other Unit Owner unless the Unit Owner making such use reimburses the other Unit Owner for the increased insurance costs.

7.11 Prohibited Uses. No Unit Owner shall use its Unit for any matter which emits obnoxious noise or sound levels which would disturb guests of the Condominium; and each Unit Owner will conduct its use in a manner which does not unreasonably interfere with the other Unit Owner.

7.12 Hazardous Materials. Unit Owners agree that they will not generate, use, store or dispose of any hazardous materials or substances on or from any portion of the Condominium except in full compliance with all legal requirements and each Unit Owner shall indemnify and hold the other Unit Owner, its officers, directors, First Mortgagees, agents, employees and representative harmless from and against all claims, losses, damages, expenses and liabilities (including reasonable attorneys' fees at all tribunal levels and in connection with all proceedings, whether or not suit is instituted) arising from or in connection with the breach by the indemnifying Unit Owner of the foregoing agreement.

7.13 Occupants Bound. All provisions of the Declaration and of any use restrictions and Rules of Conduct promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all occupants of any Unit.

7.14 Use of Common Elements. There shall be no obstruction of the Common Elements, nor shall anything be kept or stored on any part of the Common Elements by any Owner without the prior written approval of the Association. Nothing shall be altered on, constructed in, or



removed from the Common Elements by any Owner without the prior written approval of the Association.

7.15 Signs and Exterior Decorations. No signs of any kind including lights of any kind shall be displayed to the public view on or from any portion of any Residential Unit except, (i) during the Declarant Control Period, signs of Declarant or its affiliates or assigns and (ii) signs required by law. The size, number, design and location of which shall be approved by the Board. No exterior decorations that are visible for public view from outside a Residential Unit will be allowed without first obtaining the written approval of the Association.

7.16 Animals and Pets. No animals of any kind shall be kept, raised or bred on any portion of the Property, except family pets that are either dogs or cats may be kept by an Owner. The Rules of Conduct may regulate, permit or prohibit the number, breed, kind, weight and combined weight of such pets from time to time.

7.16.1 Containment. Pets must be contained in a Unit or on the deck or terrace that is assigned to a Unit as a Limited Common Element. Such pets may not be permitted to run at large at any time.

7.16.2 Leashes. Pedestrians within the Property who are accompanied by pets permitted under this Declaration must have the pets under the pedestrians' direct control by use of a leash not to exceed 10 feet in length.

7.16.3 Noise. Owners of pets on the Property will be required to take all steps necessary to control excessive barking or other disturbances caused by their pets.

7.17 Rules of Conduct. In order to assure the peaceful and orderly use and enjoyment of the Units and Common Elements of the Association, the Unit Owners may from time to time adopt, modify, and revoke in whole or in part by a vote of the Members present in person or represented by proxy whose aggregate interest in the Common Elements constitutes fifty-one (51 %) percent of the total interest, at any meeting duly called for the purpose, such reasonable rules of conduct, to be called Rules of Conduct, governing the conduct of persons on said property of the Association as it may deem necessary. Such Rules of Conduct, upon adoption, and every Amendment, modification, and revocation thereof, shall be delivered promptly to each Owner by posting same with postage prepaid addresses to the Owner at the last registered address of the Owner and shall be binding upon all Unit Owners and the occupants of Units in the Condominium. Until expiration of the Declarant Control Period, the Declarant shall establish the Rules of Conduct. The following shall constitute the initial Rules of Conduct for the Condominium:

7.17.1 Residents shall exercise extreme care to avoid unnecessary noise or the use of musical instruments, radios, televisions and amplifiers that may disturb other residents.

7.17.2 No Unit Owner shall:

(a) Post any advertisements or posters of any kind in or on the Property except as authorized by the Association;

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(b) Hang garments, towels, rugs, or similar objects from the windows or balconies or from any of the facades of the Property;

(c) Clean dust mops, rugs or similar objects from the windows or terraces by beating on the exterior part of the Property;

(d) Throw trash or garbage outside the disposal installation provided for such purpose in the service areas;

(e) Act so as to interfere reasonably with the peace and enjoyment of the residents of the other Units in the Property;

(f) Maintain any pets which cause distress to Unit Owners through barking, biting, scratching or damaging of property. No more than one (1) pet may be maintained in any one Unit. Aggressive breeds as determined by, the Board are prohibited. No pet weighing more than fifty (50) pounds shall be permitted.

(g) Operate or utilize any charcoal or gas grills, either permanent or portable, on the terraces or in the close proximity of the Units.

(h) Operate, park, or store on the Property any recreational vehicles homes, trucks, commercial vans or boats on any of the Common Elements except the parking spaces assigned to an Owner as a Limited Common Element.

7.17.3 The maximum number of vehicles maintained on the Property for each Unit is two vehicles.

7.17.4 No maintenance or repair of a vehicle is permitted within the Property which includes oil changes, washing, waxing and similar related vehicles services.

7.17.5 Each Unit Owners shall be responsible financially and otherwise for the actions or inaction of said Unit Owners' tenants or guests to include violation of the Condominium Instruments and Rules of Conduct.

7.17.6 No Unit Owner, resident, or lessee shall install wiring for electrical or telephone installations, televisions or radio antenna, air conditioning fixtures, or similar objects outside of his or her Unit or which protrudes through the walls or the roof of his or her Unit.

7.17.7 During the Declarant Control Period, the Declarant may amend, delete or add to the Rules of Conduct at its sole discretion and said amendments or additions shall be effective upon distribution in writing to the Owners.

7.18 Enforcement. The Association, or the Board acting on behalf of the Association, may take such action as it deems advisable to enforce these Occupancy and Use Restrictions as provided in this Declaration. In addition, the Association and the Board shall have a right of entry on any part of the Property for the purposes of enforcing this Article, and any costs incurred by the Association or the Board in connection with such enforcement which remain unpaid 30 days after the Association has given notice of the cost to the Owner and otherwise complied with the Act shall

be subject to interest at the Default Rate from the date of the levy by the Association or the Board through the date of payment in full by the Owner, and shall be treated as a Default Assessment enforceable as provided in Section 11.6 below.

ARTICLE VIII

Property Rights Of Owners

8.1 Owner's Easements of Access and Enjoyment. Every Owner has a perpetual, non-exclusive easement for use and enjoyment of the General Common Elements, which easement is appurtenant to and shall pass with the title to every Condominium Unit, subject to the following provisions.

8.2 Delegation of Use. Any Owner may delegate his right of enjoyment of the Common Elements to the members of his family, his tenants, guests, licensees and invitees, but only in accordance with the applicable Rules of Conduct of the Association and the other Condominium Instruments.

8.3 Easements for Encroachments. The Property, and all portions of it, are subject to easements hereby created for encroachments (so long as such encroachments exist) between Condominium Units and the Common Elements as follows:

8.3.1 In favor of all Owners so that they shall have no legal liability when any part of the Common Elements encroaches upon a Unit;

8.3.2 In favor of each Owner of each Unit so that the Owner shall have no legal liability when any part of his or her Unit encroaches upon the Common Elements or upon another Unit;

8.3.3 In favor of all Owners, the Association, and the Owner of any encroaching Unit for the maintenance and repair of such encroachments. Encroachments referred to in this Section 8.3 include, but are not limited to, encroachments caused by error or variance from the original plans in the construction of the Building or any Condominium Unit constructed on the Property, by error in the Condominium Plat, by settling, rising, or shifting of the earth, or by changes in position caused by repair or reconstruction of any part of the Property. Such encroachments shall not be considered to be encumbrances upon any part of the Property.

8.4 Easements of Access for Repair, Maintenance, and Emergencies. Some of the Common Elements are or may be located within the Units or may be conveniently accessible only through the Units. The Owners of other Units and the Association shall have the irrevocable right, to be exercised by the Association as the Owners' agent, to have access to each Unit and to all Common Elements from time to time during such reasonable hours as may be necessary for the maintenance, repair, removal, or replacement of any of the Common Elements herein or accessible therefrom or for making emergency repairs therein necessary to prevent damage to the Common Elements or to any Unit. Subject to the provisions of Section 5.5 above, damage to the interior of any part of a Unit resulting from the maintenance, repair, emergency repair, removal, or replacement of any of the Common Elements or as a result of emergency repair within another Unit at the instance of the Association or of Owners shall be a Common Expense.

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8.5 Combination of Units. The Owner of a Unit may acquire title to the adjacent Unit and combine the two Units into one Unit, subject to the requirements of the Association, the Act and other applicable laws and regulations of the locale in which the Property is located. Every agreement and recorded instrument for the combination of Units will make adequate provision for the preservation of easements previously established with respect to the Units. Further, the voting rights and liability for payment of Assessments related to such Units will not be adjusted or reallocated.

ARTICLE IX

Special Declarant Rights and Additional Reserved Rights

9.1 General Provisions. Until the expiration of the Declarant Control Period, Declarant will have the following Special Declarant Rights with respect to all of the Property:

9.1.1 Construction and Completion of Property. The right to construct and complete the Property;

9.1.2 Sales Activities. The right to maintain one sales office, one management office, up to three signs advertising the Property and up to one model Condominium Unit in the Property. The offices, model Unit and signs will be of sizes and styles determined by Declarant, and may be relocated by Declarant from time to time. At all times, the offices, model Unit and signs will remain the Property of Declarant and may be removed from the Property by Declarant at any time during or promptly after the expiration of the Declarant Control Period.

9.1.3 Association Directors and Officers. The right to appoint any officer or director of the Association, as provided in this Declaration or the Bylaws, but subject to the limitations of the Act.

9.1.4 Contract with a Management Agent. The right to enter into a Contract with either an affiliate of Declarant or a third party for the purposes of discharging the responsibilities of the Board of Directors relative to the operation, maintenance and management of the Property.

9.1.5 Veto Power. Subject to the procedures set forth in the Condominium Instruments, Declarant shall have veto power over all actions taken by the Board or any committee thereof as may have been appointed by the Board or established by the Bylaws or this Declaration.

9.1.6 Rules of Conduct. The right to promulgate and amend any Rules of Conduct.

9.2 Supplemental Provisions Regarding Declarant's Rights. Declarant reserves the right to amend this Declaration in connection with the exercise of any development rights or any other Special Declarant Rights to the extent permitted by the Act, and Declarant also reserves the additional rights retained for the benefit of Declarant in this Article and in any other provisions of this Declaration.

9.3 Limitation on Special Declarant Rights. The Special Declarant Rights reserved by Declarant shall terminate no later than the earlier of: (i) one hundred twenty (120) days after the conveyance of seventy-five percent (75%) of the Units, including Units which may be created



pursuant to the Special Declarant Rights and the Declarant's Development Rights, to Owners other than a Declarant, (ii) two (2) years after all Declarants have ceased to offer Units for sale in the ordinary course of business; or (iii) two (2) years after the Development Right to add new Units was last exercised.

9.4 Declarant's Personal Property. Declarant reserves the right to retain all personal property and equipment used in the sales, management, construction, and maintenance of the improvements within the Condominium that has not been represented as property of the Association. Declarant reserves the right to remove from the Property any and all goods and improvements used in development, marketing, and construction, regardless of whether they have become fixtures.

9.5 Interference with Special Declarant Rights.

9.5.1 Neither the Association nor any Unit Owner may take any action or adopt any Rules of Conduct that will interfere with or diminish any Special Declarant Right without the prior written consent of Declarant.

9.5.2 In relation to Declarant's exercise of any Special Declarant Right, the provisions of the Declaration which prohibit or require approval of construction of or additions or alterations to any improvements shall not be applicable.

9.6 Assignment of Declarant's Rights and Duties. Any and/or all of the rights, powers and reservations of Declarant herein contained may be assigned by Declarant to any person which will assume any and/or all of the duties of Declarant hereunder, and upon any such person, corporation or association's evidencing its consent in writing to accept such assignment, said assignee shall, to the extent of such assignment, assume Declarant's duties hereunder, have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by Declarant herein. Upon such assignment and to the extent thereof, Declarant shall be relieved from all liabilities, obligations, and duties hereunder. Declarant may limit and restrict the rights and powers which are assigned to any person, corporation, or association in the instrument which assigns such rights. The term "Declarant" as used herein includes all such assignees and their successors and assigns, subject to such restrictions or limitations as may be imposed in the instrument assigning such rights.

9.7 Easements. All rights of easements set forth in Article VI above.

ARTICLE X
Maintenance Responsibility

10.1 Owner's Rights and Duties with Respect to Interiors. Each Owner shall have the exclusive right and duty to maintain and repair the interior surfaces of the walls, floors, ceilings, and doors forming the boundaries of such Owner's Unit and all walls, floors, ceilings, and doors within such boundaries, including without limitation painting of interior surfaces. The Unit Owner shall not cause any structural modifications or alterations without first obtaining the written consent of the Association, which consent may be withheld in the sole discretion of the Board of Directors. No Owner shall be permitted to install hardwood floors or other hard surface improvements in his

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10.2 Responsibility of the Owner. The Owner at the Owner's expense shall maintain and keep in repair the interior of the Condominium Unit, including the fixtures and utilities located in the Condominium Unit to the extent current repair shall be necessary in order to avoid damaging other Condominium Units or the Common Elements. All fixtures, equipment, and utilities installed and included in a Unit commencing at a point where the fixtures, equipment, and utilities enter the Unit shall be maintained and kept in repair by the Owner of that Unit. An Owner shall not allow any action or work that will impair the structural soundness of the improvements, impair the proper functioning of the utilities, heating, ventilation, or plumbing systems or integrity of the Building, or impair any easement or hereditament. An Owner shall not be responsible for repair occasioned by casualty occurring outside a Unit, unless such casualty is due to the act or negligence of the Owner, or guests, invitees, or tenants of such Owner, as provided in Section 5.5 above. An Owner is responsible for all repair resulting from a casualty occurring within, or affecting the Unit. No Owner shall alter any Common Elements without the prior written consent of the Association.

ARTICLE XI

Assessments

All Assessments, together with fines, interest, costs, reasonable attorneys' fees and other charges allowed under the Act, shall be a charge on the Unit and shall be a continuing lien upon the Condominium Unit until paid subject to the provisions of Section 47C-3-116 of the Act.

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recover a money judgment for unpaid Assessments and related charges as listed above may be maintained without foreclosing or waiving the Assessment liens provided in this Declaration.

11.2 Purpose of Assessments. The Assessments shall be used exclusively to promote the recreation, health, safety and welfare of the Owners and occupants of the Property, and for the improvement and maintenance of the Property and of the services and facilities located on the Property. Proper uses of the Assessments shall include, but are not limited to, the following:

11.2.1 Repairing, replacing, renovating and maintaining any of the Common Elements not made the responsibility of the Owners by Section 10.1, Section 10.2, or other provisions of this Declaration;

11.2.2 Installing, maintaining, and repairing underground utilities upon, across, over, and under any part of the Property which are not conveyed to and accepted by utility companies including phone, cable and wi-fi services;

11.2.3 Furnishing garbage, trash pickup, gas, water and wastewater services to the Property;

11.2.4 Obtaining and maintaining insurance in accordance with the provisions of Article XII below;

11.2.5 Establishing and maintaining reserves for repairs, replacement, maintenance, taxes, capital improvements, and other purposes;

11.2.6 Carrying out all other powers, rights, and duties of the Association specified in the Condominium Instruments; and

11.2.7 Generally, addressing any other expenses necessary to meet the primary purposes of the Association.

11.3 Annual Assessments.

11.3.1 Association Budget. The Board of Directors shall prepare a budget and prepare Annual Assessments before the close of each fiscal year of the Association and submit the budget to the Association as required by the Act. Annual Assessments for Common Expenses shall be based upon the estimated net cash flow requirements of the Association to cover items including, without limitation, the cost of routine maintenance and operation of the Common Elements; expenses of management; premiums for insurance coverage as deemed desirable or necessary by the Association; landscaping, care of grounds, common lighting within the Common Elements; routine renovations within the Common Elements; wages; common water and utility charges for the Common Elements; legal and accounting fees; management fees; expenses and liabilities incurred by the Association under or by reason of this Declaration; payment of any deficit remaining from a previous Assessment period; and the supplementing of the Capital Improvement Fund for general, routine maintenance, repairs, and replacement of the Common Elements on a periodic basis, as contemplated under Section 11.2. Within thirty (30) days after adoption of any proposed Budget, the Board of Directors shall set a date for a meeting of the Unit Owners to consider ratification of the Annual Budget which date shall be not less than fourteen (14) nor more than thirty (30) days



after the mailing of copies of such Annual Budget or summary thereof to the Unit Owners. There shall be no requirement that a quorum be present at the meeting. The Annual Budget is ratified unless at that meeting a majority of all the Unit Owners reject the Annual Budget. In the event the proposed Annual Budget is rejected, the periodic budget last ratified shall be continued until such time as the Unit Owners ratify (i.e. fail to reject by a majority of all Unit Owners) a subsequent budget proposed by the Board of Directors.

11.3.2 Apportionment of Annual Assessments. Generally, each Owner shall be responsible for that Owner's share of the Common Expenses, which, except as specifically provided in this Declaration, shall be assessed to the Condominium Units in proportion to the respective undivided interests in the Common Elements appurtenant to the Units, as shown on the Schedule of Unit Information attached as Exhibit "B", subject to the following provisions. Any Common Expense associated with the maintenance, repair, or replacement of a Limited Common Element shall be assessed against the Unit or Units to which that Limited Common Element is assigned, equally, or in any proportion the Board of Directors reasonably determines. Any Common Expense or portion thereof benefiting fewer than all of the Units shall be assessed exclusively against the Units benefited. The total Annual Assessments of the Association shall be apportioned among all Condominium Units as provided in this Section 11.3 and shall not be apportioned between General Common Elements and Limited Common Elements.

11.3.3 Collection. Annual Assessments shall be collected in periodic installments as the Board may determine from time to time, but until the Board directs otherwise, they shall be payable monthly in advance on the first day of each calendar month. The Association shall have the right, but not the obligation, to make pro rata refunds of any Annual Assessments in excess of the actual expenses incurred in any fiscal year, however specifically excluding herefrom any amounts deposited in the Capital Improvement Fund of the Association. Any such excess funds not refunded will be applied to the next installment(s) of Annual Assessments due.

11.3.4 Date of Commencement of Annual Assessments. The Annual Assessments shall commence as to all Condominium Units no later than 60 days after the date of the first conveyance by Declarant of a Condominium Unit to an Owner. The first Annual Assessment shall be prorated according to the number of months remaining in the calendar year.

11.4 Capital Improvement Fund. The Board in establishing the Annual Budget for operation, management and maintenance of the Condominium, shall designate therein a sum to be collected and maintained as a reserve fund for replacement of and capital improvements to the Common Elements, which capital improvement and replacement fund (the "Capital Improvement Fund") shall be for the purpose of enabling the Association to replace structural elements and mechanical equipment constituting a part of the Common Elements, as well as the replacement of personal property which may constitute a portion of the Common Elements held for the joint use and benefit of the Owners of the Condominium Units. The amount to be allocated to the Capital Improvement Fund may be established by the Board so as to collect and maintain a sum reasonably necessary to anticipate the need for replacement of Common Elements. The amount collected for the Capital Improvement Fund shall be maintained in a separate account by the Association and such monies shall be used only to make capital improvements to Common Elements. Any interest earned on monies in the Capital Improvement Fund may, in the discretion of the Board, be expended for current operation and maintenance.

11.5 Special Assessments.

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11.5.1 Determination by Board. Subject to the budget procedures required by the Act, the Board of Directors may levy in any fiscal year one or more Special Assessments, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of a described capital improvement within the Property or any facilities located in the Property, including the necessary fixtures and personal property related to it, or to make up any shortfall in the current year's budget.

11.5.2 Apportionment and Collection of Special Assessments. The Board will apportion Special Assessments among the Condominium Units and collect payment according to the same guidelines as set forth for Annual Assessments in Section 11.3.2.

11.5.3 Notice. Notice of the amount and due dates for such Special Assessments must be sent to each Owner at least 30 days prior to the due date.

11.5.4 Member Approval. If any Special Assessment levied is to be used for the construction of facilities (as opposed to repair and reconstruction of existing facilities in the Property), and if the total amount of the Special Assessments levied for such construction exceeds 10% of the gross annual budget for the Association for that year, then the use of Special Assessments for that construction will require the approval of Owners representing at least 67% of the votes in the Association. The use of Special Assessments pursuant to this Section for constructing any Common Elements shall not apply to the construction of any Common Elements to be completed by Declarant in development of the Property.

11.6 Default Assessments. All monetary fines, penalties, interest or other charges or fees levied against an Owner pursuant to the Condominium Instruments, or any expense of the Association which is the obligation of an Owner or which is incurred by the Association on behalf of the Owner pursuant to the Condominium Instruments, and any expense (including without limitation reasonable attorneys' fees) incurred by the Association as a result of the failure of an Owner to abide by the Condominium Instruments, constitutes a Default Assessment, enforceable as provided in this Declaration below and in accordance with the Act.

11.7 General Remedies of Association for Nonpayment of Assessment. Any installment of an Annual Assessment or a Special Assessment which is not paid within the time period established from time to time by the Board shall be delinquent. If such an Assessment installment becomes delinquent, or if any Default Assessment is levied, the Association, in its sole discretion, may take any or all of the following actions:

11.7.1 Assess a late charge for each delinquency at uniform rates set by the Board of Directors from time to time;

11.7.2 Charge interest from the date of delinquency at the Default Rate;

11.7.3 Suspend the voting rights of the Owner during any period of delinquency;

11.7.4 Accelerate all remaining Assessment installments for the fiscal year in question so that unpaid Assessments for the remainder of the fiscal year shall be due and payable at once;

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11.7.5 Bring an action at law against any Owner personally obligated to pay the delinquent Assessment charges;

11.7.6 File a statement of lien with respect to the Condominium Unit and foreclose as set forth in more detail below.

The remedies provided under this Declaration shall not be exclusive, and the Association may enforce any other remedies to collect delinquent Assessments as may be provided by law.

11.8 Priority of Lien. The lien for Assessments, once perfected, shall be prior to all other liens and encumbrances except (a) the lien for real estate taxes on that Condominium Unit, and (b) the lien of a mortgage securing sums unpaid to a First Mortgagee or other lien or encumbrance recorded prior to the perfection of said lien for Assessments. Except as provided in Section 11.9 hereof and Section 47C-3-116 of the Act, the sale or transfer of any Condominium Unit shall not affect the Assessment lien.

11.9 Deed in Lieu of Foreclosure. Notwithstanding anything contained in this Declaration or the Act which may be construed to the contrary, in the event any First Mortgagee that is an Institutional Mortgagee shall acquire title to any Condominium Unit by virtue of any deed in lieu of Foreclosure of a First Mortgage, such a First Mortgagee shall not be liable for, nor shall such Condominium Unit be subject to a lien for, any Assessment chargeable to such Condominium Unit on account of any period prior to the time such First Mortgagee shall so acquire title to such Condominium Unit; provided, however, that Common Expenses collectible thereafter from all Owners, including such First Mortgagee, shall be paid as set forth in this Declaration. The provisions of this Section 11.9 are in addition to, and not in lieu of, the provisions of Section 47C-3-116(f) of the Act.

11.10 Statement of Assessment Status. Whenever any Condominium Unit may be leased, sold or mortgaged by the Owner thereof, the Association, upon written request of the Unit Owner, shall furnish to the proposed lessee, purchaser or mortgagee, a statement verifying the status of payment of any assessment which shall be due and payable to the Association for such Unit. Such statement shall be executed by any officer of the Association, and any lessee, purchaser or mortgagee may rely upon such statement in concluding the proposed lease, purchase or mortgage transaction, and the Association shall be bound by such statement.

11.11 Initial Contribution to Working Capital Fund. Upon the sale and closing of the purchase of each Unit by the Declarant to a person other than Declarant, the purchaser of each Unit shall pay a non-refundable contribution to the working capital of the Association in an amount equal to two (2) monthly installments of the annual Common Expense liability to be assessed against such Unit for the first year of operation of the Condominium. The contribution to working capital may be utilized to reimburse the Declarant the costs of premiums for insurance purchased by the Declarant for the benefit of the Condominium and the Association.

11.12 Failure to Assess. The omission or failure of the Board to fix the Assessment amounts or rates or to deliver or mail to each Owner an Assessment notice will not be deemed a waiver, modification, or release of any Owner from the obligation to pay Assessments. In such event, each Owner will continue to pay Annual Assessments on the same basis as for the last year



for which an Assessment was made until a new Assessment is made, at which time any shortfalls in collections may be assessed retroactively by the Association in accordance with any budget procedures as may be required by the Act.

ARTICLE XII

Insurance

12.1 Authority to Purchase. Except as provided in Section 12.12 below, all insurance policies relating to the Property shall be purchased by the Board of Directors or its duly authorized agent. The Board of Directors, the Managing Agent and Declarant shall not be liable for failure to obtain any coverage required by this Article or for any loss or damage resulting from such failure if such failure is due to the unavailability of such coverage from reputable insurance companies, or if such coverage is available only at demonstrably unreasonable cost.

12.2 Notice to Owners. The Board of Directors shall promptly furnish to each Owner written notice of materially adverse changes in, cancellation or termination of, insurance obtained on behalf of the Association under this Article, such notice to be delivered to all Owners by such methods as required by the Act. The notice (which may be issued in the form of a subpolicy relating to a master policy, if the Board of Directors obtains a master policy), shall specify the insurance coverage in effect on the Owner's Condominium Unit.

12.3 General Insurance Provisions. All such insurance coverage obtained in accordance with this Article shall conform to any minimum requirements of the Act, and, to the extent not inconsistent with the Act, the following provisions:

12.3.1 As long as Declarant owns any Condominium Unit, Declarant shall be protected by all such policies in the same manner as any Owner. The coverage provided to Declarant under the insurance policies obtained in compliance with this Article shall not be deemed to protect or be for the benefit of any general contractor engaged by Declarant, nor shall such coverage be deemed to protect Declarant for (or waive any rights with respect to) warranty claims against Declarant as the developer of the Property.

12.3.2 Depending on the area within the Property (whether Common Elements or one or more Condominium Units) damaged or destroyed and covered by an insurance claim submitted on behalf of the Association, the deductible amount, if any, on any insurance policy purchased by the Board of Directors may be treated as a Common Expense payable from Annual Assessments or Special Assessments allocable to all of the Condominium Units or to only some of the Condominium Units, if the claims or damages arise from the negligence of particular Owners, or if the repairs benefit only particular Owners, or as an item to be paid from working Capital Improvement Fund established by the Board of Directors. The Association may enforce payment of any amount due from an individual Owner toward the deductible as a Default Assessment in accordance with Sections 11.6 above.

12.3.3 Except as otherwise provided in this Declaration, insurance premiums for the insurance coverage obtained by the Board of Directors pursuant to this Article shall be a Common Expense to be paid by regular Annual Assessments. In accordance with Section 11.3.2 above, the Board of Directors shall make appropriate allocations of the cost of any insurance carried by the Association for the benefit of a particular Owner.



12.4 Property Damage Insurance. The Association shall obtain and maintain in full force and effect property damage insurance on all insurable improvements located on or constituting part of the Property (including, without limitation, the Common Elements and the Units, together with, unless the Board of Directors directs otherwise, the fixtures, equipment and other personal property initially installed in the Units and replacements thereof up to the value of those initially installed by Declarant, but not including, furniture, wall coverings, improvements, additions or other personal property supplied or installed by Owners), together with all fixtures, building service equipment and common personal property supplies of the Association, and heating equipment and other service machinery contained therein and covering the interests of the Owners and their First Mortgagees, as their interests may appear. The insurance shall be carried in an amount equal to full replacement value (i.e., 100% of the current replacement cost) exclusive of land, foundation, excavation, depreciation on personal property and other items normally excluded from coverage), and shall include a replacement cost endorsement and an agreed amount endorsement waiving the requirement of coinsurance. Such insurance shall afford protection against at least the following:

12.4.1 Loss or damage caused by fire and other hazards covered by the standard extended coverage endorsement with the standard "all-risk" endorsement including but not limited to sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm, and water damage;

12.4.2 Such other risks as shall customarily be covered with respect to projects similar in construction, location and use to the Property. The Board shall obtain property damage insurance covering all personal property owned by the Association.

12.5 Provisions Common to Property Damage Insurance. In contracting for the policy or policies of insurance obtained pursuant to Section 12.4 above, the Board of Directors which shall make reasonable efforts to secure coverage, if the Board deems such coverage advisable, provides the following endorsements (or equivalent): (a) cost of demolition; (b) contingent liability from operation of building (building ordinance or law endorsement); (c) increased cost of construction; (d) agreed amount or elimination of co-insurance clause; and (e) inflation guard (if available).

Prior to obtaining any policy of property damage insurance or any renewal thereof, and at such other intervals as the Board of Directors may deem advisable (but in any event, at least once every other year), the Board of Directors shall obtain an appraisal from a general contractor or such other source as the Board may determine, of the then current replacement cost of the property (exclusive of the land, excavations, foundations and other items normally excluded from such coverage) the Association, without deduction for depreciation, for subject to insurance carried by the purpose of determining the amount of property damage insurance to be secured pursuant to this Article XII.

A certificate evidencing coverage under the policy of property damage insurance, together with proof of payment of premiums and any notice issued under Section 12.2 above, shall be delivered by the insurer to the Association and upon request, to any Owner or First Mortgagee. The First Mortgagee of a Condominium Unit shall also be entitled to receive upon request a certificate confirming the renewal of any existing property damage insurance at least 10 days before the expiration of the then current policy, and to receive notice promptly of any event giving rise to a claim under such policy arising from damage to such Condominium Unit.



12.6 Liability Insurance. The Association shall obtain and maintain in full force and effect commercial general liability insurance (including bodily injury, libel, slander, false arrest and invasion of privacy coverage) and property damage insurance with such limits as the Board of Directors may from time to time determine, insuring each member of the Board of Directors, the Association, the Manager, and the employees and agents of the Association and the Manager against any liability to the public or the owners (and their guests, invitees, tenants, agents and employees) arising out of or incident to the ownership, existence, operation, management, maintenance or use of the Common Elements and any other areas under the control of the Association. Declarant shall be included as an additional insured in Declarant's capacity as an Owner or Director. The Owners shall be included as additional insureds, but only for claims and liabilities arising in connection with the ownership, existence, use or management of the Common Elements. The insurance shall cover claims of one or more insured parties against other insured parties.

Such comprehensive policy of public liability insurance shall include the following:

12.6.1 Coverage for contractual liability, liability for non-owned and hired automobiles, and, if applicable, bailee's liability, garagekeeper's liability, host liquor liability, employer's liability, and such other risks as shall customarily be covered with respect to projects similar to the Property in construction, location, and use.

12.6.2 A cross liability endorsement under which the rights of a named insured under the policy shall not be prejudiced with respect to an action against another insured.

12.6.3 A "severability of interest" endorsement which shall preclude the insurer from denying liability coverage to an Owner because of the negligent acts of the Association or another Owner.

The Board of Directors shall review the coverage limits at least once every two years, but, generally, the Board shall carry such amounts of insurance usually required by private institutional mortgage lenders on projects similar to the Property and in no event shall such coverage be less than \$1,000,000 for all claims for bodily injury or property damage arising out of one occurrence. Reasonable amounts of "umbrella" liability insurance in excess of the primary limits shall also be obtained in an amount not less than \$2,000,000.

At the election of the Board of Directors, the Board may also contract for commercial general liability insurance covering each Owner with respect to the ownership and use of the Condominium Units, as necessary or convenient to allow the Board, the Managing Agent and the Association to perform their respective duties in connection with the Common Elements. Notice of such coverage shall be given to the Owners as necessary to keep the Owners currently informed.

12.7 Fidelity Insurance. Fidelity insurance shall be maintained by the Association to protect against dishonest acts on the part of its officers, directors, trustees, and employees and on the part of all others who handle or are responsible for handling the funds belonging to or administered by the Association, regardless of whether such person receives compensation for services. Such insurance shall contain waivers by the issuers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees," or similar terms or expressions. In addition, if responsibility for handling funds is delegated to a Managing Agent, such insurance



shall be obtained by the Managing Agent for the Managing Agent and its officers, employees, and agents, as applicable, and shall contain the same coverages that are provided under the fidelity insurance obtained by the Association.

12.8 Flood Insurance. The Association shall maintain flood insurance on the Building and all improvements upon the Land, the Common Elements, and all personal property of the Condominium (except personal property of the Condominium Unit Owners).

12.9 Provisions Common to Property Damage Insurance, Liability Insurance, Fidelity Insurance and Flood Insurance. Any insurance coverage obtained by the Association under the provisions of this Article above shall be subject to the following provisions and limitations:

12.9.1 The named insured under any such policies shall include Declarant, until all the Condominium Units have been conveyed, and the Association, as attorney-in-fact for the use and benefit of the Owners, or the authorized representative of the Association including any trustee with whom the Association may enter into an insurance trust agreement, or any successor trustee, each of which is sometimes referred to in this Declaration as the "Insurance Trustee" and such Insurance Trustee will be recognized by an insurer providing insurance pursuant to this Article XII who shall have exclusive authority to negotiate losses and receive payments under such policies, and the "loss payable" clause should designate the Association or the Insurance Trustee, if any, who will act as trustee for each Owner and the holder of each Unit's Mortgage.

12.9.2 Each Owner shall be an insured person with respect to liability arising out of the Owner's interest in the Common Elements or membership in the Association.

12.9.3 In no event shall the insurance coverage obtained and maintained pursuant to this Article be brought into contribution with insurance purchased by the Owners or their First Mortgagees.

12.9.4 The policies shall provide that coverage shall not be prejudiced by: (i) any act or neglect of any Owner (including an Owner's family, tenants, servants, agents, invitees and guests) when such act or neglect is not within the control of the Association; or (ii) any act or neglect or failure of the Association to comply with any warranty or condition with regard to any portion of the Property over which the Association has no control; or (iii) conduct of any kind on the part of an Owner (including the Owner's family, tenants, servants, agents, invitees and guests) or any Director, officer, employee or Managing Agent of the Association, without prior demand to the Association and a reasonable opportunity to cure the matter.

12.9.5 The policies shall contain the standard mortgagee clause commonly accepted by private institutional mortgage investors in the area in which the Property is located, and provide that coverage may not be cancelled in the middle or at the end of any policy year or other period of coverage or substantially modified or reduced (including cancellation for nonpayment of premiums) without at least 30 days' prior written notice mailed to the Association and to each Owner and First Mortgagee to whom a certificate or memorandum of insurance has been issued, at their respective last known addresses.

12.9.6 The policies shall contain a waiver of subrogation by the insurer as to any and all claims against Declarant, the Board of Directors, the Association, the Managing Agent, and any

Owner or their respective agents, employees, or tenants, and in the case of Owners, members of their households, and of any defenses based upon co-insurance.

12.9.7 The policies described in this Article shall provide that any "no other insurance" clause shall expressly exclude individual Owners' policies from its operation so that the physical damage policy or policies purchased by the Board shall be deemed primary coverage, and any individual Owners' policies shall be deemed excess coverage.

12.10 Personal Liability Insurance of Officers and Directors. To the extent obtainable at a reasonable cost, appropriate officers' and directors' personal liability insurance shall be maintained by the Association to protect the officers and Directors from personal liability in relation to their duties and responsibilities in acting as such officers and Directors on behalf of the Association.

12.11 Other Insurance. The Association may obtain insurance against such other insurable risks of a similar or dissimilar nature as it deems appropriate with respect to the Association's responsibilities and duties.

12.12 Insurance Obtained by Owners. It shall be the responsibility of each Owner, at such Owner's expense, to maintain property damage insurance on such Owner's personal property and furnishings and public liability insurance covering such Owner's Unit. In addition, an Owner may obtain such other and additional insurance coverage on and in relation to the Owner's Condominium Unit as the Owner, in the Owner's sole discretion, shall conclude to be desirable. However, no such insurance coverage obtained by the Owner shall operate to decrease the amount which the Board of Directors, on behalf of all Owners, may realize under any policy maintained by the Board or otherwise affect any insurance coverage obtained by the Association or cause the diminution or termination of that insurance coverage. An Owner shall be liable to the Association for the amount of any such diminution of insurance proceeds to the Association resulting from insurance coverage maintained by the Owner, and the Association shall be entitled to collect the amount of the diminution from the owner as if the amount were a Default Assessment, with the understanding that the Association may impose and foreclose a lien for the payment due. Any insurance obtained by an Owner shall include a provision waiving the particular insurance company's right of subrogation against the Association and other Owners (including Declarant, should Declarant be the Owner of any Condominium Unit).

The Board of Directors may require an Owner who purchases additional insurance coverage for the Owner's Condominium Unit (other than coverage for the Owner's personal property) to file copies of such policies with the Association within 30 days after purchase of the coverage to eliminate potential conflicts with any master policy carried by the Association.

ARTICLE XIII

Casualty Damage

13.1 The Role of the Board of Directors. Except as provided in Section 13.6 the event of damage to or destruction of all or part of any Condominium Unit, Common Elements, or other property covered by insurance written in the name of the Association under Article XIII, the Board of Directors shall arrange for and supervise the prompt repair and restoration of the damaged areas of the Property, including, without limitation, the floor coverings, fixtures, and appliances initially installed therein by Declarant, and replacement thereof installed by the Owners up to the value of



those initially installed by Declarant, but not including any furniture, furnishings, fixtures, equipment, or other personal property supplied or installed by the Owners in the Condominium Units unless covered by insurance obtained by the Association. Notwithstanding the foregoing, each Owner shall have the right to supervise the redecorating of his or her Unit subject to the provisions of Section 10.1 above.

13.2 Estimate of Damage or Destruction. As soon as practicable after an event causing damage to or destruction of any part of the Property, unless such damage or destruction shall be minor, the Board of Directors shall obtain an estimate or estimates that it deems reliable and complete of the costs of repair and reconstruction of that part of the Property damaged or destroyed. "Repair and reconstruction" as used in this Article shall mean restoring the damaged or destroyed part of the Property to substantially the same condition in which it existed immediately prior to the damage or destruction, with each Unit and the Common Elements having substantially the same vertical and horizontal boundaries as before.

13.3 Repair and Reconstruction. As soon as practical after the damage occurs and any required estimates have been obtained, the Association shall diligently pursue to completion the repair and reconstruction of that part of the Property damaged or destroyed. As attorney-in-fact for the Owners, the Association may take any and all necessary or appropriate action to effect repair and reconstruction, and no consent or other action by any Owner shall be necessary. Assessments of the Association shall not be abated during the period of insurance adjustments and repair and reconstruction.

13.4 Funds for Repair and Reconstruction. Subject to the provisions of Section 13.6 below, the proceeds received by the Association from any hazard insurance carried by Association shall be used for the purpose of repair and reconstruction. If the proceeds of the Association's insurance are insufficient to pay the estimated or actual cost of such repair and reconstruction, the Association may, pursuant to Section 11.5 above, levy, assess, and collect in advance from the Owners a Special Assessment sufficient to provide funds to pay such estimated or actual costs of repair and reconstruction. The cost of repair and reconstruction in excess of insurance proceeds and reserves is a Common Expense.

13.5 Disbursement of Funds for Repair and Reconstruction. The insurance proceeds held by the Association and the amounts received from the Special Assessments provided for above, constitute a fund for the payment of the costs of repair and reconstruction after casualty. Such fund shall be applied by the Association as attorney-in-fact for such reconstruction, and the improvements shall be promptly repaired and reconstructed. The Association shall have full authority, right, and power, as attorney-in-fact to cause the repair and restoration of the improvements. It shall be deemed that the first money disbursed in payment for the costs of repair and reconstruction shall be made from insurance proceeds, and the balance from the Special Assessments. If there is a balance remaining after payment of all costs of such repair and reconstruction, such balance shall be distributed to the Owners in proportion to the contributions each Owner made as Special Assessments, or if no Special Assessments were made, then in proportionate shares on the basis of the allocation to the Owners of Common Expenses under Section 11.3.2 above, first to the First Mortgagees and then to the Owners, as their interests appear.

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13.6 Decision Not to Rebuild. Any portion of the Property for which insurance is required pursuant to the provisions of this Declaration or the Act which is damaged or destroyed must be repaired or replaced promptly by the Association unless:

- (i) The Property is terminated pursuant to Article XX below and the Act;
- (ii) Repair or replacement would be illegal under any state or local statute or ordinance governing health or safety;
- (iii) Owners representing at least 80% of votes in the Association, including the vote of every Owner of a Condominium Unit or assigned Limited Common Element that will not be rebuilt and including, during the Declarant Control Period, the vote of Declarant, the vote of at least 51% of First Mortgage Holders (based on one vote for each mortgage owned), and any other votes required by the Act, vote not to repair and reconstruct the Property;
- (iv) Prior to the conveyance of a Unit to a person other than the Declarant, the holder of a deed of trust or mortgage on the damaged portion of the Property rightfully demands all or a substantial part of the insurance proceeds.

If the entire Property is not repaired or replaced, the insurance proceeds attributable to the damaged Common Elements must be used to restore the damaged area to a condition compatible with the remainder of the Property, and, except to the extent that other persons will be distributees, the insurance proceeds attributable to Units and Limited Common Elements that are not rebuilt must be distributed to the Owners of those Units and the Owners of the Units to which those Limited Common Elements were allocated, or to lienholders, as their interests may appear, and the remainder of the proceeds must be distributed to all the Unit Owners or lienholders, as their interests may appear, in proportion to the Common Element interests of all the Units, as set forth on Exhibit "B". If Unit Owners vote not to rebuild any Unit, that Unit's allocated interests automatically shall be reallocated upon the vote as if the Unit had been condemned pursuant to N.C.G.S. §47C-1-107(a), and the Association promptly shall prepare, execute and record an amendment to this Declaration reflecting the reallocation. Unless otherwise prohibited, any such reconstruction or repair shall be substantially in accordance with the plans and specifications contained herein.

13.7 Priority of Repair. When the damage is to Common Elements, Limited Common Elements and Condominium Units, the insurance proceeds will be applied first to the costs of repairing the Common Elements, secondly to the cost of repairing the Condominium Units, and thirdly to the cost of repairing the Limited Common Elements.

13.8 Notice of Damage or Destruction to First Mortgagees. In the event that any portion of the Property encompassing more than one Unit is substantially damaged or destroyed by fire or other casualty, then written notice of the damage or destruction shall be given by the Association to each Owner and First Mortgagee of the affected Units within a reasonable time following the event of casualty damage.

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ARTICLE XIV
Association as Attorney-In-Fact

14.1 Appointment. Each Owner hereby irrevocably appoints the Association as the Owner's true and lawful attorney-in-fact in such Owner's name, place and stead for purposes of dealing with the Property upon its damage or destruction as provided in Article XIII, or a complete or partial taking as provided in Article XV below. In addition, the Association, or any insurance trustee or substitute insurance trustee designated by the Association, is hereby appointed as attorney-in-fact under this Declaration for the purpose of purchasing and maintaining insurance under Article XII above and to represent the Owners in any condemnation proceeding under Article XV below including: the collection and appropriate disposition of the proceeds of such insurance or any condemnation award; the negotiation of losses and the execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose. The Association, or any insurance trustee, shall hold or otherwise properly dispose of any insurance proceeds in trust for the Owners and their First Mortgagees, as their interests may appear. Acceptance by a grantee of a deed or other instrument of conveyance from Declarant or any other Owner conveying any portion of the Property shall constitute appointment of the Association as the grantee's attorney-in-fact, and the Association shall have full authorization, right, and power to make, execute, and deliver any contract, assignment, deed, waiver, or other instrument with respect to the interest of any Owner which may be necessary to exercise the powers granted to the Association as attorney-in-fact..

ARTICLE XV
Condemnation

15.1 Consequences of Condemnation. In the event of a taking by eminent domain, or by a conveyance in lieu thereof, of all or any part of the Property, the same shall be repaired or restored, and/or the awards paid on account thereof shall be used and applied in accordance with N.C.G.S. §47C-1-107.

15.2 Reorganization. In the event a partial taking results in the taking of a Unit, the Owners thereof shall automatically cease to be members of the Association, and their ownership interests in the Common Elements shall terminate and vest in the Owners of the remaining Condominium Units. Thereafter, subject to the provisions of the Act, the Association shall reallocate the ownership and assessment ratios determined in accordance with this Declaration and the Act, according to the same principles employed in this Declaration at its inception and as required under the Act and the Board of Directors of the Association shall amend this Declaration accordingly.

15.3 Repair and Reconstruction. Any repair and reconstruction necessitated by condemnation shall be governed by the procedures contained in Article XIII.

15.4 Notice of Condemnation. In the event that any portion of the Property shall be made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, then timely written notice of such condemnation shall be given by the Association to each Owner and First Mortgagee.

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ARTICLE XVI
Rights Reserved To First Mortgagees

16.1 Rights of First Mortgagees to Examine Books and Records. Any First Mortgagee, and any insurer or guarantor of loan secured by a mortgage, shall have the right to examine, during normal business hours and upon reasonable notice, the books and records of the Association, including copies of the Condominium Instruments, as amended, and the financial statements of the Association, and to be furnished, upon written request, at least one copy of annual financial statement and report of the Association, such annual statement and report to be furnished within ninety (90) days following the end of each fiscal year. If any First Mortgagee requests, and agrees to pay the cost of the audit, the financial statement shall be audited by an independent certified public accountant.

16.2 First Mortgagee's Rights to Notice. If any First Mortgagee, or any guarantor or insurer of a loan secured by a First Mortgage, has served written notice of its desire to receive notices upon the Association by certified mail, return receipt requested, addressed to the Association and sent to its address stated herein, identifying the Mortgage that it holds, guarantees, or insures, which notice designates the place to which notices are to be given by the Association to such party, then such party shall have the right to receive from the Association prompt written notice of the following:

16.2.1 Default under any of the terms provisions of the Condominium Instruments by any Owner owning a Unit encumbered by a First Mortgage held, insured, or guaranteed by such party.

16.2.2 Any loss or damage to or condemnation or taking of the Common Elements or any loss or damage to or condemnation or taking of a Unit encumbered by a First Mortgage held, insured or guaranteed by such mortgagee.

16.2.3 Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.

16.2.4 Any proposed action by the Association, the Board of Directors, or the Owners, which under the terms of the Condominium Instruments requires the consent of all or any portion of the First Mortgagees.

The failure of any First Mortgagee to respond within thirty (30) days to any written request of the Association, sent by registered or certified mail, return receipt requested, for approval of an addition or amendment to the Condominium Instruments wherever First Mortgagee approval is required shall constitute an approval by that mortgagee of the proposed addition or amendment.

16.3. First Mortgagees' Rights.

16.3.1 Rights of First Mortgagee to Insurance Proceeds or Condemnation Awards. With respect to first mortgages held by or for the benefit of First Mortgagees, no provision of this Declaration or the Bylaws shall be deemed to give a Unit Owner, or any other party, priority over any rights of a First Mortgagee pursuant to its first mortgage on said Unit Owner's Unit, in the case of a distribution to said Unit Owner of insurance proceeds or condemnation awards for losses to or a taking of Units and/or Common Elements.



16.3.2 Payment of Taxes and Insurance. First Mortgagees, jointly or singly, may pay taxes or other charges which are in default and which may or have become a charge against any of the Common Elements, and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for the Common Elements. First Mortgagees making such payments shall be owed reasonably prompt reimbursement from the Association.

16.3.3 Payment of Assessments. First Mortgagees shall be entitled to cure any delinquency of the Owner of the Condominium Unit encumbered by the First Mortgagee in the payment of assessments of which the First Mortgagee has received notice under Section 16.2 above. In that event, the First Mortgagee shall be entitled to obtain a release from the lien imposed or perfected by reason of such delinquency.

16.4 Title Taken by First Mortgagee. Any First Mortgagee who obtains title to a Condominium Unit pursuant to the remedies provided in the First Mortgage, including foreclosure of the First Mortgage, shall be liable for all Assessments due and payable as of the date title to the Condominium Unit vests in the First Mortgagee under the statutes of North Carolina governing foreclosures. Except as provided in the Act, such First Mortgagee shall not be liable for any unpaid dues and charges attributable to the Condominium Unit which accrue prior to the date such title vests in the First Mortgagee.

16.5 Enforcement. The provisions of this Article are for the benefit of all First Mortgagees and their successors, and may be enforced by any of them by any available means.

ARTICLE XVII

Ad Valorem Taxes

17.1 Ad Valorem Taxes. Pursuant to the provisions of N.C.G.S. §47C-1-105, each Unit and its appurtenant undivided interest in the Common Elements shall be deemed to be a parcel and shall be separately assessed and taxed by each assessing unit and special district for all types of taxes authorized by law, including but not limited to special ad valorem levies and special assessments. Each Unit Owner shall be liable solely for the amount of taxes against his individual Unit and shall not be affected by the consequences resulting from the tax delinquency of other Unit Owners. No part of the Property nor any of the Common Elements shall be deemed to be a parcel for separate tax listing purposes.

ARTICLE XVIII

Enforcement of Covenants

18.1 Violations Deemed a Nuisance. A violation of this Declaration or any other of the Condominium Instruments is deemed to be a nuisance and is subject to all the remedies provided for the abatement or correction of the violation. In addition, all public and private remedies allowed at law or equity against anyone in violation of these covenants will be available.

18.2 Compliance Each Owner or other occupant of any part of the property will comply with the provisions of the Condominium Instruments as the same may be amended from time to time.

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18.3 Failure to Comply. Failure to comply with the Condominium Instruments will be grounds for an action to recover damages or for injunctive relief to cause any such violation to be remedied, or both. Reasonable notice and an opportunity for a hearing as provided in the Bylaws will be given to the delinquent party prior to commencing any legal proceedings.

18.4 Who May Enforce. Any action to enforce the Condominium Instruments may be brought by Declarant, the Board or the Managing Agent in the name of the Association on behalf of the Owners, or any aggrieved Owners. Such an action may be brought against the Declarant, the Board, the Managing Agent, the Association or any Owner.

18.5 Cumulative Remedies for Default-Self-Help. All rights, remedies and privileges granted to the Association or the Owner or Owners of a Condominium Unit pursuant to any terms, provisions, covenants or conditions of the Condominium Instruments, shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be available to such party at law or in equity.

In addition to other rights set forth in the Condominium Instruments, the Board shall have the right: (i) to enter a Unit or Limited Common Element appurtenant thereto, on which or as to which such violation or breach exists and summarily to abet and remove, at the expense of the defaulting Owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions of the Condominium Instruments, and the Board shall not thereby be deemed guilty in any manner of trespass, (ii) to use self-help to remove or cure any violation of the Condominium Instruments (including, without limitation, the towing of vehicles); or (iii) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach; provided, however, that before any construction or improvements may be altered or demolished, except in emergencies, judicial proceedings shall be instituted by the Association against such defaulting Owner or its tenant.

18.6 Nonexclusive Remedies. All the remedies set forth herein are cumulative and not exclusive.

18.7 No Waiver. The failure of the Board of Directors, Declarant, the Managing Agent, or any aggrieved Owner to enforce the Condominium Instruments will not be deemed a waiver of the right to do so for any subsequent violations or of the right to enforce any other part of the Condominium Instruments at any future time.

18.8 No Liability. No member of the Board of Directors, the Declarant, the Manager or any Owner will be liable to any other Owner for the failure to enforce any of the Condominium Instruments at any time.

18.9 Recovery of Costs. If legal assistance is obtained to enforce any of the provisions of the Condominium Instruments, or in any legal proceeding (whether or not suit is brought) for damages or for the enforcement of the Condominium Instruments or the restraint of violations of the Condominium Instruments, the prevailing party will be entitled to recover all costs incurred by it in such action, including reasonable attorneys' fees as may be incurred and allowed by N.C.G.S. §47C-3-116(e)

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ARTICLE XIX
Enforcement; Mediation; Arbitration

19.1 Actions by Owners. If the Association, Board of Directors, or any Owner shall fail to perform any obligation imposed upon them by the Condominium Instruments, and such failure shall cause an immediate risk of substantial economic loss to any Owner, or shall significantly jeopardize the physical condition of the Property, or any part thereof, then any Owner shall have the right to perform such obligation and to exercise any authority otherwise delegated to the Board, or any other Owner, necessary to perform such obligation. If an obligation so performed was the obligation of an Owner, the reasonable cost of performing such obligation shall be immediately due and payable from the Owner who has failed to perform the obligation to the Owner who performed it. If an obligation so performed was the obligation of the Association or the Board of Directors, the reasonable cost of performing such obligation shall be a Common Expense.

19.2 Mediation. Each Owner, by accepting a deed to a Unit, agrees that any Owner or the Association may require that any Dispute among the Owners or before the Board of Directors or before the Association be submitted to non-binding mediation, prior to pursuing any other remedies. The fees and expenses of mediation shall be paid by the participants and shall not be a Common Expense unless all Owners so agree in writing.

19.3 Arbitration. Each Owner, by accepting a deed to a Unit, agrees that any Owner or Association may require that any Dispute between the Owners or before the Board of Directors or before the Association be submitted to binding arbitration pursuant to the Uniform Arbitration Act set forth in N.C.G.S. §1-567.1 et seq. as the same shall be amended from time to time. The fees and expenses of arbitration shall be paid as set forth in the award and shall not be a Common Expense unless all Owners so agree in writing.

19.4 Civil Suit. Any Owner may also bring a civil action against any other Owner, or against the Association, or against the Board of Directors, or any one or more of them to enforce any obligation imposed hereunder.

ARTICLE XX
Termination

20.1 Amendments Proposed by Association. An amendment or amendments to this Declaration may be proposed by the Board of Directors of the Association acting upon a vote of a majority of the Directors, or by the members of the Association owning a majority of the Condominium Units, whether meeting as members or by instrument in writing signed by them. Upon any amendment or amendments to this Declaration being proposed by said Board of Directors or members, such proposed amendment or amendments shall be transmitted to the President of the Association, or other officer of the Association in the absence of the President who shall either:

(a) call a Special Meeting of the members of the Association for a date not later than sixty (60) days from receipt by him of the proposed amendment or amendments. It shall be the duty of the Secretary to give to each member written notice of such Special Meeting, stating the time and place thereof, and reciting the proposed amendment or amendments in reasonably detailed form, which notice shall be mailed not less than fourteen (14) days nor more



than thirty (30) days before the date set for such Special Meeting. If mailed, such notice shall be deemed to be properly given when deposited in the United State Mail addressed to the member at his Post Office address as it appears on the records of the Association, the postage thereon prepaid. Any member may, by written waiver of notice signed by such member waive such notice, and such waiver, when filed in the records of the Association, whether before or after the holding of the meeting, shall be deemed equivalent to the giving of notice to such member. At the meeting, the amendment or amendments proposed must be approved by an affirmative vote of at least sixty-seven percent (67%) of the votes in the Association which are allocated to Unit Owners in the Condominium in order for such amendment or amendments of this Declaration to be adopted. Any such amendment or amendments as adopted shall be transcribed and certified by the President and Secretary of the Association as having been duly adopted. The original or an executed copy of such amendment or amendments, so certified and executed with the same formalities as a deeds hall be recorded in the Register of Deeds Office of Dare County, North Carolina, such amendment or amendments to specifically refer to the recording data identifying this Declaration. Thereafter, a copy of said amendment or amendments in the form in which the same were placed of record by the officers of the Association shall be delivered to the Owners of all Condominium Units, but delivery of a copy thereof shall not be a condition precedent to the effectiveness of such amendment or amendments. At any meeting held to consider such amendment or amendments, the written vote of any member of the Association shall be recognized if such member is not in attendance at such meeting or represented thereat by proxy, provided such written vote is delivered to the Secretary of the Association prior to such meeting or at such meeting; or

(b) as an alternative to holding a meeting of the members to consider an amendment of this Declaration, a written agreement may be circulated among the members. To be effective, the written agreement must be executed by Unit Owners of Units to which at least sixty-seven percent (67%) of the votes of the Association are allocated. Once approved, the amendment or amendments shall be transcribed, executed, recorded and a copy sent to all Owners as specified above.

20.2 Amendments by Declarant. A Declarant may amend the Declaration as set forth herein and in the Act without the consent of any other person or the Association to exercise Development Rights.

20.3 Amendments Requiring Declarant Consent. During the Declarant Control Period reserved by the Declarant to exercise Development Rights, this Declaration may not be amended without the prior written consent of the Declarant. Except to the extent expressly permitted by the Act or other provisions of this Declaration (in compliance with the Act), no amendment may create or increase Special Declarant Rights, create or increase Development Rights, increase the number of Units, change the boundaries of any Unit, change the allocated interest of any Unit, or change the uses to which any Unit is restricted in the absence of unanimous consent of the Unit Owners.

ARTICLE XXI

Miscellaneous Provisions

21.1 Severability. This Declaration, to the extent possible, will be construed or reformed so as to give validity to all of its provisions. Any provision of this Declaration found to be prohibited by law or unenforceable will be ineffective to the extent of such prohibition or unenforceability without invalidating any other part hereof.



21.2 Captions. The headings are included only for purposes of convenient reference, and they will not affect the meaning or interpretation of this Declaration.

21.3 Waiver. No failure on the part of the Association or the Board to give notice of default or to exercise or to delay in exercising any right or remedy will operate as a waiver, except as specifically provided above in the event the Board fails to respond to certain requests. No waiver will be effective unless it is in writing and signed by the President or Vice President of the Board on behalf of the Association.

21.4 Limitation of Liability. Neither the Association nor any officer or member of the Board will be liable to any party for any action or for any failure to act with respect to any matter arising by, through or under the Condominium Instruments if the action or failure to act was made in good faith. The Association will indemnify all of the officers and Board members with respect to any act taken in their official capacity to the extent provided in this Declaration and by law and in the Articles of Incorporation and Bylaws.

21.5 Conflicts Between Documents. In case of conflict between this Declaration and the Articles of Incorporation or the Bylaws, this Declaration will control. In case of conflict between the Articles of Incorporation and the Bylaws, the Articles of Incorporation will control.

21.6 Law Controlling. This Declaration and the Condominium Instruments shall be construed and controlled by and under the laws of the State of North Carolina.

21.7 Liberal Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan of condominium ownership as provided in the North Carolina Condominium Act. Specific language shall control over general language. Throughout this Declaration, wherever appropriate, the singular shall include the plural and the masculine gender the feminine or neuter as the context permits or requires.

21.8 Joinder of Trustee and Beneficiary. Trustee and Beneficiary join in the execution of this Declaration to consent to the terms of the same and subordinate the lien of any deed of trust to the Trustee for the benefit of Beneficiary encumbering the Property to the provisions of this Declaration.



IN WITNESS WHEREOF, Declarant has executed this Declaration the day and year below subscribed.

DECLARANT:

FIRST FLIGHT RETREAT, LLC,
a North Carolina limited liability company

By: CAROLINA RESORT GROUP LLC
(its Manager)

By: [Signature]
Jeffrey E. Fabrikant, Manager

By: [Signature]
Randy M. Saunders, Manager

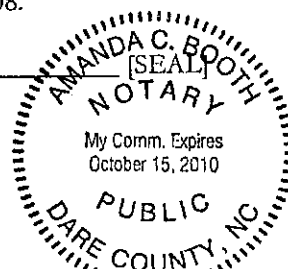
STATE OF NC COUNTY OF Dare

I, the undersigned, a Notary Public of the County and State aforesaid, certify that Jeffrey E. Fabrikant personally came before me this day and acknowledged that he is the Manager of Carolina Resort Group LLC, a North Carolina limited liability company (the "Second Company"), Manager of First Flight Retreat, LLC, a North Carolina limited liability company, (the "Company") and that by authority duly given and (a) as the act of the Company and (b) as the act of Second Company, the foregoing instrument was signed in the name of the Company and in the name of the Second Company by the Company's Manager.

Witness my hand and official stamp or seal, this 30 day of June, 2008.

My commission expires:

[Signature]
Notary Public



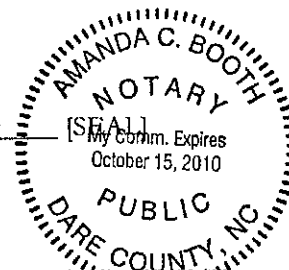
STATE OF NORTH CAROLINA
COUNTY OF DARE

I, the undersigned, a Notary Public of the County and State aforesaid, certify that Randy M. Saunders personally came before me this day and acknowledged that he is the Manager of Carolina Resort Group LLC, a North Carolina limited liability company (the "Second Company"), Manager of First Flight Retreat, LLC, a North Carolina limited liability company, (the "Company") and that by authority duly given and (a) as the act of the Company and (b) as the act of Second Company, the foregoing instrument was signed in the name of the Company and in the name of the Second Company by the Company's Manager.

Witness my hand and official stamp or seal, this 30 day of June, 2008.

My commission expires:

[Signature]
Notary Public



TRUSTEE:

By: Jennifer J. Bush (SEAL)
Name: Jennifer J. Bush
Title: Trustee

BENEFICIARY:

FULTON BANK AS SUCCESSOR BY
MERGER TO RESOURCE BANK

By: Jennifer J. Bush (SEAL)
Name: Jennifer J. Bush
Title: Senior Vice President

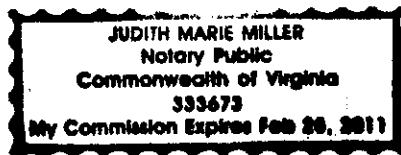
COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF Fairfax

I, the undersigned, a Notary Public of the County and State aforesaid, certify that Jennifer J. Bush, Trustee personally came before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal, this 26th day of June, 2008.

My commission expires:
2-28-11

Judith Marie Miller [SEAL]
Notary Public Judith Marie Miller



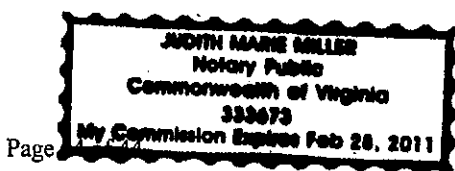
COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF Fairfax

I, the undersigned, a Notary Public of the County and State aforesaid, certify that Jennifer J. Bush personally came before me this day and acknowledged that she is Senior Vice President of Fulton Bank as successor by merger to Resource Bank., a banking corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Senior Vice President and attested by her as its Senior Vice President.

Witness my hand and official stamp or seal, this 26th day of June, 2008.

My commission expires:
2-28-11

Judith Marie Miller [SEAL]
Notary Public Judith Marie Miller



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First Flight Retreat Declaration 06/20/08

EXHIBIT "A"
To Declaration

Being Lot Nos. 1, 2, 3, 4 and 5, of the subdivision known as First Flight Retreat as shown on the certain plat or map entitled "Survey For First Flight Retreat, L.L.C. Lots 1, 2, 3, 4 & 5, First Flight Retreat, Plat Cab. F, Slide 305, Town of Kill Devil Hills, Atlantic Township, Dare County, North Carolina, Surveyed 6-8-05", prepared by William S. Jones, Jr. RLS, P.A., dated June 8, 2005 and duly recorded in Plat Cabinet G, Slide 322 of the Public Registry of Dare County, North Carolina and being more particularly described as follows;

COMMENCING from an existing iron pin in concrete in the Eastern edge of the right of way of North Carolina Highway 12 (also known as Virginia Dare Trail), said highway having a right of way of 60 feet at the said commencing point and said commencing point being located on the Western boundary of the property now or formerly owned by Steve & Karen Sawin, as described in deed book 430 at page 532, thence from the said commencing point North 17 deg. 57 min. 28 sec. West 51.38 feet to an existing iron pin in the Southwest corner of the herein described lot being the point and place of BEGINNING, thence from the existing iron pin in the Southwest corner of the herein described lot North 17 deg. 57 min. 28 sec. West 255.42 feet to an existing concrete monument; then corning North 72 deg. 50 min. 35 sec. East 400.00 feet together with the Southern boundary of Lot 5 of Baum Beach as shown in Plat Cabinet E, Slide 471, to an existing iron pin (being the Northern terminus of the Tie Line, which corners South 25 deg. 41 min. 29 sec. East 252.95 feet to an existing iron pipe in the Southern boundary of the herein described property); thence continuing on from the said existing iron pin North 72 deg. 50 min. 35 sec. East 238.00 feet more or less to a point in the approximate mean high water line (as determined on June 8, 2005); then corning and heading in a generally Southern direction along the mean high water line approximately 255.42 feet to a point; then corning South 72 deg. 09 min. 02 sec. West 201 feet more or less to an existing iron pipe (said iron pipe being the Southern terminus of the Tie Line described above); thence continuing on from the said existing iron pipe, South 72 deg. 09 min. 02 sec. West 434.00 to the point and place of beginning.



| EXHIBIT B | | | |
|------------------------------|----------------|------------------------|--------------------------|
| SCHEDULE OF UNIT INFORMATION | | | |
| | | Percentage of | |
| | | Undivided Interest in | |
| | | Common Elements | |
| Unit Number | Square Footage | And of Common Expenses | Votes in the Association |
| 101 | 1,060 | 2.53% | 2.53 |
| 102 | 716 | 1.71% | 1.71 |
| 103 | 1,136 | 2.71% | 2.71 |
| 104 | 1,061 | 2.53% | 2.53 |
| 105 | 1,073 | 2.56% | 2.56 |
| 107 | 1,073 | 2.56% | 2.56 |
| 108 | 716 | 1.71% | 1.71 |
| 109 | 716 | 1.71% | 1.71 |
| 114 | 728 | 1.74% | 1.74 |
| 115 | 716 | 1.71% | 1.71 |
| 116 | 1,060 | 2.53% | 2.53 |
| 110 | 997 | 2.38% | 2.38 |
| 111 | 997 | 2.38% | 2.38 |
| 112 | 728 | 1.74% | 1.74 |
| 201 | 1,060 | 2.53% | 2.53 |
| 202 | 716 | 1.71% | 1.71 |
| 203 | 1,136 | 2.71% | 2.71 |
| 204 | 1,060 | 2.53% | 2.53 |
| 205 | 1,073 | 2.56% | 2.56 |
| 207 | 1,073 | 2.56% | 2.56 |
| 208 | 716 | 1.71% | 1.71 |
| 209 | 716 | 1.71% | 1.71 |
| 214 | 716 | 1.71% | 1.71 |
| 215 | 716 | 1.71% | 1.71 |
| 216 | 1,060 | 2.53% | 2.53 |
| 217 | 1,150 | 2.74% | 2.74 |
| 210 | 997 | 2.38% | 2.38 |
| 211 | 1,002 | 2.39% | 2.39 |
| 212 | 1,045 | 2.49% | 2.49 |
| 301 | 1,142 | 2.72% | 2.72 |
| 302 | 716 | 1.71% | 1.71 |
| 303 | 1,136 | 2.71% | 2.71 |
| 304 | 1,020 | 2.43% | 2.43 |
| 305 | 1,073 | 2.56% | 2.56 |
| 307 | 1,073 | 2.56% | 2.56 |
| 308 | 716 | 1.71% | 1.71 |
| 309 | 716 | 1.71% | 1.71 |
| 314 | 716 | 1.71% | 1.71 |
| 315 | 716 | 1.71% | 1.71 |
| 316 | 1,020 | 2.43% | 2.43 |
| 317 | 716 | 1.71% | 1.71 |
| 318 | 1,148 | 2.74% | 2.74 |
| 310 | 997 | 2.38% | 2.38 |
| 311 | 1,002 | 2.39% | 2.39 |
| 312 | 1,045 | 2.49% | 2.49 |
| TOTAL: | 41,961 | 100.00% | 100.00 |



EXHIBIT "C"

To Declaration

BY-LAWS

OF

**815 SOUTH VIRGINIA DARE TRAIL
UNIT OWNERS' ASSOCIATION, INC.**

ARTICLE I

NAME, PURPOSE, APPLICABILITY AND ASSENT

1.1 Name. The name of this non-profit, non-stock membership corporation shall be 815 South Virginia Dare Trail Unit Owners' Association, Inc., hereinafter referred to as "the Association."

1.2 Purpose. The purpose of the Association shall be to administer and manage the affairs of First Flight Retreat Condominiums, a Condominium established pursuant to the terms of that Declaration of Condominium for First Flight Retreat Condominiums filed in the Public Registry of Dare County, North Carolina as amended, supplemented or restated (the "Declaration") in accordance with the Unit Ownership Act, the Non-profit Corporation Act of North Carolina, this Declaration, and the Articles of Incorporation and these By-Laws, as may be amended from time to time. The Association shall not engage in any activities other than those directly related to administration of the condominium property and the Unit Owners' responsibility with respect to the same.

1.3 Applicability. These By-Laws are applicable to the property known as First Flight Retreat Condominiums, as such property is described in Exhibit "A" attached to the Declaration.

1.4 Assent. These By-Laws are binding on all present and future Owners, tenants, guests, residents, or other persons occupying or using the facilities of such condominium property. The mere acquisition, rental, or act of occupancy of any part of the condominium property will signify that these By-Laws are accepted, ratified, and will be complied with. The provisions of the Declaration, regarding the governing and administration of the Association are incorporated herein by reference. The acceptance of a deed of conveyance or the entering into of a lease or the act of occupancy of a Unit shall constitute an agreement that these Bylaws (and any Rules of Conduct made pursuant hereto) and the provisions of the Declaration, as they may be amended from time to time, are accepted, ratified and will be complied with.

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ARTICLE II DEFINITIONS

2.1 Definitions The definition of words contained in the Declaration, Article I shall apply to those words and terms as used in these By-Laws.

ARTICLE III OFFICES, REGISTERED AGENT, FISCAL YEAR, POWERS

3.1 Principal Office, Registered Office. The principal office of the Association shall be located at 815 South Virginia Dare Trail, Kill Devil Hills, North Carolina or such other places as the Board of Directors may designate from time to time.

3.2 Registered Agent. The initial Registered Agent for the Unit Owners for matters incident to the condominium property and the initial Registered Agent for the Association is Daniel D. Khoury, whose address is Post Office Box 2, Kitty Hawk, North Carolina 27949. The individual serving as Registered Agent may be removed from office and replaced at any time by vote of the Board of Directors of the Association.

3.3 Fiscal Year. The fiscal year of the Association shall be January 1 through December 31.

3.4 Powers. The Association shall have all the common law and statutory powers of non-profit corporations. The Association shall also have all the powers necessary to implement the purposes of the Association and to provide for the general health and welfare of its membership.

ARTICLE IV MEMBERSHIP

4.1 Qualification. Membership in the Association shall be confined to and consist of the Unit Owners. Membership shall be appurtenant to and inseparable from unit ownership. No Unit Owners shall be required to pay any consideration whatsoever for his membership. Membership in the Association shall inure automatically to Unit Owners upon acquisition of the fee simple title, whether encumbered or not, to any one or more Units. The date of registration of the conveyance in the Dare County Registry of the Unit in question shall govern the date of ownership of each particular Unit. However, in the case of death, the transfer of ownership shall occur on the date of death in the case of intestacy, or date of probate of the will in the case of testacy. Until a decedent's will is probated, the Association may rely on the presumption that a deceased Owner died intestate.

4.2 Annual Meeting. There shall be a regular annual meeting of the Unit Owners held each year during the same month of each succeeding year, for the purpose of electing members of the Board and for the transaction of such other business as may be properly brought before the meeting. A meeting so called shall be designated and treated for all purposes as the annual meeting. The first meeting of the membership, whether a regular or Special Meeting shall be held within ninety (90) days after the expiration of one year from the date of recordation of the Declaration in the Public Registry of Dare County, North Carolina and shall be set by the Declarant.

4.3 Place of Meetings. Meetings of the Association shall be held at First Flight Retreat Condominiums 815 South Virginia Dare Trail Kill Devil Hills, North Carolina, or such other place as determined by the Board.

4.4 Special Meetings. Special meetings of the Association may be called at any time by the President of the Association, or by a majority of the Board of Directors, by the Declarant during the Declarant Control Period, or upon written request of Members who are collectively entitled to vote at least 20% of all the votes in the Association. The Notice of any Special Meeting shall state the date, time and place of such meeting and the purpose thereof. No business shall be transacted at a Special Meeting except as stated in the Notice.

4.5 Notice of Meetings. Written notice stating the place, day and hour of the meeting and the agenda for the meeting will be delivered not less than ten (10) days nor more than fifty (50) days before the date of the meeting, personally or by mail, or sent via electronic mail to those Unit Owners and authorized recipients who have given consent for electronic transmission or otherwise as permitted by the Act, by or at the direction of the President, or the Secretary, or the persons calling the meeting as provided in these Bylaws, to the registered mailing address for notice of each Member entitled to vote at such meeting.

4.6 Quorum. A quorum is deemed present throughout any meeting of the Association if Members entitled to cast (or proxies entitled to cast) 20% of the votes of the Association are present at the beginning of the meeting. If, however, such quorum is not present or represented at the meeting, the Members entitled to vote at the meeting will have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present or represented by proxy.

4.7 Majority of Owners. As used in these Bylaws, the term "majority" will mean those votes, Owners, or other groups as the context may indicate totaling more than 50% of the total number.

4.8 Voting by Mail. Voting by mail is permitted for election of the Board of Directors, amendment of the Articles, adoption of a proposed plan of merger, consolidation or dissolution pursuant to the provisions of the Act and the North Carolina Nonprofit Corporation

Act, each as amended from time to time, or other questions that come before the Association. In the case of a vote by mail, the Secretary of the Association will give written notice to all Members, which notice will include a proposed written resolution setting forth a description of the proposed action, a statement that the Members are entitled to vote by mail for or against such proposal, a statement of a date not less than 20 days after the date such notice will have been given by which all votes must be received, and the specified address of the office to which all votes must be sent. Votes received after that date will not be effective. Delivery of a vote in writing to the designated office will be equivalent to receipt of a vote by mail at such address for the purpose of this section.

4.9 Proxies. Any Member may cast such Member's vote in person or by proxy executed in writing by the Member. A proxy executed as a part of a Rental Management Agreement and Proxy (the "Rental Proxy") shall remain valid and in full force and effect during the term of the related Rental Management Agreement and Proxy unless otherwise terminated by written notice. A proxy that is not a Rental Proxy will be Non-Rental Proxy. No Non-Rental Proxy will be valid if it is not dated or if it purports to be revocable without notice. Further, no Non-Rental Proxy will be valid after eleven months from the stated date of its execution unless otherwise provided in the Non-Rental Proxy or unless voluntarily revoked upon notice, amended, or sooner terminated by operation of law. Finally, no proxy will be valid unless filed with the Secretary of the Association at or before the appointed time of the meeting at which the proxy will be voted.

4.10 Actions Binding on Members. A majority of votes intended to be cast by Members constituting a quorum in person or by proxy will be sufficient to make decisions binding on all Owners, unless a different number or method of voting is expressly required by statute or by the Declaration, the Articles or these Bylaws.

4.11 Designation of Voting Representative by Non-Individual Owners -- Requirement for Proxy. If title to a Condominium Unit is held in whole or in part by a firm, corporation, partnership, association, limited liability company or other legal entity, the voting privilege appurtenant to that ownership may be exercised only by a proxy executed on behalf of such party or parties, filed with the Secretary of the Association, and appointing and authorizing one person or alternate persons to attend all annual and special meetings of the Members and to cast the vote allocated to that Condominium Unit at the meeting.

4.12 Designation of Voting Representative by Multiple Owners -- Use of Proxy. If title to a Condominium Unit is held by more than one Owner, each Owner may vote or register protest to the casting of votes by the other Owners of the Condominium Unit through a duly executed proxy, and if a majority of the Owners for a Condominium Unit cannot agree, then the Owners of such Condominium Unit will not be entitled to vote. An Owner may not revoke a proxy given pursuant to this Section except by actual notice of revocation to the person presiding over a meeting of the Association.



4.13 Waiver of Notice. Waiver of notice of a meeting of the Members will be deemed the equivalent of proper notice. Any Member may waive, in writing, notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by a Member, whether in person or by proxy, will be deemed waiver by such Member of notice of the time, date and place of the meeting unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting will also be deemed waiver of notice of all business transacted at the meeting unless objection to the calling or convening of the meeting, of which proper notice was not given, is raised before the business is put to a vote.

4.14 Action Without a Meeting. Any action which may be taken by the vote of the Members at a regular or special meeting may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the members.

4.15 Conduct of Meetings. The President shall preside over all meetings and the Secretary shall keep minutes of the meeting in a record in a minute book with all resolutions adopted at a meeting, as well as a record of all transactions occurring thereat.

ARTICLE V BOARD OF DIRECTORS; SELECTION; TERM OF OFFICE

5.1 Number, Qualification and Initial Board. The affairs of the Association will be managed by a Board of not less than three and no more than five Directors. Except as provided below regarding Directors appointed by Declarant during the Declarant Control Period, the Directors will be Members of the Association or the delegates of Members appointed by proxy under Article IV above. The number of the Board of Directors will be established from time to time by amendment to these Bylaws.

The initial number of members of the Board of Directors will be three. The names and addresses of the three persons who are to serve on the initial Board of Directors until their successors are appointed are as follows: Marvin Fabrikant, Jeff Fabrikant and Randy Saunders.

5.2 Directors During Declarant Control Period. During the Declarant Control Period the Board of Directors will be selected by Declarant and will serve at the sole discretion of Declarant, subject, however, to the provisions of the Act. The Directors selected by Declarant need not be Members of the Association.

5.3 Election of Directors After Declarant Control Period. Upon termination of the Declarant Control Period in accordance with the Declaration, a special meeting of the Association will be called, at which Declarant will turn control of the Association over to the other Members as provided in the Act. The Members will elect a new Board of Directors, and

any terms of Directors appointed by Declarant that have not expired will terminate at that time. Subsequently, Directors will be elected by the Members at each annual meeting of the Members.

5.4 Term of Office of Directors After Declarant Control Period. The term of office for the initial full slate of Directors elected by the Members will be fixed at the time of their election as they themselves will determine in order to establish a system of three-year terms in which at least one-third of the Board is elected each year, and the Board will identify in which year the directorships for each category of representation are subject to election. For example, if the number of Directors on the initial Board is set at three pursuant to Section 5.1 above, one Director will serve for a one-year term, one Director will serve for a two-year term, and one Director will serve for a three-year term. At the expiration of the initial term of office of each respective Director, a successor will be elected to serve three years. Each Director will hold office until such Director's successor is elected by the Members and qualified to take over the office.

5.5 Removal of Directors. Any Director other than one appointed by Declarant may be removed, with or without cause, at any regular or special meeting of the Members by 67% of the votes of the Members voting in person or by proxy at a meeting at which a quorum is present. A successor to any Director removed may be elected at such meeting to fill the vacancy created by removal of the Director. A Director whose removal is proposed by the Members will be given notice of the proposed removal at least 10 days prior to the date of such meeting and will be given an opportunity to be heard at such meeting.

5.6 Vacancies.

(a) During Declarant Control Period. During the Declarant Control Period, if a Director appointed by Declarant dies, becomes disabled or resigns, Declarant will appoint a new Director to serve the balance of the term of the resigning, disabled or deceased Director; and if a Director elected by the Members dies, becomes disabled or resigns, the remaining Directors will appoint a new Director from among the Members other than Declarant to serve the remainder of the term of the resigning, disabled or deceased Director representing Members other than Declarant.

(b) Following Declarant Control Period. After the expiration or termination of the Declarant Control Period, any vacancy occurring on the Board may be filled by the affirmative vote of a majority of the remaining Directors, though less than a quorum of the Board of Directors. The term of the Director so elected will be coincident with the term of the replaced Director.

5.7 Compensation. No Director will receive compensation for any service rendered to the Association. However, any Director may be reimbursed for actual expenses incurred in the performance of his duties as a Director.

ARTICLE VI MEETING OF DIRECTORS

6.1 Regular Meetings. Regular meetings of the Board of Directors will be held at such regular times as set by the Board of Directors, at such place and hour as may be fixed from time to time by resolution of the Board, but such meetings will be held no less frequently than annually. Should a regularly scheduled meeting fall upon a legal holiday, then that meeting will be held at the same time on the next day which is not a legal holiday.

6.2 Special Meetings. Special meetings of the Board of Directors will be held when called by the President of the Association, or by any two Directors, after not less than three days' notice to each Director.

6.3 Quorum. A quorum is deemed present throughout any meeting of the Board of Directors if persons entitled to cast 50% of the votes on the Board are present at the beginning of the meeting.

6.4 Actions Binding on Directors. Every action taken or decision made by a majority of the Directors present at a duly held meeting at which a quorum is present will be regarded as the act of the Board.

6.5 Waiver of Notice. Attendance of a Director at any meeting will constitute a waiver of notice of such meeting, except when a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Before, at, or after any meeting of the Board of Directors, any member of the Board may waive in writing notice of such meeting, and such waiver will be deemed equivalent to the giving of such notice. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the waiver of notice of such meeting.

6.6 Action Taken Without a Meeting. The Directors will have the right to take any action which they could take at a meeting in the absence of a meeting by obtaining the written approval of all the Directors. Any action so approved will have the same effect as though taken at a meeting of the Directors.

ARTICLE VII POWERS AND DUTIES OF THE BOARD OF DIRECTORS

7.1 General. The Board of Directors will have the powers and duties necessary for the administration of the affairs of the Association. Except as provided by these Bylaws, the Declaration or the Act, the Board of Directors may do all such acts and things which are not

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specifically required to be done by the Members and may otherwise act in all instances on behalf of the Association.

7.2 Specific Powers and Duties. Without limiting the generality of powers and duties set forth in Section 7.1 above, the Board of Directors will have the following powers and duties, in each case subject only to applicable requirements of the Act:

(a) To administer and enforce the covenants, conditions, restrictions, easements, uses, limitations, obligations and all other provisions set forth in the Declaration.

(b) To establish, make, amend from time to time and enforce compliance with such reasonable Rules of Conduct be necessary for the operation, use, and occupancy of the Project, subject to the provisions of the Declaration. A copy of such Rules of Conduct will be delivered or mailed to each Member promptly after adoption. The initial Rules of Conduct are attached hereto as Appendix "A".

(c) To keep in good order, condition and repair all the Common Elements and all items of personal property, if any, used in the enjoyment of the Common Elements. No approval of the Members is required for expenditures for these purposes, except as otherwise required by the Declaration or these Bylaws.

(d) To fix, determine, levy, and collect the prorated Annual Assessments to be paid by each of the Members towards the gross expenses of the Property, and to adjust, decrease or increase the amount of the Assessments, and to credit any excess of Assessments over expenses and cash reserves to the Members against the next succeeding Assessment period.

(e) To levy and collect Special Assessments per Section 11.5 of the Declaration whenever, in the opinion of the Board, it is necessary to do so in order to meet increased operating or maintenance expenses or costs, or additional capital expenses, or because of emergencies. All Special Assessments will be in statement form and will set forth in detail the various expenses for which the Special Assessments are being made.

(f) To levy and collect Default Assessments per Section 11.6 of the Declaration for violation of the Condominium Instruments or because the Association has incurred an expense on behalf of a Member under the Condominium Instruments.

(g) To collect delinquent Assessments by suit or otherwise and to enjoin or seek damages from an Owner as provided in the Declaration and these Bylaws; and to exercise other remedies for delinquent Assessments as set forth in the Declaration.

(h) To fix, determine, levy and collect the working capital funds to be paid by each of the Members towards the Capital Improvement Fund of the Association, and to adjust,



decrease or increase the amount of working capital funds collected from each Member as provided in the Declaration.

(i) Imposing charges for late payment of assessments and, after notice and an opportunity to be heard, levy reasonable fines for violations of the Declaration, the Bylaws, or Rules of Conduct established by the Association, all in accordance with Section 7.5 below and Sections 47C-3-107 and 47C-3-107A of the Act.

(j) To enter into contracts within the scope of their duties and powers.

(k) To establish a bank account for the operating account of the Association and for all separate funds as required or deemed advisable by the Board of Directors.

(l) To cause to be kept and maintained full and accurate books and records showing all of the receipts, expenses or disbursements and to permit examination thereof by Members or their Mortgagees during convenient weekday business hours.

(m) To cause to be maintained the insurance coverages (including without limitation fidelity insurance, or in its place, a bond covering the Manager, the Board, the officers and any other persons charged with handling Association funds) as may be necessary to comply with the requirements of the Declaration, these Bylaws and the Act.

(n) To delegate to the Manager or any other person or entity such of the Association's duties or responsibilities as may be more conveniently or efficiently performed by someone other than by the Association, and to agree to assess to the Members a reasonable fee for such services, except that the duties set forth in subparagraphs (c), (f), (g), (h) and (i) of this Section 7.2 and duties reserved to the Board by law will not be so delegated.

(o) To prepare a budget before the close of each fiscal year of the Association and submit the budget to the Association as required by the Act.

7.3 Manager. The Board of Directors may employ for the Condominium Association a professional management agent or agents as Manager for compensation established by the Board of Directors to perform such duties and services as authorized by the Board of Directors. During the Declarant Control Period, the Manager may be an affiliate of the Declarant. The Board of Directors may delegate to the Manager, subject to the Board's supervision, all of the powers granted to the Board of Directors by these Bylaws, other than the powers set forth in subparagraphs (f), (g), (h), and (i) of Section 7.2 of this Article and duties reserved to the Board by law. Declarant, or an affiliate or employ of Declarant, may be employed as Manager, subject to the limitations of the Act. The Manager or its designated agents shall have the authority to enter into rental management agreement and proxy contracts with Unit Owners. If the Board

delegates powers of the Board or officers of the Association relating to collection, deposit, transfer or disbursement of Association funds to the Manager (other than Declarant):

(a) the Manager will maintain fidelity insurance coverage or a bond as required by the Declaration;

(b) the Manager will maintain all funds and accounts of the Association separate from the funds and accounts of other associations managed by the Manager and will maintain all reserve accounts of each association so managed separate from operational accounts of the Association, each with appropriate access controls, and the bank where the accounts are located must send copies of monthly bank statements directly to the Association, and the Manager will not have authority to draw checks on, or to transfer funds from, the Association's reserve account; and

(c) an annual accounting for Association funds and a financial statement will be prepared and presented to the Association by any one of the following: the Manager, a public accountant, or a certified public accountant.

If a professional manager is employed, the management agreement must be for a specified term (not to exceed three years) and must contain specific termination provisions. Such termination provisions may not require the payment of any penalty for termination or require advance notice of termination in excess of 90 days. Declarant may enter into a management agreement before the expiration of the Declarant Control Period, but the management agreement must provide that the Association has the right to terminate the management agreement without cause and such right may be exercised by the Association at any time after the expiration of the Declarant Control Period.

7.4 Abatement and Enjoinment of Violations by Unit Owners. The violation of any Rule of Conduct adopted by the Board or the breach of any bylaw contained herein, or the breach of any provision of the Declaration, shall give the Board the right, in addition to any other rights set forth in these Bylaws: (a) to enter the Unit in which, or as to which, such violation or breach exists, and to make any repairs, and to summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition which may exist therein contrary to the intent and meaning of the provisions hereof, and the Board shall not thereby be deemed guilty in any manner of trespass, or, (b) to enjoin, abate, or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach at the expense of the defaulting Unit Owner; (c) in any case of flagrant or repeated violation by a Unit Owner, to require such Unit Owner to give sufficient sureties for his future compliance with such Condominium documents; or (d) after notice and an opportunity to be heard (as provided in Section 7.5 below), to levy reasonable assessments and fines in accordance with Sections 47C-3-107 and 47C-3-107A of the Act for such violations, and further in accord with the hearing procedures of Section 7.5 below. The failure of the Board to so act with respect to any such violation or breach shall

not be deemed a waiver of the Board's right to act with respect to the same or any other breach or violation.

7.5 Hearing Procedure. The Board will not impose a fine, suspend voting, or suspend any rights of a Member or other occupant of the Property for violations of Rules of Conduct or of the provisions of the Condominium Instruments unless and until the procedure below is followed:

(a) Demand. Written demand to cease and desist from the alleged violation will be served upon the alleged violator specifying:

- (i) the alleged violation;
- (ii) the action required to abate the violation; and
- (iii) a time period of not less than 10 days during which the violation may be abated without further sanction, if such violation is a continuing one, or a statement that any additional similar violation may result in the imposition of a sanction after notice and hearing, if the violation is not continuing.

(b) Notice. At any time within 12 months of such demand, if the violation continues past the period allowed in the demand for abatement without penalty or if the same rule is subsequently violated, the Board or its delegate will serve the violator with written notice of a hearing to be held by the Board. The notice will contain the following:

- (i) the nature of the alleged violation;
- (ii) the time and place of the hearing, which time will be not less than 10 days from the giving of the notice;
- (iii) an invitation to attend the hearing and produce any statement, evidence and witness on the Member's behalf; and
- (iv) the proposed sanction to be imposed.

(c) Hearing. The hearing will be held pursuant to the notice, affording the Member a reasonable opportunity to be heard. Prior to the effectiveness of any sanction under these Bylaws, proof of notice and the invitation to be heard will be placed in the minutes of the meeting. Such proof will be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, Director or agent who delivered such notice. The notice requirement will be deemed satisfied if the alleged violator appears at the meeting. The minutes of the meeting will contain a written statement of the results of the hearing and the sanction, if any, imposed. Written and oral evidence may be presented. The presenting

party will provide copies of any written evidence to the other party or parties. The decision of the Board will be final.

(d) Appeal. The Board may in its discretion appoint a Hearing Committee to hear the matter. In such event the above procedure will apply except that either party may appeal the decision of the Hearing Committee to the Board by written notice to the Hearing Committee, the other party and the Board. The Board will consider the minutes of the hearing and report the decision of the Board within a reasonable period of time not exceeding 60 days after receipt of the notice. The decision of the Board will be final.

The foregoing procedures will not be necessary in order to impose any sanction or penalty for nonpayment of a delinquent Assessment.

7.6 Remedies Cumulative. All rights, remedies and privileges granted to the Association or the Owner or Owners of a Unit pursuant to any terms, provision, covenants or condition of the Declaration or other above-mentioned documents, shall be cumulative, and the exercise of any one or more shall not constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other additional rights, remedies or privileges as may be available to such party at law or in equity.

7.7 Nonwaiver of Remedies.

(a) The failure of the Association or any Unit Owner to enforce any right, provision, covenant or condition which may be granted by the Declaration or the other above-mentioned documents shall not constitute a waiver of the right of the Association or the Unit Owner to enforce such right, provision, covenant or condition in the future.

(b) The failure of a First Mortgagee to enforce any right, provision, privilege, covenant or condition which may be granted to it or them by the Declaration or other above-mentioned documents, shall not constitute a waiver of the right of said party or parties to thereafter enforce such right, privilege, covenant or condition in the future.

ARTICLE VIII OFFICERS AND THEIR DUTIES

8.1 Enumeration of Officers. The officers of the Association will be a President, Vice President, Secretary and Treasurer, and such other officers as the Board may from time to time create by resolution. Following the expiration of the Declarant Control Period, all officers of the Association must be Owners of Condominium Units in the Property.

8.2 Election of Officers. The election of officers will take place at the first meeting of the Board of Directors following each annual meeting of the Members.



8.3 Term. The officers of the Association will be elected annually by the Board, and each will hold office for one year or until his successor is duly elected and qualified, unless he sooner resigns, or is removed, or is otherwise disqualified to serve.

8.4 Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom will hold office for such period, have such authority, and perform such duties as the Board may determine from time to time.

8.5 Resignation and Removal. Any officer maybe removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation will take effect on the date of receipt of such notice or at any later time specified in the notice, and unless otherwise specified in the notice, the acceptance of such resignation will not be necessary to make it effective.

8.6 Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy will serve for the remainder of the term of the officer replaced.

8.7 Multiple Offices. Any two or more offices may be held by the same person except the offices of President and Secretary.

8.8 Duties. The duties of the officers are as follows:

(a) President. The President will preside at all meetings of the Association and the Board of Directors; see that orders and resolutions of the Board are carried out; sign all leases, mortgages, deeds and other written instruments; co-sign all promissory notes; cause to be prepared and execute, certify and record amendments to the Declaration on behalf of the Association; and exercise and discharge such other duties as may be required of the President by the Board.

(b) Vice President. The Vice President will act in the place and stead of the President in the event of his absence, inability or refusal to act, and will exercise and discharge such other duties as may be required by the Board.

(c) Secretary. The Secretary will record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; keep the corporate seal of the Association and place it on all papers requiring said seal; serve notice of meetings of the Board and of the Members; keep appropriate current records listing the Members together with their addresses; and perform such other duties as required by the Board.

(d) Treasurer. The Treasurer will receive and deposit in appropriate bank



accounts all monies of the Association and will disburse such funds as directed by resolution of the Board of Directors; sign all checks of the Association unless the Board specifically directs otherwise, and co-sign all promissory notes of the Association; keep proper books of account; at the direction of the Board, cause an annual audit of the Association books to be made by a public accountant at least once in every three fiscal years; and prepare an annual budget and a statement of income and expenditures to be presented to the Members at their regular annual meeting, and deliver or make copies available to each of the Members.

ARTICLE IX FINANCIAL RECORDS AND STATEMENTS

9.1 Reports. The Board shall keep records of the actions of the Board, minutes of the meetings of the Board, minutes of the meetings of the Association, and financing records and books of account of the Condominium, including a chronological listing of receipts and expenditures for each Unit, which, among other things, shall contain the amount of each Assessment against each Unit, the date when due, the amounts paid and the balance remaining unpaid. The financial records and books of account shall be available for examination by all Unit Owners, their duly authorized agents or attorneys, and all lien holders, their attorneys and authorized agents, upon reasonable request. A written annual summary of all receipts and expenditures of the Condominium shall be rendered by the Board to all Unit Owners on or before the 15th day of March of each fiscal year.

9.2 Operating Expense Funds. All sums collected by the Association may be commingled in a single account, but they shall be held for the Owners for the purposes for which they are paid, and shall include the following funds:

(a) General Common Expense Fund --to which shall be credited collection of that portion of the Common Expense Assessments received for defraying the costs of operating the Condominium on a day-to-day basis, including normal maintenance and repairs, insurance and related charges; and

(b) Capital Improvement Fund --to which shall be credited, all sums collected which are to be allocated for capital expenditures for the reconstruction, repair and replacement of Common Elements at a future date.

9.3 Records. All books of account and financial records shall be kept in accordance with good and acceptable accounting practices. The Board shall prepare an annual financial statement for all Unit Owners on or before the 15th day of March following the close of each fiscal year.



ARTICLE X COMMITTEES

10.1 Appointment. The Board of Directors may appoint a Hearing Committee as described in Section 7.5 above, and other committees as the Board deems appropriate in carrying out its purposes.

ARTICLE XI INDEMNIFICATION

11.1 Indemnification of Directors and Officers. To the extent permitted by law and consistent with the Articles of Incorporation, the Association will indemnify every member of the Board of Directors, and every officer, employee and agent of the Association and every person who serves at the request of the Association as a director, officer, employee, fiduciary or agent of any other foreign or domestic corporation or of any partnership, joint venture, trust or other enterprise or employee benefit plan against liability asserted against or incurred by such person in such capacity or arising out of that person's capacity as such. The indemnification permitted under this Article will not extend, in any event, to any act or omission occurring prior to the date of incorporation of the Association.

In the event of a settlement, indemnification will be provided only in connection with such matters covered by the settlement as to which the Association is advised by counsel that the person to be indemnified has not been guilty of such actions or omissions in the performance of such person's duties for the Association. The foregoing rights will not be exclusive of other rights to which such member of the Board of Directors or officer or other person may be entitled. All liability, loss, damage, cost and expense arising out of or in connection with the foregoing indemnification provisions will be treated and handled by the Association as a Common Expense.

ARTICLE XII NONPROFIT CORPORATION

12.1 Nonprofit Status. The Association is not organized for profit. No Member of the Association, member of the Board of Directors, or person from whom the Association may receive any property or funds will receive or will be lawfully entitled to receive any pecuniary profit from the operations of the Association, and in no event will any part of the funds or assets of the Association be paid as a dividend or be distributed to, or inure to the benefit of, any member of the Board of Directors.

ARTICLE XIII AMENDMENTS TO BYLAWS

13.1 Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of a meeting at which a proposed amendment is to be considered.

13.2 Adoption. A resolution for the adoption of a proposed amendment may be proposed by any voting Member of the Association. Members of the Association not present in person or by proxy at the meeting considering the amendment may express their approval in writing, provided that such approval is delivered to the Secretary at or prior to the meeting. The approval must be a vote of not less than 67% of the Members, but any amendment during the Declarant Control Period which effects Special Declarant Rights shall require the written consent of the Declarant to be effective.

13.3 Limitation. No amendment may be adopted which would eliminate, modify, prejudice, abridge or otherwise adversely affect any rights, benefits, privileges or priorities granted or reserved to the First Mortgagees without the consent of said First Mortgagees in each instance. No amendment shall be made that is in conflict with the Articles of Incorporation of the Association or Declaration without satisfaction of the requirements therein contained. No amendment to this Section shall be valid.

13.4 Execution. A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted as an amendment to the Bylaws, which certificate shall be executed by the President and attested by the Secretary.

ARTICLE XIV MISCELLANEOUS

14.1 Conflicts of Documents. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles will control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration will control.

14.2 Use of Electronic Mail or Meeting. Any action or vote which may be taken or entered by a Director, Unit Owner or Member in person, or by proxy, other than a vote on amendment of the Declaration, may, in the alternative, be accomplished by the use of electronic mail or electronic meeting utilized in accordance with rules promulgated by the Board of Directors establishing reasonable safeguards as to the genuineness of the action and notice to the other participants. The action shall be evidenced by a written record describing the action taken, signed before or after such action by all members utilizing said method, and delivered to the corporation for inclusion in the minutes or filing with the corporate records.



14.3 Dissolution. The Association may be dissolved only after termination of the Condominium in accordance with the terms of the Declaration and the creation and execution of a plan of dissolution which is in full compliance with all terms of the North Carolina Nonprofit Corporation Act. Any Association assets remaining after satisfying all Association debts will be distributed in accordance with the plan of dissolution and in a manner complying with the North Carolina Nonprofit Corporation Act.

CERTIFICATION

I, the undersigned, do hereby certify:

THAT I am the duly elected and acting Secretary of 815 South Virginia Dare Trail Unit Owners' Association, Inc., a North Carolina corporation, and

THAT the foregoing Bylaws constitute the original Bylaws of said Association, as duly adopted by written consent of all directors of the Association, effective as of the date hereof.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association, this ____ day of _____, 2008.

BY: _____
Secretary

NORTH CAROLINA
DARE COUNTY

I, _____ a Notary Public of the aforesaid
County and State do hereby certify that _____,
Secretary of 815 South Virginia Dare Trail Unit Owners' Association, Inc., a North Carolina
corporation, appeared before me this day and acknowledged the execution of the foregoing
instrument.

Witness my hand and notarial seal this ____ day of _____, 2008.

Notary Public

My Commission Expires: _____

(SEAL)



APPENDIX "A"
To Bylaws

INITIAL RULES OF CONDUCT

1. Residents shall exercise extreme care to avoid unnecessary noise or the use of musical instruments, radios, televisions and amplifiers that may disturb other residents.
2. No Residential Unit Owner shall:
 - (a) Post any advertisements or posters of any kind in or on the Property except as authorized by the Association;
 - (b) Hang garments, towels, rugs, or similar objects from the windows or balconies or from any of the facades of the Property;
 - (c) Clean dust mops, rugs or similar objects from the windows or terraces by beating on the exterior part of the Property;
 - (d) Throw trash or garbage outside the disposal installation provided for such purpose in the service areas;
 - (e) Act so as to interfere reasonably with the peace and enjoyment of the residents of the other Units in the Property;
 - (f) Maintain any pets which cause distress to Unit Owners through barking, biting, scratching or damaging of property. No more than one (1) pet may be maintained in any one Unit. Aggressive breeds as determined by, the Board are prohibited. No pet weighing more than fifty (50) pounds shall be permitted.
 - (g) Operate or utilize any charcoal or gas grills, either permanent or portable, on the terraces or in the close proximity of the Units.
 - (h) Operate, park, or store on the Property any recreational vehicles homes, trucks, commercial vans or boats or any of the Common Elements except the parking spaces assigned to an Owner as a Limited Common Element.

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3. The maximum number of vehicles maintained on the Property for each Unit is two vehicles.
4. No maintenance or repair of a vehicle is permitted within the Property which includes oil changes, washing, waxing and similar related vehicles services.
5. Each Unit Owners shall be responsible financially and otherwise for the actions or inaction of said Unit Owners' tenants or guests to include violation of the Condominium Instruments and Rules of Conduct.
6. No Unit Owner, resident, or lessee shall install wiring for electrical or telephone installations, televisions or radio antenna, air conditioning fixtures, or similar objects outside of his or her Unit or which protrudes through the walls or the roof of his or her Unit.
7. During the Declarant Control Period, the Declarant may amend, delete or add to the Rules of Conduct at its sole discretion and said amendments or additions shall be effective upon distribution in writing to the Owners.

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EXHIBIT "D"
To Declaration

NORTH CAROLINA

Department of The Secretary of State

To all whom these presents shall come, Greetings:

I, **ELAINE F. MARSHALL**, Secretary of State of the State of North Carolina, do hereby certify the following and hereto attached to be a true copy of

ARTICLES OF INCORPORATION

OF

815 SOUTH VIRGINIA DARE TRAIL UNIT OWNERS' ASSOCIATION, INC.

the original of which was filed in this office on the 20th day of June, 2008.



IN WITNESS WHEREOF, I have hereunto
set my hand and affixed my official seal at the
City of Raleigh, this 20th day of June, 2008

Elaine F. Marshall
Secretary of State

Document Id: C20081720026
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State of North Carolina
Department of the Secretary of State

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Date Filed: 6/20/2008 3:20:00 PM
Elaine F. Marshall
North Carolina Secretary of State
C200817200260

ARTICLES OF INCORPORATION
NONPROFIT CORPORATION

Pursuant to §55A-2-02 of the General Statutes of North Carolina, the undersigned corporation does hereby submit these Articles of Incorporation for the purpose of forming a nonprofit corporation.

1. The name of the corporation is: 815 South Virginia Dare Trail Unit Owners' Association, Inc.
 2. _____ (Check only if applicable.) The corporation is a charitable or religious corporation as defined in NCGS §55A-1-40(4).
 3. The street address and county of the initial registered office of the corporation is:
Number and Street 6 Juniper Trail
City, State, Zip Code Kitty Hawk, NC 27949 County Dare
 4. The mailing address *if different from the street address* of the initial registered office is:
PO Box 2 Kitty Hawk, NC 27949
 5. The name of the initial registered agent is:
Daniel D. Khoury, Esq.
 6. The name and address of each incorporator is as follows Daniel D. Khoury PO Box 2 Kitty Hawk, NC 27949
 7. (Check either a or b below.)
a. ☒ The corporation will have members.
b. _____ The corporation will not have members.
 8. Attached are provisions regarding the distribution of the corporation's assets upon its dissolution.
 9. Any other provisions which the corporation elects to include are attached.
 10. The street address and county of the principal office of the corporation is:
Number and Street 815 South Virginia Dare Trail
City, State, Zip Code Kill Devil Hills, NC 27949 County Dare
 11. The mailing address *if different from the street address* of the principal office is: N/A
 12. These articles will be effective upon filing, unless a later time and/or date is specified: N/A
- This is the 19th day of June, 2008.

815 South Virginia Dare Trail Unit Owners' Association, Inc.


Daniel D. Khoury, Incorporator

Revised January 2000

Form N-01

CORPORATIONS DIVISION

P. O. BOX 29622

RALEIGH, NC 27626-0622



State of North Carolina
Department of the Secretary of State

ARTICLES OF INCORPORATION OF
815 SOUTH VIRGINIA DARE TRAIL UNIT OWNERS' ASSOCIATION, INC.
(Continued)

Article 8: Provisions regarding the distribution of the corporation's assets upon its dissolution:

Upon dissolution of the corporation, other than as a result of a merger or consolidation, the assets of the corporation shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization devoted or to be devoted to similar purposes to those of the corporation.

Article 9: Other provisions which the corporation elects to include to its Articles of Incorporation:

(a) No part of the net income or net earnings of the corporation shall inure to the benefit of any officer, director or member of the corporation, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes of the corporation. No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate in or intervene in (including the publication or distribution of statements) any political campaign on behalf of any candidate for public office.

(b) Every director, officer, employee or agent of the corporation shall be indemnified by the corporation against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon him or her in connection with any proceeding to which he or she may be a party, or in which he or she may become involved, by reason of his or her being or having been a director, officer, employee or agent of the corporation, whether or not he or she is a director, officer, employee or agent of the corporation at the time such expenses are incurred, except in such cases wherein the director, officer, employee or agent is adjudged guilty of willful misfeasance or malfeasance in the performance of his or her duties; provided that, in the event of any claim for reimbursement or indemnification hereunder based upon a settlement by the director, officer, employee or agent seeking such reimbursement or indemnification, the indemnification herein shall only apply if the Board of Directors approves such settlement and reimbursement as being in the best interest of the corporation. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which director, officer, employee or agent may be entitled. The indemnification herein provided for is intended to comply in all respects with the provisions of the North Carolina Nonprofit Corporation Act, as same may be amended from time to time, and shall be applied to the fullest extent permitted under North Carolina law.

(c) Except as otherwise provided under North Carolina law, no director shall have any personal liability arising out of or as action whether by or is the right of the Corporation or otherwise for monetary damages for breach of their duty as directors.

Revised January 2000

Form N-01

CORPORATION DIVISION

P.O. Box 29622

RALEIGH, NC 27626-0622

