

Doc ID: 001957780045 Type: CRP Recorded: 03/09/2007 at 01:51:41 PM Fee Amt: \$146.00 Page 1 of 45 Currituck County, NC Charlene Y Dowdy Register of Deeds BK 993 PG371-415

DECLARATION OF VILLAS AT WATERSIDE CONDOMINIUM CURRITUCK COUNTY, NORTH CAROLINA

> VOC, L.L.C. Developer and Declarant

THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF THE FLAG OF THE UNITED STATES OF AMERICA OR THE STATE OF NORTH CAROLINA. THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY **OF POLITICAL SIGNS**

TABLE OF CONTENTS

ARTICLE 1.	ESTABLISHMENT OF CONDOMINIUM	2
ARTICLE 2.	SURVEY AND DESCRIPTION OF IMPROVEMENTS	2
ARTICLE 3.	DEFINITIONS	2
ARTICLE 4.	OWNERSHIP OF CONDOMINIUM UNITS AND APPURTENANT ALLOCATED INTERESTS	6
ARTICLE 5.	ANNEXATION	7
Additional C Amendment.	Without Approval of Membershipovenants and Easements	7 7
ARTICLE 6.	CONDOMINIUM SUBJECT TO RESTRICTIONS	7
ARTICLE 7.	EASEMENTS	10
ARTICLE 8.	EASEMENT FOR UNINTENTIONAL AND NON-NEGLIGENT ENCROACHMENTS	11
ARTICLE 9.	RESTRAINT UPON SEPARATION AND PARTITION OF COMMON ELEMENTS	11
ARTICLE 10.	ADMINISTRATION OF THE CONDOMINIUM BY VILLAS AT WATERSIDE CONDOMINIUM ASSOCIATION	12
ARTICLE 11.	WATERSIDE VILLAGES OF CURRITUCK COMMUNITY ASSOCIATION, INC	12
ARTICLE 12.	USE OF COMMON ELEMENTS SUBJECT TO RULES OF ASSOCIATION	13
ARTICLE 13.	AGE RESTRICTED CONDOMINIUM	14
ARTICLE 14.	RIGHT OF ENTRY	14
ARTICLE 15	RESERVED	14
ARTICLE 16.	LIMITATION UPON RIGHT OF OWNERS TO ALTER AND MODIFY CONDOMINIUM UNITS, NO RIGHT TO ALTER COMMON ELEMENTS	14

ARTICLE 17.	RIGHT OF ASSOCIATION TO ALTER AND IMPROVE COMMON ELEMENTS AND ASSESSMENT THEREFOR	15
ARTICLE 18.	MAINTENANCE AND REPAIR BY OWNERS OF CONDOMINIUM UNITS	16
ARTICLE 19.	MAINTENANCE AND REPAIR OF COMMON ELEMENTS BY THE ASSOCIATION	16
ARTICLE 20.	AUTHORITY TO PURCHASE INSURANCE	17
ARTICLE 21.	INSURANCE COVERAGE TO BE MAINTAINED, USE AND DISTRIBUTION OF INSURANCE PROCEEDS	17
ARTICLE 22.	RECONSTRUCTION OR REPAIR OF CASUALTY DAMAGE	20
ARTICLE 23.	ASSOCIATION TO MAINTAIN REGISTER OF OWNERS AND MORTGAGEES	21
Mortgage Provisions		21
ARTICLE 24.	ASSESSMENTS: LIABILITY, LIEN AND ENFORCEMENT	22
ARTICLE 25	COMPLIANCE AND ENFORCEMENT	26
ARTICLE 26.	COMMON SURPLUS	28
ARTICLE 27.	TERMINATION	28
ARTICLE 28.	AMENDMENT OF DECLARATION OF CONDOMINIUM	28
ARTICLE 29.	SPECIAL DECLARANT RIGHTS AND DEVELOPMENT RIGHTS RESERVED UNTO DECLARANT	30
ARTICLE 30.	CONFLICT WITH ACT; SEVERABILITY	33
ARTICLE 31.	LIBERAL CONSTRUCTION	33
ARTICLE 32.	DECLARATION BINDING ON ASSIGNS AND SUBSEQUENT OWNERS	33
ARTICLE 33.	CONDEMNATION	34
ARTICLE 34.	TAXES	34
ARTICLE 35.	LITIGATION	34

WITNESSETH:

WHEREAS, Declarant is the owner in fee simple of certain real estate located in Currituck County, North Carolina, said real estate being more particularly described on Exhibit "A" attached hereto and incorporated herein by reference; and,

WHEREAS, Declarant has constructed on the property described on Exhibit "A" a three-story building, containing ten (10) condominium units, and appurtenant facilities; and,

WHEREAS, it is the desire of the Declarant to submit the property described on Exhibit "A," together with the improvements thereon constructed, to the provisions of the North Carolina Condominium Act to provide for the condominium form of ownership; and,

WHEREAS, Declarant hereby establishes by this Declaration a plan for the individual ownership of condominium units and the co-ownership by individual and separate owners thereof, as tenants in common, of all of the remaining property in the condominium (all portions of the Condominium except the Units hereinafter being referred to as "Common Elements").

NOW, THEREFORE, Declarant does hereby declare that the property described on Exhibit "A" attached hereto and incorporated herein by reference shall be held, conveyed, encumbered, used, occupied, improved, sold, mortgaged, and otherwise conveyed subject to the rules, regulations, restrictions, covenants, conditions, uses and obligations set forth in this Declaration. All such rules, regulations, restrictions, covenants, conditions, uses and obligations are declared and agreed to be in furtherance of a plan for the creation of the Condominium and the use, enjoyment and rental of condominium units and shall be deemed to run with the land and be a burden on and a benefit to the Declarant, its successors and assigns, and on and to any Person acquiring or owning any interest in the real property in the Condominium and any improvements thereto, and such parties' grantees, successors, heirs, assigns, executors, administrators and devisees. Individual Unit Owners, their employees, guests, tenants and all persons using or possessing any property within the Condominium are subject to the provisions of this Declaration.

ARTICLE 1.

ESTABLISHMENT OF CONDOMINIUM

On that property described on Exhibit "A," attached hereto and incorporated herein by reference, there exists a three-story building containing ten (10) Condominium Units and other appurtenant improvements. Declarant does hereby submit the real property, and the improvements lying within the land area described on Exhibit "A" to condominium ownership under the provisions of Chapter 47C of the General Statutes of North Carolina (Condominium Act), and hereby declares the same to be a condominium to be known and identified as "Villas at Waterside Condominium." The maximum number of Condominium Units which the Declarant reserves the right to create is eighty-four (84). No additional real estate will be allocated subsequently as Limited Common Elements; provided, however, Declarant may designate additional real estate as Limited Common Elements in the exercise of the Development Rights. The Condominium is located in Currituck County, North Carolina.

ARTICLE 2.

SURVEY AND DESCRIPTION OF IMPROVEMENTS

A survey of the land and plat and plans of the improvements constituting the Condominium, identifying the Condominium Units, the Common Elements and the Limited Common Elements, as said terms are herein defined, and containing the information required by N.C. Gen. Stat. § 47C-2-109(b) and (c) is recorded in the office of the Register of Deeds of Currituck County in the map book identified in Exhibit "B," said survey and plat and plans being incorporated herein by reference. Said survey and plat and plans are sometimes collectively referred to herein as Exhibit "B." Each Condominium Unit is identified by a specific number on said Exhibit "B," and no Condominium Unit bears the same number as any other Condominium Unit. The Condominium Units are designated and numbered as Units 100A through 100J as shown on Exhibit "B."

ARTICLE 3.

DEFINITIONS

As used in this Declaration, the Bylaws and the exhibits attached hereto, and all amendments thereof, unless the context requires otherwise, the following definitions shall prevail:

- A. "Act" means Chapter 47C of the General Statutes of North Carolina designated as the North Carolina Condominium Act.
- B. "Articles of Incorporation" means the Articles of Incorporation for Villas at Waterside Condominium Association filed in the office of the Secretary of State of North

Carolina and recorded in the office of the Register of Deeds of Currituck County, North Carolina, as the same may be amended from time to time.

- C. "Association" shall mean the Unit Owners association organized pursuant to the Act and incorporated under Chapter 55A of the General Statutes of North Carolina, and shall be known as Villas at Waterside Condominium Association and its successor.
- D. "Association Documents" means collectively the Articles of Incorporation of the Association, the Bylaws of the Association, this Declaration, and the Rules and Regulations adopted by the Association, all as may be amended, restated and revised from time to time. Any exhibit, schedule, or amendment to an Association Document shall be considered a part of that document.
- E. "Board of Directors" or "Board" shall mean the body responsible for administration of the Association selected as provided in the Bylaws.
- F. "Business" or "Trade" shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to Persons other than the family of the producer of such goods or services and for which the producer receives a fee, compensation, or other form of consideration, regardless of whether: (a) such activity is engaged in full or part-time, (b) such activity is intended to or does generate a profit, or (c) a license is required.
- G. "Bylaws" shall mean the Bylaws of the Association as they may be amended from time to time.
- H. "Common Elements" shall mean and comprise (i) all of the real property, improvements and facilities of the Condominium, excluding however the Condominium Units as herein defined, (ii) all personal property and equipment held and maintained for the joint use and enjoyment of all the Owners of Condominium Units, and (iii) all permits for construction, maintenance and operation of the Condominium assigned by Declarant to the Association or otherwise procured or acquired by the Association. Notwithstanding this definition, to the extent that the provisions of the Act apply to "Common Elements," including but not limited to the provisions of § 47C-3-112, those provisions shall only apply to Common Elements as that term is defined in the Act.
- I. "Common Expenses" means expenditures made by or financial liabilities of the Association, together with any allocations to reserves.
- J. "Condominium" shall mean the Property described on Exhibit "A" together with all buildings and improvements existing thereon or hereinafter constructed thereon, and any portions of the Development Property, and buildings and improvements thereon, which may be submitted to this Declaration and added to the Condominium.

K. "Condominium Units" or "Units," as such terms are used herein, shall mean a physical portion of the Condominium designated for separate ownership, the boundaries of which are hereinafter defined.

The walls, floors, and ceilings of the Units hereby are designated as the boundaries of each respective Unit.

Except as otherwise modified herein, the provisions of N.C. Gen. Stat. § 47C-2-102(1), (2), (3), and (4) are incorporated herein by reference.

- L. "Declarant" shall mean VOC, L.L.C. and any Person or entity who succeeds to any Special Declarant Rights as provided herein or pursuant to the Condominium Act.
 - M. "Declaration" means this instrument and any amendments thereto.
- N. "Development Period" means the period ending on the earliest of (a) forty (40) years from the date this Declaration is recorded in the Register of Deeds; provided, that if Declarant is delayed in the improvement and development of the Property as a result of a sewer, water or building permit moratorium or other cause or event beyond Declarant's control, then the aforesaid period shall be extended for the length of the delay plus an additional two (2) years upon written notice to the Association of such extension; or (b) the date specified by Declarant in a written notice to the Association that the Development Period is to terminate on that date so stated.
- O. "Development Property" shall mean that real property described on Exhibit D.
- P. "Development Rights" means the rights reserved by Declarant under Article 29 of this Declaration, including the right to add additional real estate and property to the Condominium.
 - Q. "Director" means a member of the Executive Board of the Association.
- R. "Limited Common Elements" means those portions of the Common Elements allocated by operation of N.C. Gen. Stat. § 47C-2-102 for the exclusive use of one or more but fewer than all of the Units, those portions of the Common Elements described in this Declaration as Limited Common Elements and those portions of the Common Elements designated as Limited Common Elements on Exhibit "B" as "LCE" followed by the letter identifying the Unit to which the Limited Common Element is assigned.

Supplementing the provisions of N.C. Gen. Stat. § 47C-2-102(4), all exterior doors and door frames, except screen doors or storm doors as may have been permitted by the Association, exterior windows and window frames, and all related components of the exterior

doors and exterior windows including glass, panes and screens, shall be Limited Common Elements.

Each Unit has been assigned a parking space and one (1) storage closet under the building in which the Unit is located, which are Limited Common Elements and shown and delineated on Exhibit "B" as "LCE," followed by the identification of the Unit to which the Limited Common Element is assigned.

- S. "Member" shall mean a Person having membership in the Association consistent with Article 10 of this Declaration.
- T. "Mortgage" shall mean a mortgage, a deed of trust, a deed to secure debt, or any other form of security deed.
 - U. "Mortgagee" shall mean a beneficiary or holder of a Mortgage.
- V. "Person" shall mean 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.
- W. "Property" shall mean the real estate described on Exhibit "A," together with all rights, privileges, easements and appurtenances belonging to or in any way pertaining to said real estate.
- X. "Register of Deeds" means the office of the Register of Deeds of Currituck County, North Carolina.
- Y. "Stormwater Management Facilities" shall mean all areas consisting of ditches and swells, retention ponds and other improvements which are constructed pursuant to, and regulated by, the Permit.
- Z. "Unit Owner" or "Owner" shall mean any Person owning one or more Units, but shall not include a mortgagee unless such mortgagee has acquired title pursuant to foreclosure or some other process in lieu of foreclosure.
- AA. "Upkeep" shall mean care, inspection, maintenance, operation, repair, repainting, remodeling, restoration, improvement, renovation, alteration, replacement and reconstruction.

Any word not defined herein, unless it is plainly evident from the context of this Declaration that a different meaning is intended, shall, as used herein, have the meaning set out in N.C. Gen. Stat. § 47C-1-103.

ARTICLE 4.

OWNERSHIP OF CONDOMINIUM UNITS AND APPURTENANT ALLOCATED INTERESTS

Each Condominium Unit shall be conveyed and treated as an individual property capable of independent use and fee simple ownership, and the Owner of each Unit also shall own, as an appurtenance to the ownership of said Condominium Unit, an undivided interest in the Common Elements. The undivided interest in the Common Elements appurtenant to each of the Condominium Units which presently exists, subject to amendment as provided herein, shall be equal as set out in Exhibit "C" attached hereto and made a part hereof.

The proportional interest in the Common Elements appurtenant to each Condominium Unit shall be reallocated equally among all of the Condominium Units when new Condominium Units are created pursuant to the exercise of Development Rights.

The portion of the Common Expenses of the Association allocated to each Unit is also equal as set out in Exhibit "C." The proportion of the Common Expenses allocated to each Unit shall be reallocated equally among all of the Condominium Units when new Condominium Units are created pursuant to the exercise of Development Rights.

The vote in the Association allocated to each Unit shall be equal and shall be one (1) vote per Unit.

The undivided interest in the Common Elements declared to be an appurtenance to each Condominium Unit shall not be conveyed, devised, encumbered or otherwise dealt with separately from said Condominium Unit, and the undivided interest in Common Elements appurtenant to each Condominium Unit shall be deemed conveyed, devised, encumbered or otherwise included with the Condominium Unit even though such undivided interest is not expressly mentioned or described in the instrument conveying, devising, encumbering or otherwise dealing with such Condominium Unit. Any instrument conveying, devising, encumbering or otherwise dealing with any Condominium Unit, which describes said Condominium Unit by the number designation assigned thereto by the map recorded as aforesaid without limitation or exception, shall be deemed and construed to affect the entire Condominium Unit and its appurtenant undivided interest in the Common Elements. Nothing herein contained shall be construed as limiting or preventing ownership of any Condominium Unit and its appurtenant undivided interest in the Common Elements by more than one person or entity as tenants in common, joint tenants or as tenants by the entirety.

ARTICLE 5.

ANNEXATION

A. Annexation Without Approval of Membership.

- (i) During the Development Period, Declarant may unilaterally subject any Development Property to the provisions of this Declaration. Nothing in this Declaration or otherwise shall be construed to require Declarant, or any successor, to develop any Development Property in any manner whatsoever.
 - (ii) Declarant may transfer or assign this right to annex property.
- (iii) Such annexation shall be accomplished by recording a Supplemental Declaration in the Register of Deeds describing the property to be annexed and specifically subjecting it to the terms of this Declaration. Such Supplemental Declaration shall require the consent of the owner of such property, if other than Declarant. Any such annexation shall be effective upon the recording of such Supplemental Declaration in the Register of Deeds unless otherwise provided therein.
- B. Additional Covenants and Easements. Declarant may unilaterally subject any portion of the Development Property submitted to this Declaration to additional covenants and easements, including covenants obligating the Association to maintain and insure such property on behalf of the Owners. Any Supplemental Declaration or additional covenants imposed on property annexed into the Property may provide for different uses (i.e. Business and Trade and other commercial uses) and impose standards and restrictions other than those contained in this Declaration and the Association shall have standing and the power to enforce such standards and restrictions. Such additional covenants and easements shall be set forth in a Supplemental Declaration recorded with the Register of Deeds filed either concurrent with or after the annexation of the subject property and shall require the written consent of the owner(s) of such property, if other than Declarant.
- C. <u>Amendment</u>. This Article shall not be amended without the prior written consent of Declarant during the Development Period.
- D. <u>Additional Members</u>. Any property annexed into the Association by the provisions of this Declaration shall be subject to all conditions and privileges of the Association and Owners of any such annexed property shall be Members of the Association.

ARTICLE 6.

CONDOMINIUM SUBJECT TO RESTRICTIONS

The Condominium Units and Common Elements shall be, and the same are hereby declared to be subject to the restrictions, easements, conditions and covenants prescribed

and established herein governing the use of said Condominium Units and Common Elements and setting forth the obligations and responsibilities incident to ownership of each Condominium Unit and its appurtenant undivided interest in the Common Elements, and said Condominium Units and Common Elements are further declared to be subject to the restrictions, easements, conditions and limitations now of record affecting the land and improvements of the Condominium and those hereinafter set forth:

- A. Each Unit shall be occupied and utilized only for single family residential purposes subject to the provisions of this Declaration.
- B. Without the consent of the Association having been first obtained, no structure or personal property shall be placed or permitted to remain on any balcony, railing or other portion of the Common Elements or Limited Common Elements.
- C. Food preparation, including using exterior or outside cooking equipment, shall not be permitted in any portion of the Common Elements except pursuant to Rules and Regulations which may be adopted, from time to time, by the Board of Directors.
- D. In addition to the foregoing, the Condominium is subject to those matters affecting the Property set forth on Exhibit "D" attached hereto and incorporated herein by reference.
 - E. The occupancy of each Unit shall not exceed six (6) Persons at any time.
- F. No immoral, improper, offensive or unlawful use shall be made of any Condominium Unit or of the Common Elements, nor any part thereof, and all laws, zoning ordinances and regulations of all governmental authorities having jurisdiction of the Condominium shall be observed. No Owner of any Condominium Unit shall permit or suffer anything to be done or kept in his Condominium Unit, or on the Common Elements, which will increase the rate of insurance on the Condominium, or which will obstruct or interfere with the rights of other occupants of the Condominium or annoy them by unreasonable noises, nor shall any Owner undertake any use or practice which shall create and constitute a nuisance to any other Owner of a Condominium Unit, or which interferes with the peaceful possession and proper use of any other Condominium Unit or the Common Elements.
- G. Nothing contained herein shall prohibit the leasing or subleasing of a Unit; provided, however, that:
- a. No Unit shall be leased for a period of less than one hundred eighty (180) consecutive calendar days without the prior written consent of the Board.
- b. All leases for a Unit shall be in writing signed by the Owner and the tenant.

- c. All leases shall be in such form, and contain such provisions, as approved by the Board, including provisions (i) requiring the tenant to comply with the Association Documents, (ii) providing that the failure of any tenant under a lease to comply with the Association Documents shall constitute an event of default under the lease, and (iii) providing that the Board may exercise any and all remedies for a default under the Association Documents against the Owner and the tenant under the lease including, without limitation, the right to remove a tenant from possession of a Unit by judicial process or otherwise.
- d. No fraction or portion of any Unit may be leased separately from any other portion of the Unit.
- e. The leasing of any Unit is further subject to the restrictions on occupancy set forth in Article 13 of this Declaration.

The Board may also adopt reasonable rules and regulations regarding leasing which may include, but are not limited to, (a) the imposition of a fee to the Owner leasing the Unit equal to the costs of administration and ensuring compliance incurred by the Association with the restrictions and rules and regulations relating to leasing and (b) prohibiting or restricting the leasing of more than twenty percent (20%) of the Units at any one time within the Condominium.

"Leasing," for purposes of this Declaration, is defined as regular, exclusive occupancy of a Unit by any person other than the Owner, or the Immediate Family of the Owner, for which the Owner receives, or the tenant provides, any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument. As used in these Initial Use Restrictions, "Immediate Family" shall mean the parents, grandparents and children of such Owner.

Notwithstanding the above, the Declarant retains the right to lease any Unit it owns for a period of less than one hundred eighty (180) days.

- H. No Unit may be used for, nor shall any Owner permit the use of a Unit for, a timesharing, fraction-sharing or similar program whereby the right to exclusive right of the Unit rotates among participants in the program on a fixed or floating time schedule over a period of years.
- I. No Owner shall post or display any sign, decoration, artwork, banner or flag either upon the Common Elements or the Limited Common Elements without the prior written consent of the Executive Board. The provisions of this restriction shall not be implemented in any manner so as to interfere with or restrict the rights of Declarant pursuant to its Special Declarant Rights.
- J. The right of an Owner to post or display any flag, sign, political sign, decoration, symbol and artwork within his Unit which is visible from any other Unit or any

Common Elements shall not be abridged; provided, however, the Executive Board may adopt reasonable time, place, size and manner of display restrictions.

K. The Executive Board may adopt reasonable rules regarding household pets designed to minimize damage to the Common Elements and disturbance to other Owners and occupants including rules requiring damage deposits, waste removal, leash controls, noise controls, pet occupancy limits based on size and facilities of the Unit and fair share use of the Common Elements. Nothing in this restriction shall prevent the Association from requiring removal of any animal that presents an actual threat to the health or safety of Owners and occupants or from requiring abatement of any nuisance or unreasonable source of annoyance. No Owner shall be permitted to raise, breed or keep mammals, birds, fish or reptiles of any kind for commercial or business purposes.

ARTICLE 7.

EASEMENTS

- A. Subject to the Special Declarant Rights reserved to Declarant in this Declaration and the provisions of N.C. Gen. Stat. § 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 of the Owners of Condominium Units in the Condominium for their use and the use of their 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. For that portion of the Common Elements upon which a particular Unit is located as depicted on Exhibit "B," the easement to so locate a Unit shall be exclusive. Subject to the Special Declarant Rights, the Association shall have the exclusive right to establish the rules and regulations pursuant to which the Owner of any Condominium Unit, his tenants, guests, invitees and customers, may be entitled to use the Common Elements and to establish regulations concerning the use of said Common Elements.
- B. Each Unit Owner hereby is granted a perpetual easement to locate heating and air conditioning systems and related equipment and other utilities, including underground propane tanks, upon the Common Elements. When so located, such heating and air conditioning systems, utilities, related pipes, ducts, conduits, wires and related facilities and equipment shall become and be deemed to be a part of the respective Condominium Unit to which they are affixed or serve. Prior to installing any heating and air conditioning systems, utilities or any facilities and equipment in the Common Elements, the Unit Owner shall obtain the consent of the Association as provided in Article 16 herein. This provision shall not apply to the heating and air conditioning systems and facilities and underground propane tanks which are presently located in the Common Elements and any replacements thereto or any heating and air conditioning systems and facilities and underground propane tanks.
- C. Declarant, its successors and assigns, reserves a perpetual non-exclusive easement, over, upon and across the Property including the Common Elements, said easement

hereby reserved to be for any and all purposes deemed desirable by Declarant, its successors and assigns, including, but not limited to, (i) the installation, maintenance, repair and replacement of utilities and other services and (ii) pedestrian and vehicular access to other property without regard to whether such other property is contiguous to the Condominium or owned by the Declarant.

ARTICLE 8.

EASEMENT FOR UNINTENTIONAL AND NON-NEGLIGENT ENCROACHMENTS

In the event that any Condominium Unit shall encroach upon any Common Elements, or any other Condominium Unit or Units, for any reason not caused by the purposeful or negligent act of the Condominium Unit Owner, or agents of such Owner, then an easement appurtenant to such Condominium Unit shall exist for the continuance of such encroachment upon the Common Elements or upon a Condominium Unit for so long as such encroachment naturally shall exist; and, in the event that any portion of the Common Elements shall encroach upon any Condominium Unit, then an easement shall exist for the continuance of such encroachment of the Common Elements upon any Condominium Unit for so long as such encroachment naturally shall exist. If any Condominium Unit or Common Elements shall be partially or totally destroyed as a result of fire or other casualty, or as a result of condemnation or eminent domain proceedings, and if upon reconstruction of such Unit and/or Common Elements in accordance with Article 22 hereof, there exist encroachments of portions of the Common Elements upon any Condominium Unit, or of any Condominium Unit upon any other Condominium Unit or upon any portion of the Common Elements, then such encroachments shall be permitted and a valid easement for the maintenance thereof shall exist so long as such encroachments naturally shall remain.

ARTICLE 9.

RESTRAINT UPON SEPARATION AND PARTITION OF COMMON ELEMENTS

Recognizing that the proper use of a Condominium Unit by an Owner or Owners is dependent upon the use and enjoyment of the Common Elements in common with the Owners of all other Condominium Units, and that it is in the interest of all Owners that the ownership of the Common Elements be retained in common by the Owners, it is hereby declared that the proportional undivided interest in the Common Elements appurtenant to each Condominium Unit, shall remain undivided and no Unit Owner shall bring or have any right to bring any action for partition or division of the Common Elements.

ARTICLE 10.

ADMINISTRATION OF THE CONDOMINIUM BY VILLAS AT WATERSIDE CONDOMINIUM ASSOCIATION

To efficiently and effectively provide for the administration of the Condominium by the Owners of the Condominium Units, an association of all Unit Owners has been incorporated pursuant to Chapter 55A of the General Statutes of North Carolina known and designated as "VILLAS AT WATERSIDE CONDOMINIUM ASSOCIATION" (herein sometimes called the "Association"). The Association shall administer the operation and management of the Condominium and undertake and perform all acts and duties incident thereto in accordance with the terms of its Bylaws. The Owner or Owners of each Condominium Unit automatically shall become members of said Association upon his, their or its acquisition of an ownership interest in title to any Condominium Unit and its appurtenant undivided interest in Common Elements, and the membership of such Owners or Owner shall terminate automatically upon such Owner or Owners being divested of such ownership interest in the title to such Condominium Unit, regardless of the means by which such ownership may be divested. No person, firm or association holding any lien, mortgage or other encumbrance upon any Condominium Unit shall be entitled, by virtue of such lien, mortgage or other encumbrance, to membership in said Association or to any of the rights or privileges of such membership. In the administration of the operation and management of the Condominium, the Association, subject to the provisions of N.C. Gen. Stat. § 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 and regulations 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. Gen. Stat. § 47C-3-102, including the right to assign future assessments, assessment rights and income of the Association.

ARTICLE 11.

WATERSIDE VILLAGES OF CURRITUCK COMMUNITY ASSOCIATION, INC.

A. The Condominium is located within the planned community known as Waterside Villages of Currituck. To provide for the administration of Waterside Villages of Currituck, Declarant has formed a nonprofit corporation pursuant to Chapter 55A of the General Statutes of North Carolina known and designated as "Waterside Villages of Currituck Community Association, Inc." (herein sometimes called the "Master Association"). The Master Association will administer the planned community pursuant to the Declaration of Covenants, Conditions and Restrictions for Waterside Villages of Currituck which is recorded in the Office of the Register of Deeds of Currituck County, North Carolina (the "Master Declaration").

- B. The members of the Master Association include all Owners. The directors of the Master Association shall be selected by the members pursuant to the requirements and procedures set forth in the bylaws for the Master Association.
- C. Subject to the Master Declaration, all of the Common Area owned by or subject to the jurisdiction of the Master Association shall be, and the same are hereby declared to be, subject to a perpetual non-exclusive easement in favor of all Owners of Condominium Units in the Condominium, together with the owners of other real property which is or becomes subject to the Master Declaration, for their use and the use of their tenants, guests, invitees and customers, for all proper and normal purposes.
- D. In the administration, operation, and management of Villas at Waterside Condominium, the Master Association shall have the authority and power to enforce the provisions of the Master Declaration, to levy and collect assessments in the manner provided therein, to adopt, promulgate and enforce such rules and regulations governing the use of the common elements of the Master Association and to exercise such other powers as set forth in the Master Declaration.
- E. The Executive Board of the Association may delegate to the Master Association, from time to time as the Executive Board in its discretion determines, those powers set forth in this Declaration and the Act that may be exercised by the Executive Board of the Association. The Executive Board of the Association may thereafter revoke such delegation, from time to time in its sole discretion and resume the obligation and responsibility for the performance of such acts and powers formerly delegated to the Master Association. Upon the delegation of any such powers as permitted in this Section, all provisions of North Carolina Gen. Stat §47C-2-102, as may be applicable, shall apply.
- F. By the acceptance of a deed for a Unit within the Condominium, each Owner acknowledges, covenants and agrees that such Unit and such Owner will be subject to all provisions of the Master Declaration including, but not limited to, those which require the payment of assessments or any other fees and charges set forth in the Master Declaration.

ARTICLE 12.

USE OF COMMON ELEMENTS SUBJECT TO RULES OF ASSOCIATION

- A. The use of Common Elements by the Owner or Owners of all Condominium Units, and all other parties authorized to use the same, shall be at all times subject to the Association Documents.
- B. The use of Limited Common Elements is restricted to the Owners and Owners' tenants, guests, invitees and customers, of the Unit and/or Units to which the Limited Common Elements are allocated.

ARTICLE 13.

AGE RESTRICTED CONDOMINIUM

Consistent with the plan of development of the planned community of Waterside Villages of Currituck, the Condominium is intended to provide housing primarily for Persons fifty-five (55) years of age or older. The Condominium shall be operated as an age restricted community in compliance with all applicable State and Federal laws. No Person under eighteen (18) years of age shall reside in any Unit for more than ninety (90) days in any calendar year. Subject to the Special Declarant Rights of Declarant, any Unit, if occupied, shall be regularly occupied by at least one Person fifty-five (55) years of age or older. The Owner of a Unit shall provide a certificate of compliance, supported by reliable documentation determined by the Board, with the terms of this Article 13 and verification for each Owner of the Unit and each occupant of the Unit (a) at the time of purchase and/or occupancy of the Unit, (b) when requested by the Board and, (c) at any time that any additional Person is permitted to occupy the Unit.

ARTICLE 14.

RIGHT OF ENTRY

In case of any emergency originating in or threatening any Unit or the Common Elements, regardless of whether the Owner or other Person in occupancy is present at the time of such emergency, the Board of Directors, or any other Person authorized by it, or the managing agent, shall have the right to enter such Unit, such Common Elements for the purpose of remedying or abating the cause of such emergency, and such right of entry shall be immediate.

Whenever it may be necessary to enter any Condominium Unit for the purpose of performing any maintenance, alteration or repair to any portion of the Common Elements or adjacent Condominium Units, the Owner of each Condominium Unit shall permit other Owners or their representatives, or the duly constituted and authorized agent of the Association, to enter such Condominium Unit for such purpose, provided that the entry shall be made only at reasonable times and with reasonable advance notice.

ARTICLE 15.

RESERVED

ARTICLE 16.

LIMITATION UPON RIGHT OF OWNERS TO ALTER AND MODIFY CONDOMINIUM UNITS, NO RIGHT TO ALTER COMMON ELEMENTS

A. Subject to the provisions of N.C. Gen. Stat. §§47C-2-108, 47C-2-111, and 47C-2-112, and to the limitations in this Article 16, Units may be altered, boundaries between

adjoining Units may be relocated, Limited Common Elements may be reallocated, and Common Elements may be allocated as Limited Common Elements.

- Subject to the Special Declarant Rights reserved to Declarant in this Declaration, no Owner of a Condominium Unit shall permit any modification or alteration to be made to a Condominium Unit or any betterment or improvement to the Limited Common Elements appurtenant to a Unit without first obtaining the written consent of the Association, which consent may be withheld in the event that a majority of the Board of Directors of the Association shall determine, in its sole discretion, that such modifications, alterations, betterments or improvements would adversely affect or in any manner endanger the Condominium in part or in its entirety. Subject to the Special Declarant Rights reserved to Declarant in this Declaration, no Owner shall cause any improvements or changes to be made to any Unit or building (other than interior painting or other interior decoration) including the installation of electrical wiring, television or radio antennae or any other objects, machines or equipment which may protrude through the walls, ceiling or floor of any Unit or the walls and roof of any building, or in any manner alter the appearance of the exterior portion of any building without the written consent of the Association being first had and obtained. Subject to the Special Declarant Rights reserved to Declarant in this Declaration, no Unit Owner shall cause any object to be affixed to the Common Elements or in any manner change the appearance of the Common Elements without the written consent of the Association being first obtained. In the event the Association shall grant its consent for such improvements or changes to be made, such improvements, including but not limited to all antennae and other objects, machines or equipment which may protrude through the walls or roof shall become and be deemed to be a part of the Unit to which they are affixed.
- C. Subject to the Special Declarant Rights reserved to Declarant in this Declaration, the Board of Directors of the Association, in its sole discretion, may require a Unit Owner desiring to add betterments or improvements to his Unit or the Limited Common Elements appurtenant to his Unit to indemnify the other Unit Owners and the Association against any and all loss, cost and expense that may be occasioned by the addition of such betterments or improvements and further may require such Unit Owner to obtain liability insurance naming the other Unit Owners and the Association as additional insureds in such amounts and upon such terms as the Board of Directors shall determine.

ARTICLE 17.

RIGHT OF ASSOCIATION TO ALTER AND IMPROVE COMMON ELEMENTS AND ASSESSMENT THEREFOR

Subject to Declarant's Special Declarant Rights, the Association shall have the right to make or cause to be made such alterations or improvements to the Common Elements which do not prejudice the rights of the Owner of any Condominium Unit in the use and enjoyment of his Condominium Unit, provided the making of such alterations and improvements are approved by the Board of Directors of the Association and the cost of such alterations or improvements shall be Common Expenses to be assessed and collected from all of the Owners of

Condominium Units. However, where any alterations or improvements are exclusively or substantially for the benefit of the Owner or Owners of a certain Condominium Unit or Units requesting the same, then the cost of such alterations or improvements shall be assessed against and collected solely from the Owner or Owners of the Condominium Unit or Units exclusively or substantially benefited, the assessment to be levied in such proportion as may be determined by the Board of Directors of the Association.

ARTICLE 18.

MAINTENANCE AND REPAIR BY OWNERS OF CONDOMINIUM UNITS

- A. Every Owner shall perform promptly all Upkeep within his Condominium Unit which, if omitted, would affect the Condominium, either in its entirety or in a part belonging to other Owners, or adversely impair the ability to rent such Owner's Unit or any other Unit, and every Owner shall be expressly responsible for the damages and liability which his failure to do so may engender. The Owner of each Condominium Unit shall be liable and responsible for the Upkeep of all air conditioning and heating equipment, fans or other appliances or equipment, including any fixtures and/or their connections required to provide water, light, power, telephone, sewage and sanitary service solely to his Condominium Unit. Such Owner further shall be responsible and liable for the Upkeep of the exterior surfaces of any and all walls, ceilings and floors in the interior of his Unit including painting, decorating and furnishings, and all other accessories in his Condominium Unit.
- B. Whenever the Upkeep of any item for which the Owner of a Condominium is obligated to Upkeep at his own expense is occasioned by any loss or damage which may be covered by any insurance maintained in force by the Association, the proceeds of the insurance received by the Association shall be used for the purpose of such Upkeep except that the Owner of such Condominium Unit shall be, in said instance, required to pay such portion of the costs of such Upkeep as shall, by reason of the applicability of any deductibility provision of such insurance, exceed the amount of the insurance proceeds applicable to such Upkeep.
- C. All betterments and improvements added to the Limited Common Elements by the Unit Owners are a part of the respective Condominium Units and shall be maintained by the respective Unit Owners.

ARTICLE 19.

MAINTENANCE AND REPAIR OF COMMON ELEMENTS BY THE ASSOCIATION

Subject to Declarant's Special Declarant Rights, the Association shall be responsible for the Upkeep of the Common Elements, and all conduits, ducts, plumbing, wiring and other facilities located in the Common Elements or in a Condominium Unit for the furnishing of utility and/or other services to the Common Elements or other Condominium Units. If any incidental damage is caused to any Condominium Unit by virtue of any work which may be done or caused to be done by the Association in the Upkeep of any Common Elements, the

Association shall, at its expense, repair such incidental damage. Whenever the Upkeep of any item for which the Association is responsible for Upkeep at its expense is occasioned by any act of a Condominium Unit Owner, his tenants, guests or invitees, and such loss or damage may be covered by any insurance maintained in force by the Association, the proceeds of the insurance received by the Association shall be used for the purpose of such Upkeep, except that the Unit Owner who is responsible for the act causing the damage (whether done by himself or his tenants, guests or invitees) shall be required to pay such portion of the cost of such Upkeep as shall, by reason of the applicability of any deductibility provision of such insurance, exceed the amount of the insurance proceeds applicable to such maintenance, repair or replacement. Whenever the Upkeep of any item for which the Association is obligated to maintain, replace or repair at its expense is occasioned by an act of a Condominium Unit Owner, his tenants, guests or invitees, and such loss or damage is not covered by any insurance maintained in force by the Association, the Unit Owner who is responsible for the act causing the damage (whether done by himself or his tenants, guests or invitees) shall be required to pay the cost of such Upkeep. Establishment of liability for damage caused by the Owner of a Unit or the Association is subject to the provisions of N.C. Gen. Stat. § 47C-3-107(d). Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation.

ARTICLE 20.

AUTHORITY TO PURCHASE INSURANCE

All required or permitted insurance policies (other than title insurance and insurance on betterments and improvements to the Limited Common Elements, if any) upon the Property (other than the personal property of the Unit Owners) shall be purchased by the Association in the name of the Association, as Trustees for the Condominium Unit Owners and their respective mortgagees as their interests may appear, and shall provide for the issuance of certificates or memoranda of insurance to the Association and to any Unit Owner, mortgagee, or beneficiary of a deed of trust. Each Condominium Unit Owner may obtain insurance, at his own expense, affording coverage upon his Condominium Unit, his personal property and for his personal liability as may be permitted or required by law, and such insurance shall, if available, contain a waiver of subrogation as to any claims against Condominium Unit Owners, the Association and their respective servants, agents and guests.

ARTICLE 21.

INSURANCE COVERAGE TO BE MAINTAINED, USE AND DISTRIBUTION OF INSURANCE PROCEEDS

- A. The following insurance coverage shall be maintained in full force and effect by the Association:
- (i) Casualty insurance covering the Common Elements, and to the extent reasonably available, the Units, including all buildings and all improvements upon the land and all personal property included within the Condominium, except such personal property

as may be owned by the Condominium Unit Owners, shall be procured in an amount equal to at least eighty percent (80%) of the maximum insurable replacement value thereof (exclusive of land, excavation and foundations) as determined annually by the insurance company affording such coverage. Such coverage shall afford protection against: (a) loss or damage by fire and other hazards covered by the standard extended coverage endorsement; and, (b) such other risks as from time to time customarily shall be covered with respect to buildings similar in construction, location and use, including, but not limited to, vandalism and malicious mischief. Casualty insurance obtained for the buildings and improvements shall provide such coverage commonly known as "all inclusive building" coverage and/or "completed condominium unit" coverage as such terms are used in the insurance industry, and shall include, but not be limited to, all components of the Units together with fixtures, cabinets, built in appliances and all other such improvements which were part of the original completed Units, except for betterments and improvements installed by the Owner.

- (ii) Public liability and property damage insurance in such reasonable amounts and covering all occurrences commonly insured against including, death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the Common Elements, and in such forms as shall be required by the Association, including, but not limited to, legal liability, hired automobiles, non-owned automobile and off-premises employee coverage. All liability insurance shall contain cross-liability endorsements to cover liabilities of the Condominium Unit Owners as a group to a Condominium Unit Owner.
- B. Premiums upon insurance policies purchased by the Association shall be paid by the Association as Common Expenses to be assessed and collected from all of the Owners of Condominium Units.
- C. Any loss covered by the property insurance maintained by the Association shall be adjusted with the Association; provided, however, all insurance policies purchased by the Association shall be for the benefit of the Association and the Condominium Unit Owners and their mortgagees, as their respective interests may appear, and shall provide that all proceeds payable as a result of casualty losses shall be paid to the Association as Trustee. The Trustee shall hold such proceeds in trust for the benefit of the Condominium Unit Owners and their respective mortgagees as their interests may appear.
- D. In the event a mortgage endorsement has been issued for a Condominium Unit, the share of any insurance proceeds of the Condominium Unit Owner shall be held for the mortgagee and the Condominium Unit Owner as their interests may appear, but nothing herein contained shall be construed so as to give any mortgagee the right to determine or participate in the determination of reconstruction or repair.
- E. Proceeds of insurance policies received by the Association shall be disbursed first for the repair, reconstruction, or restoration of the damaged property, and Unit Owners and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the Property has been completely repaired or restored, or the Condominium is terminated except as specified in Article 22.

- F. Declarant shall pay the premium(s) of the initial insurance policies required by this Article 21 and shall be reimbursed for the pro rata portion of the cost thereof by each Unit Owner at the time each Unit is conveyed to a Person other than Declarant, or reimbursed by the Association.
 - G. Insurance policies carried pursuant to this Article 21 shall provide that:
- (i) Each Unit Owner is an insured person under the policy with respect to liability arising out of his interest in the Common Elements or membership in the Association;
- (ii) The insurer waives its right to subrogation under the policy against any Unit Owner or members of his household, if applicable;
- (iii) No act or omission by any Unit Owner, unless acting within the scope of his authority on behalf of the Association, will preclude recovery under the policy;
- (iv) If, at the time of any loss under the policy, there is other insurance in the name of a Unit Owner covering the same risk covered by the policy, the Association's policy provides primary insurance; and
- (v) The insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or nonrenewal has been mailed to the Association, each Unit Owner and each mortgagee or beneficiary under a deed of trust to whom certificates or endorsements have been issued at their respective last known addresses.
- H. The Association shall not be required to maintain insurance coverage for any betterments or improvements to the Units and/or Limited Common Elements added by any Unit Owner and a Unit Owner may be required to maintain such liability coverage as is otherwise provided herein.
- I. If the insurance described in this Article is not reasonably available, the Association promptly shall cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Unit Owners.
- J. 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).
 - K. If desired, the Association may maintain fidelity insurance.

ARTICLE 22.

RECONSTRUCTION OR REPAIR OF CASUALTY DAMAGE

- Any portion of the Condominium for which insurance is required pursuant to Article 21 which is damaged or destroyed shall be repaired or replaced promptly by the Association unless (1) the Condominium is terminated, (2) repair or replacement would be illegal under any State or local health or safety statute or ordinance, or (3) the Unit Owners decide not to rebuild by an eighty percent (80%) vote, including one hundred percent (100%) approval of all Owners of Units not to be rebuilt or Owners of Units assigned to Limited Common Elements not to be rebuilt. The cost of repair or replacement in excess of insurance proceeds and reserves shall be a Common Expense. If the entire Condominium is not repaired or replaced, (1) the insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition compatible with the remainder of the Condominium, (2) the insurance proceeds attributable to Units and Limited Common Elements which are not rebuilt shall be distributed to the Owners of those Units and the Owners of the Units to which those Limited Common Elements were allocated or to lien holders, as their interests may appear, and (3) the remainder of the proceeds shall be distributed to all of the Unit Owners or lien holders, as their interests may appear, in proportion to their Common Element interest. 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. Gen. Stat. § 47C-1-107(a), and the Association promptly shall prepare, execute and record an amendment to this Declaration reflecting the reallocations. Unless otherwise prohibited, any such reconstruction or repair shall be substantially in accordance with the plans and specifications contained herein.
- B. Immediately after the casualty causing damage to property for which the Association has the responsibility for maintenance and repair, the Association shall obtain reliable and detailed estimates of the cost to place the damaged property in a condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board of Directors deems necessary or appropriate.
- C. 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.
- D. Each Condominium Unit Owner shall be deemed to have delegated to the Association his right to adjust with insurance companies all losses under policies purchased by the Association.

ARTICLE 23.

ASSOCIATION TO MAINTAIN REGISTER OF OWNERS AND MORTGAGEES

The Association shall at all times maintain a register setting forth the names of the Owners of all of the Condominium Units. In the event of the sale or transfer of any Condominium Unit to a third party, the purchaser or transferee shall notify the Association in writing of his interest in such Condominium Unit, together with such recording information as shall be pertinent to identify the instrument by which such purchaser or transferee has acquired his interest in any Condominium Unit. Further, the Owner of each Condominium Unit shall notify the Association of the names of the parties holding any Mortgage on any Condominium Unit, the amount of such Mortgage and the recording information which shall be pertinent to identify the Mortgage. Any Mortgagee of any Condominium Unit may, if he so desires, notify the Association of the existence of any Mortgage held by such Mortgagee on any Condominium Unit and, upon receipt of such notice, the Association shall register in its records all pertinent information relating thereto.

- A. <u>Mortgage Provisions</u>. The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Units in the Property. The provisions of this Article apply to both this Declaration and to the Bylaws, notwithstanding any other provisions contained therein.
- (i) <u>Notices of Action</u>. An institutional holder, insurer, or guarantor of a first Mortgage which provides written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Unit to which its Mortgage relates, thereby becoming an "Eligible Holder"), will be entitled to timely written notice of:
- a. Any condemnation loss or any casualty loss which affects a material portion of the Property or which affects any Unit on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;
- b. Any delinquency in the payment of assessments or charges owed by a Unit subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of ninety (90) days, or any other violation of the Declaration or Bylaws relating to such Unit or the Owner or Occupant which is not cured within ninety (90) days. Notwithstanding this provision, any holder of a first Mortgage is entitled to written notice upon request from the Association of any default in the performance by an Owner of a Unit of any obligation under the Declaration or Bylaws which is not cured within ninety (90) days; or
- c. Any lapse, cancellation, or material modification of any insurance policy maintained by the Association.
- (ii) <u>No Priority</u>. No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first

Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Elements.

(iii) <u>Notice to Association</u>. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.

ARTICLE 24.

ASSESSMENTS: LIABILITY, LIEN AND ENFORCEMENT

To properly administer the operation and management of the Condominium, the Association will incur for the mutual benefit of all of the Owners of Condominium Units, costs and expenses (not including the payment of real estate and personal property taxes) which are sometimes herein referred to as "Common Expenses." To provide the funds necessary for such proper operation, management and capital improvement, the Association has heretofore been granted the right to make, levy and collect assessments against the Unit Owners and their Condominium Units. In furtherance of this grant of authority to the Association to make, levy and collect assessments to pay the costs and expenses for the operation, management and improvement of the Condominium, the following provisions shall be operative and binding upon the Owners of all Condominium Units.

- A. Except as specifically otherwise provided for in this Article or elsewhere in this Declaration, all assessments levied by the Association shall be levied pursuant to the allocation of Common Expenses set forth in Exhibit "C," as same may be amended from time to time. Should the Association be the Owner of a Condominium Unit or Units, the assessment which would otherwise be due and payable to the Association by the Owner of such Unit or Units, reduced by the amount of income which may be derived from the leasing of such Unit or Units by the Association, shall be apportioned and assessment therefor levied ratably among the Owners of all Units which are not owned by the Association, based upon their proportionate interests of the Common Expenses exclusive of the interests therein appurtenant to any Unit or Units owned by the Association.
- B. Any Common Expense associated with the maintenance, repair or the replacement of a Limited Common Element be assessed equally against the Units to which that Limited Common Element is assigned. Any Common Expense or portion thereof benefiting fewer than all of the Units must be assessed exclusively against the Units benefited in such proportions as determined by the Board.
- C. Assessments provided for herein may be payable in installments as directed by the Board of Directors of the Association. Such assessments shall commence upon closing of the sale of the first Unit.
- D. The Board of Directors of the Association shall establish an Annual Budget in advance for each fiscal year (which shall correspond to the fiscal year set forth in the

Bylaws). Such Budget shall project all expenses for the forthcoming fiscal year which may be required for the proper operation, management and maintenance of the Condominium, including a reasonable allowance for contingencies and reserves, such budget to take into account projected anticipated income which is to be applied in reduction of the amounts required to be collected as an assessment each year. The Board of Directors shall keep separate, in accordance with Paragraph E hereof, items relating to operation and maintenance from items relating to capital improvements. Within thirty (30) days after adoption of such Annual Budget by the Board of Directors of the Association, copies of said Annual Budget or summaries thereof shall be delivered to each Owner of a Condominium Unit. 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. Should the Board of Directors at any time determine, in its sole discretion, that the assessments levied are, or may prove to be, insufficient to pay the costs of operation and management of the Condominium, or in the event of emergencies, the Board of Directors shall have the authority to levy such additional assessment or assessments it may deem to be necessary.

- E. The Board of Directors of the Association, in establishing the Annual Budget for operation, management and maintenance of the Condominium, may 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 ("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 Condominium Units. The amount to be allocated to the Capital Improvement Fund may be established by said Board of Directors 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 of Directors of the Association, be expended for current operation and maintenance.
- F. All monies collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by the Association to the payment of any expense of operating and managing the Condominium, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, and the Bylaws of the Association. As monies for any assessment are paid into the Association by any Owner of a Condominium Unit, the same may be commingled with monies paid to the Association by other Owners of

Condominium Units. Although all funds and Common Surplus, including other assets of the Association, and any increments thereto or profits derived therefrom or from the leasing or use of Common Elements, shall be held for the benefit of the members of the Association, no member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his Condominium Unit. When the Owner of a Condominium Unit shall cease to be a member of the Association by reason of his divestment of ownership of such Condominium Unit, by whatever means, the Association shall not be required to account to such Owner for any share of the funds or assets of the Association, or which may have been paid to the Association by such Owner, as all monies which any Owner has paid to the Association shall be and constitute an asset of the Association which may be used in the operation and management of the Condominium.

- G. The payment of any assessment or installment thereof shall be in default if such assessment or installment is not paid to the Association within thirty (30) days of the due date for such payment. When in default, the delinquent assessment or delinquent installment thereof due to the Association shall bear interest at the rate of ten percent (10%) per annum or the maximum rate permitted by law, whichever is less, until such delinquent assessment or installment thereof, and all interest due thereon, has been paid in full to the Association. All monies owing to the Association shall be due and payable at the office of the Association. In any case where an assessment is payable in installments, upon a default by an Owner in the timely payment of any such installment, the maturity of the remaining total of the unpaid installments of such assessment may be accelerated, at the option of the Executive Board, and the entire outstanding balance of the Assessment, including such delinquent installment, may be declared due and payable in full immediately by the service of notice to such effect upon the defaulting Owner.
- H. The Owner or Owners of each Condominium Unit shall be personally liable, jointly and severally, to the Association for the payment of all assessments, regular or special, which may be levied by the Association against such Condominium Unit while such party or parties are Owner or Owners of a Condominium Unit. In the event that any Unit Owner or Owners are in default in payment of any assessment or installment thereof owed to the Association, such Unit Owner or Owners personally shall be liable, jointly and severally, for interest on such delinquent assessment or installment thereof as above provided, and for all costs of collecting such assessment or installment thereof and interest thereon, including a reasonable attorneys' fee, whether suit be brought or not.
- I. No Owner of a Condominium Unit may exempt himself from liability for any assessment levied against him or his Condominium Unit by waiver of the use of enjoyment of any of the Common Elements, or by abandonment of the Condominium Unit or in any other way.
- J. Recognizing that proper operation and management of the Condominium requires the continuing payment of costs and expenses therefor, and that such proper operation and maintenance results in benefit to all of the Owners of Condominium Units, and that the

payment of such Common Expenses represented by the assessments levied and collected by the Association is necessary in order to preserve and protect the investment of each Unit Owner, the Association is hereby granted the right to place a lien upon each Condominium Unit, and any Limited Common Elements assigned to such Unit, and its appurtenant undivided interest in the Common Elements for nonpayment of any assessment levied against a Unit remaining unpaid for thirty (30) days or longer, which lien also shall secure interest, if any, which may be due on the amount of any delinquent assessments owing to the Association, and which lien also shall secure all costs and expenses, including reasonable attorneys' fees, which may be incurred by the Association in enforcing the lien provided for herein. Subject to N.C. Gen. Stat. § 47C-3-116, as amended, the lien granted to the Association may be foreclosed in the same manner as real estate mortgages and deeds of trust may be foreclosed under power of sale in the State of North Carolina. The Association shall be entitled to bid at any foreclosure sale and may apply as cash credit against its bid all sums due as provided herein. The lien granted to the Association shall further secure such advances for taxes, and payments on account of superior mortgages, liens or encumbrances which may be required to be advanced by the Association in order to preserve and protect its lien, and the Association shall further be entitled to interest at the rate of ten percent (10%) per annum or the maximum rate permitted by law, whichever is less, on any such advances made for such purpose. All persons, firms or corporations who shall acquire, by whatever means, any interest in the ownership of any Condominium Unit, or who may be given or may acquire a mortgage, lien or other encumbrance thereon, are hereby placed on notice of the lien rights granted to the Association, and shall acquire such interest in any Condominium Unit expressly subject to such lien rights.

K. The lien herein granted unto the Association shall be enforceable from and after the time of recording a claim of lien in the office of the Clerk of Superior Court of Currituck County, North Carolina, which claim shall state the description of the Condominium Unit encumbered thereby, the name of the record owner, the amount due, the date when due and shall comply with any other requirements under N.C. Gen. Stat. § 47C-3-116, as amended. The claim of lien shall be recordable at any time after default and the lien shall continue in effect until all sums secured by said lien as herein provided shall have been fully paid, but shall be extinguished unless a proceeding to enforce the lien is instituted within three (3) years after the docketing thereof. Such claims of lien shall include only assessments which are due and payable when the claim of lien is recorded, plus interest, costs, attorneys' fees, advances to pay taxes and prior encumbrances and interest thereon, all as above provided and all fees, charges, late charges, fines and interest as set forth in N.C. Gen. Stat. § 47C-3-116, as amended. Such claims of lien shall be signed and verified by an officer or agent of the Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record.

The lien provided for herein shall be prior to all liens and encumbrances on a Unit except (1) liens and encumbrances (specifically including, but not limited to, a mortgage or deed of trust on the Unit) recorded before the docketing of the lien in the office of the clerk of superior court, and (2) liens for real estate taxes and other governmental assessments or charges against the Unit. This subsection does not affect the priority of mechanics' or materialmen's liens.

If the holder of a first mortgage or first deed of trust of record, or other purchaser of the Unit, obtains title to the Unit as a result of foreclosure or deed in lieu of foreclosure of a first mortgage or first deed of trust, such purchaser, and its heirs, successors and assigns, shall not be liable for the assessments against such Unit which became due prior to acquisition of title to such Unit by such purchaser. Such unpaid assessments shall be deemed to be Common Expenses collectible from all of the Unit Owners including such purchaser, and its heirs, successors and assigns although nothing herein contained shall be construed as releasing the party liable for such delinquent assessment from the payment thereof or the enforcement of collection of such payment by means other than foreclosure.

- L. 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.
- M. Institution of a suit at law to attempt to effect collection of the payment of any delinquent assessment shall not be deemed to be an election by the Association which shall prevent it from thereafter seeking, by foreclosure action, enforcement of the collection of any sums remaining owing to it, nor shall proceeding by foreclosure to attempt such collection be deemed to be an election precluding the institution of a suit at law to collect any sum then remaining owing to the Association.
- N. 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.

ARTICLE 25.

COMPLIANCE AND ENFORCEMENT.

- A. <u>General Remedies</u>. Every Owner and any occupant of any Unit shall comply with the Association Documents and the Act. Failure to comply shall be grounds for an action by the Association to recover sums due, for damages, injunctive relief or any other remedy available at law and equity or under the Act.
- B. <u>Enforcement/Sanctions</u>. The Board or such other Association agent with the Board's approval, may impose sanctions for violations of Association Documents after notice and a hearing in accordance with the procedures set forth in the Declaration. Such sanctions may include, without limitation:

- (i) Imposing reasonable monetary fines which shall constitute a lien upon the Unit of the violator;
 - (ii) Suspending an Owner's right to vote;
- (iii) Suspending any Person's right to use any facilities within the Common Elements; provided, however, nothing herein shall authorize the Board to limit ingress or egress to or from the Unit; and
- (iv) Suspending any services provided by the Association to an Owner or the Owner's Unit if the Owner is more than thirty (30) days delinquent in paying any assessment or other charge owed to the Association.
- C. <u>Hearing</u>. No sanction shall be imposed without a hearing in accordance with § 47C-3-107.1 of the Act.
- D. <u>Self Help Remedies</u>. In addition to other rights set forth in the Association Documents and the Act, upon violation or breach of any provision of the Association Documents, 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 abate 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 Association Documents, and the Board shall not thereby be deemed guilty in any manner of trespassed, (ii) to use self-help to remove or cure any violation of the Association Documents (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.
- E. <u>Cumulative Remedies/Attorneys' Fees</u>. The Association shall have all powers and remedies under the Act and the Association Documents which shall be cumulative of any remedies available at law or in equity. In any action to enforce the provisions of the Association Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys; fees and court costs, reasonably incurred in such action.
- F. Association's Right Not to Take Action. The Association shall not be obligated to pursue enforcement action in any particular case, such decisions to be within the discretion of the Board, except that the Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing, the Board may determine that, under the circumstances of a particular case: (a) the Association's position is not strong enough to justify taking any or further action; or (b) the covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with applicable law; or (c) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or justify expending Association funds; or, (d) it is not in

the best interest of the Association, based upon hardship, expense or other reasonable criteria, to pursue enforcement action.

Such a decision shall not be construed a waiver of the right of the Association to enforce such covenant, restriction, rule or provision at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction, rule or provision, nor shall it preclude any Owner from taking action at law or in equity to enforce the Association Documents.

G. <u>Enforcement by Owner</u>. Nothing set forth in this Article 25 shall prevent any aggrieved Owner from instituting any available remedy in law or in equity for a violation of the Association Documents.

ARTICLE 26.

COMMON SURPLUS

"Common Surplus," meaning all funds and other assets of the Association remaining after the payment of or the provision for Common Expenses, including reserves, shall be owned by the Owners of all Condominium Units in the same proportion as their Common Expense liabilities. Except for distribution of any insurance indemnity herein provided, or upon termination of the Condominium, any attribution or distribution of Common Surplus which may be made from time to time shall be made to the then Owners of Condominium Units in accordance with their percentage interest in Common Surplus as declared herein. All Common Surplus remaining after payment of or provision for Common Expenses, including prepayment of reserves, must be paid to the Unit Owners in proportion to their Common Expense liabilities or credited to them to reduce their future Common Expense liabilities.

ARTICLE 27.

TERMINATION

The Condominium may be terminated only in strict compliance with N.C. Gen. Stat. § 47C-2-118.

ARTICLE 28.

AMENDMENT OF DECLARATION OF CONDOMINIUM

- A. This Declaration may be amended as follows:
- (i) An amendment or amendments to this Declaration may be executed as set forth in other provisions of this Declaration (such provisions deal with specific and limited reasons for amendment);

An amendment or amendments to this Declaration may be (ii) 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. It shall be the duty of the Secretary to give to each member written or printed notice of any meeting called to consider the amendment or amendments, stating the time and place thereof, and reciting the proposed amendment or amendments in reasonably detailed form. 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 deed, shall 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.

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. The written agreement shall include the proposed amendment or amendments in reasonably detailed form. 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, certified, executed, recorded and a copy sent to all Owners as specified above.

- (iii) 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.
- B. Provisions in this Declaration creating Special Declarant Rights may not be amended without the 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 29.

SPECIAL DECLARANT RIGHTS AND DEVELOPMENT RIGHTS RESERVED UNTO DECLARANT

In addition to each and every right of Declarant as set forth in this Declaration, Declarant, its successors and assigns, specifically reserves all Special Declarant Rights and Development Rights hereinafter set forth.

A. RESERVATION OF SPECIAL DECLARANT RIGHTS.

- (i) All Special Declarant Rights, as that term is defined in the Act, and any other Special Declarant Rights as are set forth in the Act and this Declaration.
- (ii) The right to use any portion or all of the Common Elements for the purpose of aiding in the sale or rental of Units. The foregoing right shall include the right to display and erect any signs, billboards, and placards and to store, keep and exhibit same and to distribute audio and visual promotional materials upon the Common Elements.
- (iii) The right to maintain sales offices, management offices and models in any and/or all of the Units owned or leased by Declarant. Any Units leased or owned by Declarant may be used by Declarant for such purposes, and such offices and models may be relocated as Units are sold or leases expire.
- (iv) The right to use easements through the Common Elements for utility services, drainage and vehicular and pedestrian traffic, or otherwise, across, under or through the Common Elements as may be considered by Declarant desirable for the purpose of making improvements within the Condominium.
 - (v) The right to exercise any Development Right.
- (vi) The right to relocate the easements as more particularly described on Exhibit A, and facilities located within the easements, during the Development Period.
- (vii) The right to perform construction work, and to store materials in secure areas, in Units, and in Common Elements, and the further right to control all such work and repairs, and the right of access thereto, until its completion. All work may be performed by Declarant without the consent or approval of the Executive Board. Declarant has such an easement through the Common Elements as may be reasonably necessary for the purpose of discharging Declarant's obligations or exercising Declarant's Development Rights and Special Declarant Rights, whether arising under the Act or reserved in this Declaration. Such easement

includes the right to convey utility and drainage easements to public utilities, municipalities, and other entities to fulfill the plan of development.

(viii) The right to appoint, remove and replace the officers and members of the Executive Board.

B. RESERVATION OF DEVELOPMENT RIGHTS.

- (i) All Development Rights as the same are defined in this Declaration and in the Act, including all Development Rights to all Development Property.
- (ii) The rights to: add real estate to the Condominium; create Units, Common Elements and Limited Common Elements within the existing Condominium or any portion of the Development Property annexed into the Condominium; subdivide Units; convert Units into the Common Elements; and, withdraw property, Units and Common Elements from the Condominium. The Development Right reserved to add Units shall not restrict the Declarant to the construction of buildings or Units of the same size and style as the existing buildings and Units in the Condominium.
- (iii) The Development Rights reserved by Declarant may be exercised with respect to different portions of the Development Property at different times, and Declarant makes no assurances as to the boundaries of those portions or the order in which those portions of the Development Property may be subjected to the exercise of the Development Rights. If a Development Right is exercised with respect to any portion of the Development Property, Declarant may, but is not obligated to, exercise any Development Right with respect to any other portion of the Development Property.
- (iv) The Development Rights reserved by Declarant must be exercised during the Development Period.
- (v) The exercise of any or all of the Development Rights reserved by Declarant shall be pursuant to, and subject to the provisions of, the Act.

C. PHASING OF DEVELOPMENT RIGHTS.

(i) Declarant reserves the right to exercise any of the Development Rights with respect to the areas or any portions of the Development Property at different times. No assurances are made by Declarant regarding the areas or any portion of the areas as to the portions where the Declarant will exercise its Development Rights or the order in which such portions will be developed. No assurances are made by Declarant regarding whether all or any portion of the Development Property will be developed. The exercise of any Development Right as to some portions of the Development Property will not obligate the Declarant to exercise any of the Development Rights as to other portions. Declarant reserves the right to exercise any of the Development Rights as to portions but not all of the Development Property.

(ii) Declarant reserves the right to exercise any of the Development Rights with respect to the Units owned by the Declarant at different times. No assurances are made by Declarant regarding the Units owned by Declarant as to when the Declarant may exercise its Development Rights or in what order. No assurances are made by Declarant regarding whether or not all the Units Declarant reserves the right to create will be created. The exercise of any Development Right as to some of the Units owned by Declarant will not obligate Declarant to exercise any of Declarant's Development Rights as to other Units owned by Declarant.

D. LIMITATION ON SPECIAL DECLARANT RIGHTS.

The Special Declarant Rights reserved hereunder shall terminate no later than the expiration of the Development Period.

E. 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.

F. INTERFERENCE WITH SPECIAL DECLARANT RIGHTS.

- (i) Neither the Association nor any Unit Owner may take any action or adopt any rule that will interfere with or diminish any Special Declarant Right without the prior written consent of Declarant.
- (ii) 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.

G. 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.

ARTICLE 30.

CONFLICT WITH ACT; SEVERABILITY

Should any of the terms, conditions, provisions, paragraphs or clauses of this Declaration conflict with any provisions of the Act, the provisions of the Act shall control unless the Act permits the Declaration to override the Act, in which event the Declaration shall control. In the event that any of the terms, provisions or covenants of this Declaration are held to be partially or wholly invalid or unenforceable for any reason whatsoever, such holding shall not affect, alter, modify or impair in any manner whatsoever any of the other terms, provisions or covenants hereof or the remaining portions of any terms, provisions or covenants held to be partially invalid or unenforceable.

ARTICLE 31.

LIBERAL CONSTRUCTION

The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan of condominium ownership. Throughout this Declaration wherever appropriate the singular shall include the plural and the masculine gender shall include the feminine or neuter. The Article headings are for convenience of reference only and shall not be considered terms of this Declaration.

ARTICLE 32.

<u>DECLARATION BINDING</u> <u>ON ASSIGNS AND SUBSEQUENT OWNERS</u>

The restrictions and burdens imposed by the covenants of this Declaration are intended to and shall constitute covenants running with the land, and shall constitute an equitable servitude upon each Condominium Unit and its appurtenant undivided interest in the Common Elements, and this Declaration shall be binding upon Declarant, its successors and assigns, and upon all parties who subsequently may become Owners of Condominium Units in the Condominium, and their respective heirs, legal representatives, successors and assigns.

The Association shall have current copies of the Declaration, Bylaws of the Association, and other rules and regulations concerning the Condominium, and the books, records and financial statements available for inspection by Unit Owners and by holders, insurers and guarantors of mortgages during normal business hours at the office of the Association.

BOOK 993 PAGE 0407

ARTICLE 33.

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. Gen. Stat. §47C-1-107.

ARTICLE 34.

TAXES

Pursuant to the provisions of N.C. Gen. Stat. § 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. Neither any building, the Property nor any of the Common Elements shall be deemed to be a parcel. Provided, however, pursuant to the provisions of N.C. Gen. Stat. § 47C-1-105, any areas in which Declarant has Development Rights shall be separately taxed and assessed against Declarant until Declarant exercises Declarant's Development Rights therein or Declarant's Development Rights expire, terminate or are released by Declarant.

ARTICLE 35.

LITIGATION

Except as provided below, no judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of sixty-seven percent (67%) of the Members and the consent of Declarant during the Development Period. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of the Association Documents (including, without limitation, the foreclosure of liens); (b) the imposition and collection of assessments as provided in Article 10; (c) proceedings involving challenges to ad <u>valorem</u> taxation; or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

No judicial, quasi-judicial, administrative or governmental proceeding shall be commenced or prosecuted by the Association against or involving Declarant unless approved by a vote of seventy-five percent (75%) of the Members.

BOOK 993 PAGE 0408

<u>EXHIBIT A</u> (Initial Property in Condominium)

That tract or parcel of land lying and being situate in Currituck County, North Carolina, and being more particularly shown and described on the revised map entitled "Villas at Waterside Condominium Final Plat - Building 100," prepared by Bissell Professional Group and recorded in Condominium Book 1, Slides 208 through 214, in the office of the Register of Deeds of Currituck County, North Carolina.

EXHIBIT B

For survey and plat and plans see Condominium Book 1, Slides 208 through , in the office of the Register of Deeds of Currituck County.

EXHIBIT C

Unit Number	UNIT 100A	UNIT 100B	UNIT 100C	UNIT 100D	UNIT 100E	UNIT 100F	UNIT 100G	UNIT 100H	UNIT 100I
Undivided Interest in Common Elements Appurtenant to each Unit	10%	10%	10%	10%	10%	10%	10%	10%	10%
Portion of Common Expenses allocated to each Unit	10%	10%	10%	10%	10%	10%	10%	10%	10%
Votes allocated to each Unit	1	1	1	1	1	1	1	1	1

Unit Number	UNIT 100J	TOTALS
Undivided Interest in Common Elements Appurtenant to each Unit	10%	100%
Portion of Common Expenses allocated to each Unit	10%	100%
Votes allocated to each Unit	l	10

EXHIBIT D

(Legal Description - Development Property)

Those tracts or parcels of land lying and being situate in Currituck County, North Carolina, and being more particularly shown and described as subject to development rights on the revised map entitled "Villas at Waterside Condominium Final Plat - Building 100," prepared by Bissell Professional Group and recorded in Condominium Book 1, Slides 208 through 1, in the office of the Register of Deeds of Currituck County, North Carolina.

IN TESTIMONY WHEREOF, Declarant has caused this Declaration to be executed under seal and in such form as to be binding, all by authority duly given, this the day and year first above written.

VOC, L.L.C. (SEAL)
A North Carolina limited liability company

By: (SEAL)

COUNTY, NO	ORTH CAROLINA	
I certify that the following person(s) person acknowledging to me that he or she signed therein, in the capacity indicated, and have	d the foregoing document for the pu	rpose(s) stated DAVID 5 RUSSOTTO
Date _ Lebruary 22, 3007	Signature of Notary Public	NANCY L ENGLE
(Official Seal) NOTARY PUBLIC	My commission expires: 4/25	5/2011
COUNTY IN		

CONSENT OF BANK

Wachovia Bank, a national association, pursuant to the Deed of Trust,
Assignment of Rents, and Security Agreement recorded in Book 881, at Page 14 in the office of
the Register of Deeds of Currituck County, North Carolina, (the "Deed of Trust") hereby execute
this Consent of Bank to consent to the imposition of the covenants, conditions and restrictions
and the condominium form of ownership as set forth in this Declaration on the property
described in Exhibit "A" of this Declaration, and any subsequent amendments to the Declaration
subjecting any portion of the Development Property encumbered by the Deed of Trust to this
Declaration pursuant to the exercise of any Development Rights by Declarant, and do hereby
subordinate the lien of the Deed of Trust to this Declaration.

IN TESTIMONY WHEREOF, Trustee and Bank have executed this Consent of Trustee and Bank, this day of March, 2007.

WACHOVIA BANK, NATIONAL ASSOCIATION a National Banking Association

By:

W. Trent Dudley, Vice President

COMMONWEALTH OF VIRGINIA CITY OF NORFOLK, VA

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document for the purpose(s) stated therein, in the capacity indicated, and having been first authorized to do so:

W. Trent Dudley, Vice President of WACHOVIA BANK NATIONAL ASSOCIATION.

Date 3-7-07

Signature of Notary Public

My commission expires: 4-30-2009

Official Seal

040511-00001-001 WLMAIN\147559\1



Doc ID: 001957770003 Type: CRP Recorded: 03/09/2007 at 01:50:47 PM Fee Amt: \$20.00 Page 1 of 3 Currituck County, NC Charlene Y Dowdy Register of Deeds BK 993 Pg368-370



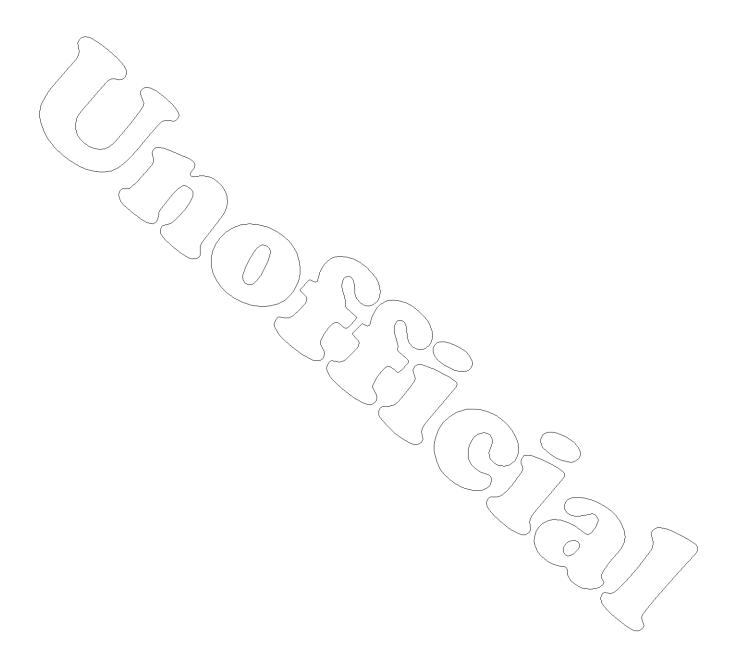
SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR WATERSIDE VILLAGES OF CURRITUCK (Villas at Waterside Condominium - Phase I)

THIS SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR WATERSIDE VILLAGES OF CURRITUCK ("Supplemental
Declaration") is made this 22 day of February, 2007, by VOC, L.L.C., a
North Carolina limited liability company (hereinafter sometimes referred to as the "Declarant").
RECITALS:
A. Declarant caused to be prepared the Declaration of Covenants, Conditions and
Restrictions for Waterside Villages of Currituck which is recorded in Book 908, at Page 872 in
of the office of the Register of Deeds of Currituck County, North Carolina, as amended and
supplemented, (collectively, the "Declaration"). The capitalized terms and definitions in this
Supplemental Declaration shall be the same as set forth in the Declaration unless otherwise
defined herein.
B. Declarant is the owner in fee simple of the real property described in Exhibit "A,"
which is attached hereto and incorporated herein by reference ("Villas at Waterside
Condominium Phase I"), said real property being part of the Contiguous Property.
December 1 - Ward and Smith D.A. 127 Paring Drive Wilmin 4 - NC 20407 0705
Prepared by Ward and Smith, P.A., 127 Racine Drive, Wilmington, NC 28403-8705 Please return to Ward and Smith, P.A., 127 Racine Drive, Wilmington, NC 28403-8705

Attention: W. Daniel Martin, III

EXHIBIT A

That tract or parcel of land lying and being situate in Currituck County, North Carolina, and being more particularly shown and described on the revised map entitled "VILLAS AT WATERSIDE CONDOMINIUM FINAL PLAT - BUILDING 100," prepared by Bissell Professional Group, said map or plat being recorded in Condominium Book 1, Slides 208 through 311, in the office of the Register of Deeds of Currituck County, North Carolina.



C. Pursuant to Section 9.1 of the Declaration, Declarant desires to annex Villas at Waterside Condominium Phase I into the Project and subject it to the provisions of the Declaration and the jurisdiction of the Association.

NOW, THEREFORE, Declarant, exercising its right to annex Contiguous Property pursuant to Section 9.1 of the Declaration, does hereby declare that all of Villas at Waterside Condominium Phase I shall be held, sold, used and conveyed subject to the Declaration and all easements, restrictions, covenants, conditions and benefits described therein; and further, that Villas at Waterside Condominium Phase I are hereby subjected to the jurisdiction of the Association and all Association Documents.

IN WITNESS WHEREOF, Declarant has executed this Supplemental Declaration this 22nd day of 1chican, 2007.

VOC, L.L.C.,
A North Carolina limited liability company

(SEAL)

ssotto, Manager

By:

Curutine COUNTY, NORTH CAROLINA

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document for the purpose(s) stated therein, in the capacity indicated, and having been first authorized to do so: DAVID S. RUSSOTTO, Manager of VOC, L.L.C.

Date Ilbruary 22, 2007

Signature of Notary Public

NANCY L. ENGLE

(Official Seal)

NOTARY PUBLIC

040511-00001-001 WLMAIN\157459\1 My commission expires:

Doc ID: 002353140012 Type: CRP Recorded: 10/10/2011 at 09:29:42 AM Fee Amt: \$26.00 Page 1 of 12 Currituck County, NC Charlene Y Dowdy Register of Deeds

вк 1174 рс 467-478

Drawn by and mail to: Nathaniel C. Parker, Esq. K&L Gates, LLA 430 Davis Drive Suite 400 Morrisville, NC

INDEX UNDER:

Waterside Villages at Currituck Subdivision Waterside Villages, LLC

STATE OF NORTH CAROLINA

COUNTY OF CURRITUCK

AMENDMENT TO DECLARATION OF VILLAS AT WATERSIDE CONDOMINIUM CURRITUCK COUNTY, NORTH CAROLINA

THIS AMENDMENT JO DECLARATION OF VILLAS AT WATERSIDE CONDOMINIUM CURRITUCK COUNTY, NORTH CAROLINA (the "Amendment"), is made effective as of the 17 day of August , 2011 (the "Effective Date") by Waterside Villages, LLC, a North Carolina limited liability company ("WVLLC"), as successor in interest and Substitute Declarant to VOC, LLC, Villas at Waterside Condominium Association, a North Carolina nonprofit corporation (the "Association"), and Russell E. Cook Jr., Charles Robert McNaughton Sr. and wife, Frances McNaughton, Marjorie S. Martin, Ruth E. Strickland, Daniel T. Hedberg and wife, Heidy L. Hedberg, and David J. Hedberg and wife, Barbara J. Hedberg (collectively, the "Unit Owners").

WHEREAS, VOC, LLC caused to be recorded the Declaration of Covenants, Conditions and Restrictions for Waterside Villages of Currituck (the "Declaration") in Book 908, at Page 872 in the Currituck County Registry (the "Registry"); and,

WHEREAS, WVLLC acquired Units 100B, 100G, 100H, 100I and 100J in the Villas at Waterside Condominiums (the "Condominium") pursuant to that certain Trustee's Deed recorded in Book 1055, at Page 530, and rerecorded in Book 1058, at Page 660, in the Registry and is the current owner of Units 100B, 100G, 100H, and 100I; and,

WHEREAS, David Hedberg and Barbara Hedberg acquired Unit 100A in the Condominium pursuant to that certain general warranty deed recorded in Book 1134, at Fage 370 in the Registry; and

RT-3008999 v3

Book 1174 Page 468

WHEREAS, Russell E. Cook Jr. acquired Unit 100C in the Condominium pursuant to that certain general warranty deed recorded in Book 994, at Page 250 in the Registry; and

WHEREAS, Charles Robert McNaughton Sr. and wife, Frances McNaughton acquired Unit 100D in the Condominium pursuant to that certain general warranty deed recorded in Book 993, at Page 679 in the Registry; and

WHEREAS, Marjorie S. Martin acquired Unit 100E in the Condominium pursuant to that certain general warranty deed recorded in Book 1043, at Page 106 in the Registry; and

WHEREAS, Ruth E. Strickland acquired Unit 100F in the Condominium pursuant to that certain general warranty deed recorded in Book 1133, at Page 284 in the Registry; and

WHEREAS, Daniel T. Hedberg and wife, Heidy L. Hedberg and David J. Hedberg and wife, Barbara J. Hedberg acquired Unit 100J in the Condominium pursuant to that certain general warrants deed recorded in Book 1138, at Page 474 in the Registry; and

WHEREAS as a result of Unit ownership, the Unit Owners and WVLLC, are each a Member under the Declaration.

WHEREAS, as set forth in Article 28(A) of the Declaration, the Members may amend the Declaration by affirmative vote of sixty-seven percent (67%) of the votes in the Association or written agreement executed by Unit Owners representing sixty-seven percent (67%) of the votes in the Association; and,

WHEREAS, the undersigned are Unit Owners and Members representing sixty-seven percent (67%) of the votes in the Association; and,

WHEREAS, WVLLC, as Substitute Declarant, has consented to the amendments to the Declaration as hereinafter set forth in this Amendment.

NOW, THEREFORE, WVLCC, the Association, and the undersigned Unit Owners, acting pursuant to the provisions of Article 28(A) of the Declaration do hereby amend the Declaration as follows:

1) Article 2 of the Declaration shall be deleted in its entirety and replaced with the following to reflect the recording of an amended survey and plat and plans which are Exhibit B of the Declaration:

ARTICI2 2.

SURVEY AND DESCRIPTION OF IMPROVEMENTS

An amended survey of the land and plat and plans of the improvements constituting the Condominium, prepared by Essel feotosical Group and dated 2, 2011, identifying the Condominium Units, the Common Elements and the Limited Common Elements, as said terms are herein defined, and containing the information required by N.C. Gen. Stat, 47C-2-109(b) and (c) is recorded in Condominium Book 1, Pages 244 through 255, in the Currituck County Registry, said amended survey and plat and plans being incorporated herein by reference. Said amended survey and plat and plans are sometimes collectively referred to herein as Exhibit "B." Each Condominium Unit is identified by a specific number on said Exhibit "B," and no Condominium Unit bears the same number as any other

Condominium Unit. The Condominium Units are designated and numbered as Units 100A through 100J as shown on Exhibit "B."

2) Paragraph R of ARTICLE 3 of the Declaration, entitled "<u>DEFINITIONS</u>," is deleted in the following:

R. "Limited Common Elements" means those portions of the Common Elements allocated by operation of N.C. Gen. Stat. § 47C-2-102 for the exclusive use of one or more but fewer than all of the Units, those portions of the Common Elements described in this Declaration as Limited Common Elements and those portions of the Common Elements designated as Limited Common Elements on Exhibit "B" as "LCE" followed by the letter identifying the Unit to which the Limited Common Element is assigned.

Supplementing the provisions of N.C. Gen. Stat § 47C-2-102(4); all exterior doors and door frames, except coreen doors or storm doors as may have been permitted by the Association, exterior windows and window frames, and all related components of the exterior doors and exterior windows including glass, panes and screens, shall be Limited Common Elements.

Each Unit has been assigned a parking space under the building in which the Unit is located, which are Limited Common Elements and shown and delineated on Exhibit "B" as "LCE", followed by the identification of the Unit to which the Limited Common Element is assigned.

Units 100A, 100C, 100D, 100E, 100F, 100G, 100H, and 100J have been assigned one (1) storage closet under the building in which the Unit is located, which are Limited Common Elements and shown and delineated on Exhibit "B" as "LCE," followed by the identification of the Unit to which the Limited Common Element is assigned. Units 100B and 100I have not been assigned a storage closet.

NOW, THEREFORE, WVLCC, the Association, and the undersigned Unit Owners, also agree that:

- 1. <u>Counterparts</u>. This Amendment may be signed in one or more counterparts, in which event the signature pages thereof shall be combined in order to constitute a single original document.
- 2. <u>Primacy of this Amendment</u>. In the event of any inconsistency between the terms and provisions set forth in this Amendment and those set forth in the Declaration, the terms and provisions of this Amendment shall prevail.
- 3. Ratification. As hereby amended, the Declaration shall remain in full force and effect. All covenants, terms, obligations and conditions of the Declaration, as modified and amended by this Amendment, are hereby ratified and confirmed.
- 4. <u>Defined Terms</u>. Unless otherwise defined in this Amendment, all terms spelled in this Amendment with initial capital letters shall have the meanings given to them in the Declaration.

[SIGNATURE AND NOTARY PAGES TO FOLLOW]

3

IN WITNESS WHEREOF, the un	dersigned being the Substitute Declarant under the Declaration, I, and 100I herein, has caused this Amendment to be executed
under seal as of the Effective Date.	
	Waterside Villages, LLC
	a North Carolina Limited Liability Company
, 6) ²	By: Wells Fargo Bank N.A., Manager
Y ,	By: William Honden (SEAL)
	Name: William Honaker Title: Vice President
	ittle: vice riesidelit
STATE OF NORTH CAROLINA	
COUNTY OF Wike	
I certify that the following person person signed the foregoing document for the p	ally appeared before me this day acknowledging to me that he purpose stated therein and in the capacity indicated:: William Bank N.A., Manager of Waterside Villages, LLC.
Date: 9-26,2011	Carie G. Rus
	Print Name: April L. Rivers
(Official Seal below)	Notary Public
April L Ailong Commission Commiss	My commission expires: 5-4-2016
RT-3008999 v3	anottictat Docum

IN WITNESS WHEREOF, the undersigned being the Association herein, has caused this Amendment to be executed under seal as of the Effective Date.

5	`		
	, \		
	X	<i>y</i> .	.
	`	\checkmark	`
			Ź-
			Ġ)

Villas at Waterside Condominium Association, a North Carolina non-profit corporation

Name: William Honaker

Title: President

STATE OF NORTH CAROLINA

COUNTY OF Wake

I certify that the following person personally appeared before me this day, acknowledging to me that he voluntarity signed the foregoing document for the purpose stated therein and in the capacity indicated: William Honaker, President of the Villas at Waterside Condominium Association.

Date:___

8. Ris Official Signature of Notary Public

Rivers Notary printed or typed name

My commission expires: 5-4-2016

IN WITNESS WHEREOF, the undersigned being the owners of Unit 100A herein, execute this

Amendment as of the day and year first above written to acknowledge that the undersigned agree to this Amendment. STATE OF WORTH CAROLINA COUNTY OF COUNTY I certify that the following person personally appeared before me this day, acknowledging to me that he voluntarily regard the foregoing document for the purpose stated therein and in the capacity indicated: David Hedberg. Date: 9-14-11 Official Signature of Notary Public E SANDERS Notary printed or typed name OTARY PUBLIC JARE COUNTY, NO My commission expires: 07 - 2/- 2014 OFFICIAL SEA polimission Expires 7-21-2014 STATE OF NORTH CAROLINA COUNTY OF LARE I certify that the following person personally appeared before me this day, acknowledging to me that she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Barbara Hedberg. Date: 9-14-11 Official Signature of Notary Public Notary printed or typed name My commission expires: 07 - 21 - 2014 [OFFICIAL SEAL] **LESLIE SANDERS** NOTARY PUBLIC DARE COUNTY, NC My Commission Expires 7-21-2014

IN WITNESS WHEREOF, the undersigned being the owner of Unit 100C herein, executes this Amendment as of the day and year first above written to acknowledge that the undersigned agrees to this Amendment. I certify that the following person personally appeared before me this day, acknowledging to me that he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Russelk Cook, Jr.. Official Signature of Notary Public Notary printed or typed name My commission expires

IN WITNESS WHEREOF, the undersigned being the owners of Unit 100D herein, execute this Amendment as of the day and year first above written to acknowledge that the undersigned agree to this Amendment. COUNTY OF LAND I certify that the following person personally appeared before me this day, acknowledging to me that he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Charles Robert McNaughton, Sr.. Date: 9-14-2011 Official Signature of Notary Public **LESLIE SANDERS** Notary printed or typed name NOTARY PUBLIC DARE COUNTY, NC My commission expires: 07.21-2014 OFFICIAL COMPSAINT Expires 7-21-2014 STATE OF NORTH CAROLINA COUNTY OF //ARE I certify that the following person personally appeared before me this day, acknowledging to me that she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Frances McNaughton. Date: 9-14-2011 Official Signature of Notary Public LESLIE SANDERS **NOTARY PUBLIC** Notary printed or typed name DARE COUNTY, NO [OFFICYACONSTISSION Expires 7-21-2014 My commission expires:

IN WITNESS WHEREOF, the undersigned being the owner of Unit 100E herein, executes this Amendment as of the day and year first above written to acknowledge that the undersigned agrees to this Amendment. STATE OF NORTH CAROLINA COUNTY OF LIKE I certify that the following person personally appeared before me this day, acknowledging to me that she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Marjorie S. Martin. Official Signature of Notary Public LESLIE SANDER Notary printed or typed name NOTARY PUBLIC [OFFICIADANE COUNTY, NC My Commission Expires 7-21-2014 My commission expires: 07-21-2014

IN WITNESS WHEREOF, the undersigned being the owner of Unit 100F herein, executes this Amendment as of the day and year first above written to acknowledge that the undersigned agrees to this Amendment. By: Yett C. Strickland SEAL)
Name: Ruth E. Strickland STATE SENORTH CAROLINA COUNTY OF LARE I certify that the following person personally appeared before me this day, acknowledging to me that she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Ruth Exstrickland. Official Signature of Notary Public LESLIE SANDERS Notary printed or typed name NOTARY PUBLIC My commission expires: <u>07 - 2/- 2014</u>

BOOK $1\,17\,4\,\text{PAGE}\,0477$ IN WITNESS WHEREOF, the undersigned being the owners of Unit 100J herein, execute this

Amendment as of the day and year first above written to acknowledge that the undersigned agree to this Amendment. By: Daniel T. Hedberg STATE OF NORTH CAROLINA COUNTY OF DARK I certify that the following person personally appeared before me this day, acknowledging to me that he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Daniel T. Hedberg. Official Signature of Notary Public LESLIE SANDERS Notary printed or typed name NOTARY PUBLIC DARE COUNTY, NC My commission expires: 07-21-2014 [OFFICIALMS PANEISPION Expires 7-21-2014 STATE OF NORTH CAROLINA COUNTY OF DARE I certify that the following person personally appeared before me this day, acknowledging to me that she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Heidy L. Hedberg. Date: 69 - 14 - 2011 Official Signature of Notary Public

The second burst and the second and	1
LESLIE SANDERS	LESUE SANDERS
LICTADY DI IRI IC	Notary printed or typed name
DARE COUNTY, NC	
OFFICIAL SEA Dives 7-21-2014	My commission expires: 07-21-2014
The state of the s	
1/h	
\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\	
STATE OF NORTH CAROLINA	
COUNTY OF JARE	
Ocertify that the following pers	on personally appeared before me this day, acknowledging to me
	ng document for the purpose stated therein and in the capacity
indicated: <u>David J. Hedberg</u> .	
\mathcal{O}	
O	
\sim	
Date: 07-14-2011	Weelie Auders
Date. Of The State	Official Signature of Notary Public
	Official Signature of Notary Fublic
The state of the s	-/
LESLIE SANDERS	LESUE SANDERS
NOTARY PUBLIC	Notary printed or typed name
DARE COUNTY, NC	
OFFICA Administration Expires 7-21-2014	My commission expires: 07.21.2014
The state of the s	
STATE OF NORTH CAROLINA	
STATE OF NORTH CAROLINA	
7. 7	
COUNTY OF ARE	
✓ \\	
I certify that the following pers	on personally appeared before me this day, acknowledging to me
	ing document for the purpose stated therein and in the capacity
indicated: Barbara J. Hedberg.	
marcated. <u>Darbara J. Heaberg</u> .	
A well to be	
Date: 69-14-2011	Mille Musers
	Official Signature of Notary Public
	LESIF SANTERS
	Notary printed or typed name
LESLIE SANDERS	Notary printed or typed name
NOTARY PUBLIC	
[OFFICIALDARACOUNTY, NC	My commission expires: 07-21-2014
My Commission Expires 7-21-2014	
Commence of the state of the st	
	\nearrow
	* /_
	·\mathcal{h}
	\\\
	Υ_

Doc No: 338470 Recorded: 09/19/2018 11:39:19 AM Fee Amt: \$26.00 Page 1 of 7

Currituck County North Carolina Denise A. Hall, Register of Deeds BK 1458 PG 63 - 69 (7)

Prepared by and return to:
E. Crouse Gray, Jr., a licensed North Carolina Attorney.
GRAY & LLOYD, L.L.P.
3120 North Croatan Hwy., Ste. 101
Kill Devil Hills, NC 27948
My File No. 13401-002

NORTH CAROLINA CURRITUCK COUNTY

THIRD AMENDMENT TO DECLARATION FOR VILLAS AT WATERSIDE CONDOMINIUM

THIS THIRD AMENDMENT TO DECLARATION FOR VILLAS AT WATERSIDE CONDOMINIUM (the "Amendment") made and entered into this the 18th day of September, 2018, by WSV DEVELOPMENT, LLC, a North Carolina limited liability company (hereinafter the "Successor Declarant"), and WSV HOLDINGS, LLC, a North Carolina limited liability company, (hereinafter the "Owner") and the VILLAS AT WATERSIDE CONDOMINIUM ASSOCIATION, a North Carolina nonprofit corporation, (hereinafter the "Condominium Association").

RECITALS:

- A. VOC, LLC, the original Declarant of the Villas at Waterside Condominium, caused to be constructed condominium units and recorded an original Declaration for Villas at Waterside Condominium as recorded in Deed Book 993, Page 371, Currituck County Public Registry. The original Declaration was amended by Amendment to Declaration of Villas at Waterside Condominium as recorded in Deed Book 1174, Page 467, (hereinafter said original Declaration as recorded in Deed Book 993, Page 371, as amended in Book 1174, Page 467, the "Villas at Waterside Condominium Declaration"). The capitalized terms set forth in this Amendment have the same meanings as set forth in the Villas at Waterside Condominium Declaration, unless otherwise defined or the context otherwise prohibits.
- B. LOC, LLC as original Declarant further executed a Deed of Trust as recorded in Deed Book 881, Page 14, Currituck County Public Registry securing certain indebtedness.

- D. That due to default, the Holder of the note secured by the Deed of Trust recorded in Deed Book 881, Page 14, instituted a foreclosure proceeding leading to a Trustee's Deed as recorded in Deed Book 1055, Page 530, and re-recorded in Deed Book 1058, Page 660, Currituck County Public Registry transferring certain real properties to Waterside Villages, LLC. In addition, said Trustee's Deed transferred all "Special Declarant Rights", including all rights to exercise "Development Rights" to Waterside Villages, LLC.
- E. Waterside Villages, LLC transferred and quitclaimed all Declarant Rights to WSV Dec, LLC, by document recorded in Deed Book 1257, Page 307, Currituck County Public Registry.
- F. WSV Dec, LLC assigned all Declarant Rights to WSV Development, LLC by document recorded in Deed Book 1404, Page 471, Currituck County Public Registry.
- G. Successor Declarant and Owner desire to amend the existing Villas at Waterside Condominium Declaration.
- H. The Condominium Association, through its Board of Directors, concurs with the amending of the existing Villas at Waterside Condominium Declaration.

NOW, THEREFORE, Owner, Successor Declarant and Condominium Association acting pursuant to the assignments and the provisions of the Villas at Waterside Condominium Declaration, do hereby amend the Declaration as follows:

- 1. Article 13 entitled "Age Restricted Condominium" is hereby deleted in its entirety.
- 2. All references in the Villas at Waterside Condominium Declaration to Section 13 are hereby deleted, such references include, but are not limited to, the following reference:

Under Article 6 Condominiums Subject to Restrictions, subparagraph (g) e reading "The leasing of any unit is further subject to the restrictions on occupancy set forth in Article 13 of this Declaration" is hereby deleted in its entirety.

3. Article 23 presently entitled "Association to Maintain Register of Owners and Mortgagees" is hereby deleted in its entirety and in its place and stead, the following shall be substituted:

Article 23 REGISTRY OF OWNERS, MORTGAGEES AND RIGHTS OF MORTGAGEES

The Association shall at all times maintain a registry setting forth the names of the owners of all of the condominium units. In the event of the sale or transfer of any condominium unit to a third party, the purchaser or transferee shall be obligated to notify the Association in writing of their interest in such condominium unit, together with such recording information as shall be pertinent to identify the instrument by which the purchaser or transferee has acquired their interest in any condominium unit. Further, the Owner of each condominium unit shall notify the Association of the names of any mortgagee on any condominium unit owned by the Owner and the recording information which shall be pertinent

to identify the mortgagee, including their address and the name and address of any guarantors of such loan (i.e. VA, FHA, etc.). All such notifications shall be within ten (10) days from the date of the recording of any such instrument. Upon request by the Association, each Owner shall be obligated to furnish to the Association the information specified above.

- (I) The Association shall give to each mortgagee and the guarantor of any mortgage on any unit notice within thirty (30) days of
 - (a) Any condemnation loss or any casualty loss which affects a material portion of the property or which affects any unit on which there is a first mortgage held, insured, or guaranteed.
 - (b) The specific mortgagee of any unit where the Owner of such unit is sixty (60) days or more delinquent in the payment of any assessment or charges owed by the Owner of that unit.
 - (c) Any lapse, cancellation or material modification of any insurance policy maintained by the Association; and
 - (d) Any proposed action that requires the consent of a specified percentage of mortgagees.
- (ii) Notwithstanding anything else as contained within this Declaration, mortgagees shall be entitled to notice and a right to vote to approve any of the following:
 - (a) Any amendment of a material adverse nature to the mortgagees shall be agreed upon by mortgagees that represent at least fifty-one percent (51%) of the votes of the unit estates that are subject to mortgages.
 - (b) Any action to terminate the legal status of the project after substantial destruction or condemnation occurs shall require a vote by mortgagees that represent at lease fifty-one percent (51%) of the votes of the unit estates that are subject to mortgages.
 - (c) Each mortgagee entitled to notice and a right of approval, shall be conclusively presumed to have approved any proposal if the mortgagee fails to submit a written response to any written proposal for an amendment within sixty (60) days after it receives proper notice of the proposal, provided the notice was delivered by certified or registered mail, with a return receipt requested.
- 4. Article 6, Subparagraph G shall be deleted in its entirety and in its place and stead, the following shall be substituted:
- G. Nothing contained herein shall prohibit the leasing or subleasing of a unit; provided, however, that:

- (a) All leases for a unit shall be in writing signed by the Owner and the tenant.
- (b) All leases shall notify the tenant that the tenant is obligated to comply with all terms and conditions of the Declaration, including all rules and regulations of the Association.
- (c) No fraction or portion of any unit may be leased separately from any other portion of the unit.
- (d) The Board is specifically authorized to adopt reasonable rules and regulations regarding leasing which may, but not necessarily will, include:
 - (i) The imposition of a fee to the Owner leasing the unit equal to the cost of administration ensuring compliance incurred by the Association with any restrictions, rules and regulations relating to leasing and
 - (ii) Prohibiting and restricting leasing of units that exceed a certain percentage of the total units that exist at that time in the condominium project.
- (e) The term "Leasing" for purposes of this Declaration is defined as regular, exclusive occupancy of a unit by any person other than the owner or the Immediate Family of the Owner, for which the Owner receives, or that the tenant provides, any consideration or benefit including, but not limited to, a fee, service, gratuity or emolument. As used within this subsection, the term "Immediate Family" shall mean the parents, grandparents and issue of any Owner of the unit.

5. Article 6, Subsection K shall be reworded as follows:

K. The Board may adopt reasonable rules regarding household pets, service animals and emotional support animals designed to minimize damage to the Common Elements and disturbance to other owners and occupants, including rules requiring damage deposits, waste removal, leash controls, noise controls, pet occupancy limits based on size and facilities of the unit and fair share use of the Common Elements. Nothing in this restriction shall prevent the Association from requiring removal of any animal that presents a threat to the health or safety of the owners and occupants or from requiring abatement of any nuisance or unreasonable source of annoyance. No Owner shall be permitted to raise, breed, or keep, mammals, birds, fish or reptiles for any kind of commercial or business purposes.

IN WITNESS WHEREOF, Owner, Successor Declarant and the Association have caused this Amendment to be executed in such form as to be binding, all by authority duly given, the day and year first above written.

[SIGNATURE PAGES TO FOLLOW]

OWNER: WSV HOLDINGS By: (SEAL)

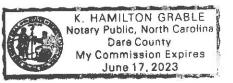
STATE OF NORTH CAROLINA COUNTY OF <u>bare</u>

I, K. Hamilton Grable, a Notary Public, hereby certify that Prem Gupta personally came before me this day and acknowledged the execution of the foregoing instrument, all in his capacity as a manager in, and in the name and for and on behalf of WSV Holdings, LLC, a limited liability company organized under the laws of the State of North Carolina.

Witness my hand and official seal this the 18th day of 60ptember, 2018.

K.Hauth Grable
Notary Public

My Commission Expires: 4-17-2023



				N.			
CIT	CC	TCCC	OD	DE	CT A	DA.	NT-
SO	ww.	TINO D	ON		ϵ n ϵ	TACK.	TAT.
11/0	177	DEM	ET (ADA A	CLA	TT	\boldsymbol{C}

(SEAL)

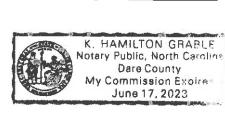
STATE OF NORTH CAROLINA COUNTY OF __bare

I, K. Hamilton Grable, a Notary Public, hereby certify that Prem Gupta personally came before me this day and acknowledged the execution of the foregoing instrument, all in his capacity as a manager in, and in the name and for and on behalf of WSV Development, LLC, a limited liability company organized under the laws of the State of North Carolina.

Witness my hand and official seal this the 18th day of September, 2018.

K. Hatten Grable
Notary Public

My Commission Expires: 4-17-2023





CONDOMINIUM ASSOCIATION: VILLAS AT WATERSIDE

CONDOMINIUM ASSOCIATION, INC.

(SEAL)

SUMIT GUPTA, Presiden

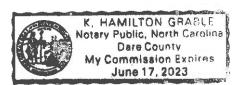
STATE OF NC CITY/COUNTY OF bare

I, Karami Hon Grable, a Notary Public of the City/County and State aforesaid, certify that Sumit Gupta, of Villas at Waterside Condominium Association, Inc., a North Carolina nonprofit corporation, personally came before me this day and acknowledged that he/she is President/Vice President/Asst. Vice President/Treasurer/Chief Financial Officer of Villas at Waterside Condominium Association, Inc., and that he/she, as President/Vice President/Asst. Vice President/Treasurer/Chief Financial Officer, being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and official stamp or seal, this the 18th day of september, 2018.



Notary Public
My Commission Expires:
Registration Number: 6-17-2023



N:\WORD\Clients\W\WSV Holdings, LLC\13401-002 Development Docs Ph 7A, Villas at Waterside\Phase 2 - Condominium\Amendment to Declaration - FNMA Requirements revised 091018.wpd

Doc No: 339354
Recorded: 11/02/2018 04:49:50 PM
Fee Amt: \$26.00 Page 1 of 7

Currituck County North Carolina Denise A. Hall, Register of Deeds BK 1462 PG 905 - 911 (7)

Prepared by and return to:
E. Crouse Gray, Jr., a licensed North Carolina Attorney.
GRAY & DLOYD, L.L.P.
3120 North Croatan Hwy., Ste. 101
Kill Devil Hills, NC 27948

NORTH CAROLINA DARE COUNTY

My File No. 13401-002

YEQUITH AMENDMENT TO DECLARATION FOR VILLAS AT WATERSIDE CONDOMINIUM (PHASE 7A)

THIS FOURTH AMENDMENT TO DECLARATION FOR VILLAS AT WATERSIDE CONDOMINIUM (the "Amendment") made and entered into this the 2nd day of November, 2018, by WSV DEVELOPMENT, LLC, a North Carolina limited liability company (hereinafter the "Successor Declarant"), and WSV HOLDINGS, LLC, a North Carolina limited liability company (hereinafter the "Owner"), and JAMES H. HUDSON, III (hereinafter the "Trustee"), and CITIZENS AND FARMERS BANK, a Virginia banking corporation (hereinafter "Lender").

RECITALS:

- A. VOC, LLC, the original Declarant of the Villas at Waterside Condominium, caused to be constructed condominium units and recorded an original Declaration for Villas at Waterside Condominium as recorded in Deed Book 993, Page 371, Currituck County Public Registry, (hereinafter said original Declaration as recorded in Deed Book 993, Page 371, as amended, the "Villas at Waterside Condominium Declaration"). The capitalized terms set forth in this Amendment have the same meanings as set forth in the Villas at Waterside Condominium Declaration, unless otherwise defined or the context otherwise prohibits.
- B. VOC, LLC as original Declarant further executed a Deed of Trust as recorded in Deed Book 881, Page 14, Currituck County Public Registry securing certain indebtedness.
 - C. That due to default, the Holder of the note secured by the Deed of Trust recorded in Deed

1

Book 881, Page 14, instituted a foreclosure proceeding leading to a Trustee's Deed as recorded in Deed Book 1055, Page 530, and re-recorded in Deed Book 1058, Page 660, Currituck County Public Registry transferring certain real properties to Waterside Villages, LLC. In addition, said Trustee's Deed transferred all "Special Declarant Rights", including all rights to exercise "Development Rights" to Waterside Villages, LLC.

D. Waterside Villages, LLC transferred and quitclaimed all Declarant Rights to WSV Dec, LLÇ, by document recorded in Deed Book 1257, Page 307, Currituck County Public Registry.

E. WSV Dec, LLC assigned all Declarant Rights to WSV Development, LLC by document recorded in Deed Book 1404, Page 471, Currituck County Public Registry.

Certain lands have been conveyed to WSV Holdings, LLC, being a portion of the lands contained within the Waterside Development.

- G. WSV Holdings, LLC has constructed certain condominium units, which are to become a part of the existing Villas at Waterside Condominium Project.
- H. The property described on Exhibit "A-2" attached hereto and incorporated herein by reference is included in the Development Project described in the Villas at Waterside Condominium Declaration.
- I. Owner desires to add as Additional Property to the Property all of the real estate described on Exhibit "A-2" attached hereto.

NOW, THEREFORE, Owner and Successor Declarant, acting pursuant to the assignments and the provisions of the Villas at Waterside Condominium Declaration, do hereby amend the Declaration to include within the Property the real estate described on Exhibit "A-2" attached hereto and submits the same to the Villas at Waterside Condominium Declaration.

PURSUANT TO the Villas at Waterside Condominium Declaration, Exhibit "C" to the Villas at Waterside Condominium Declaration, is amended by deleting the present Exhibit "C" and inserting a new Exhibit "C" as attached hereto and incorporated herein by reference. The new Exhibit "C" reallocates the undivided interest in the Common Elements and the Common Expense Liability appurtenant to each unit among all units now a part of the Condominium.

THERE IS further allocated to units 201 through 205 and units 301 through 305 a parking space in the garage, which such parking space shall be a Limited Common Element associated with a specific unit. The Limited Common Element may not be separated from or partitioned from the unit.

TRUSTEE and Lender join in the execution of this Amendment to Declaration for Villas at Waterside Condominium to consent to the terms of the same and subordinate the lien of any deed of trust granted to Trustee for the benefit of Lender encumbering the Property to the provisions of this Amendment to Declaration.

a

IN WITNESS WHEREOF, Owner and Successor Declarant have caused this Amendment to be executed in such form as to be binding, all by authority duly given, the day and year first above written.

[SIGNATURE PAGES TO FOLLOW]

Book 1462 Page 907

ER:	S, ŁLC			
			(SE	AL)
ie executi	ion of the f	oregoing in	hat Prem Gupt strument, all in gs, LLC, a lim	n his
s the <u>2</u>	day	ofo	ember, 2	018
		lur) my	
N N	lotary Pub Iy Commi	lic ssion Ebe	BHA-TIERNEY	トル
		Da	Notary Public are County, NC ion Expires October 28,	2021
ESSOR	DECLAR)	ANT:		
	PMENT, I			
			(SEA	AL)
3				
ne executi on behalf	on of the f	oregoing in Developme	hat Prem Gupt nstrument, all in ent, LLC, a lin	ı his
s the <u>2</u> '	day	of <u>Nav</u>	ember, 2	018
	Jotary Pub Jy Commi	* * *	res: 14/28/	
4				
	4	4	4	4

	TR	USTEE:	
	Jan	nes H. Hudson, III	(SEAL)
STATE OF VIII COUNTY OF I	RGINIA KING WILIAM		
		, a Notary Public of the State e me this day and acknowledged	
Witness	ny hand and official stan	np or seal, this the 31st day of	October , 2018.
(Seal-Stamp)	COMMISSION SONEALTHOE VIRGINIA SONEALTHOE	Notary Public My Commission Expires: Registration Number:	12-31-21 360767 (if required)
		5	

	LENDER:
OT DOCUMENT	Citizens and Farmers Bank By: Connu W. Maples (SEAL) Dennis W. Napier Printed Name Vice President Title
personally came before me this day and a President/Treasurer/Chief Financial Of President/Vice President/Asst. Vice President, of the so, executed the foregoing on behalf of the son	, a Notary Public of the City/County and State aforesaid, certificitizens and Farmers Bank, a Virginia banking corporation cknowledged that he/she is President/Vice President/Asst. Vice ficer of Citizens and Farmers Bank, and that he/she, a cident/Treasurer/Chief Financial Officer, being authorized to dithe corporation. Import Seal, this the
	6 Cumpany

Exhibit "A-2"

Beginning at an iron pin or other monument, said iron pin or other monument being located in and on the Northeast corner of that Lot or Parcel of Land previously submitted to the Villas at Waterside Condominium as shown on Map or Plat entitled in part "Villas at Waterside Condominium" final plat-100\Sheets 1 and 2 out of 7 as recorded in Condominium Book 1, Slides 249 and 250, Currituck County Public Registry, said beginning point further being denominated as control corner NC NAD 83 (2011) GRD Coordinates, N 918,386.60 E 2,924,274.60, established with RTK GPS using NC RTK network; from said beginning point turning and running South 54 deg, 24 min. 54 sec. East 179.69 feet to an iron pin or other monument; thence turning and running South 04 deg. 02 min. 03 sec. East 170.65 feet to an iron rod or other monument being located in or on the property line of that lot or parcel of land now or formerly owned by E. Ashby and Carolyn E. Baum as set forth in Deed Book 369, Page 223, Currituck County Public Registry; thence turning and running along the property line of E. Ashby and Carolyn E Baum as set forth in Deed Book 369, Page 223 South 43 deg. 49 min. 43 sec. West 13.18 feet to an iron rod or other monument; thence turning and running North 54 deg. 28 min. 17 sec. West 286.80 feet to an iron rod or other incomment, said iron rod or other monument being located in the Southeast corner of the lands previously committed to Villas at Waterside Condominium as set forth in the afore referenced map referred to above; thence turning and running North 35 deg. 39 min. 21 sec. East 143.83 feet to an iron rod or other monument being the point and place of beginning.

N:\WORD\Clients\W\WSV Holdings, LLC\13401-002 Development Docs Ph 7A, Villas at Waterside\Phase 2 - Condominium\Amendment to Declaration - Building 200 100518.wpd

Doc No: 342760
Recorded: 05/06/2019 10:30:30 AM
Fee Amt: \$26.00 Page 1 of 2
Excise Tax: \$0.00
Currituck County North Carolina
Denise A. Hall, Register of Deeds
BK 1481 PG 897 - 898 (2)

Prepared by and Return to:

E. Crouse Gray, Jr., Attorney at Law

GRAY & LOYD, L.L.P.

3120 North Croatan Highway, Ste. 101

Kill Devil Hills, North Carolina 27948

My File No. 13401-002

AFFIDAVIT OF CORRECTION

This Affidavit of Correction is being recorded to:

Attach the Exhibit "C" which was inadvertently not attached at the time of recordation of the Fourth Amendment to Declaration for Villas at Waterside Condominium (Phase 7A) as recorded in Deed Book 1462, Page 905, Currituck County Public Registry.

Successor Declarant: WSV Development, LLC, a North Carolina limited liability company

Owner:

WSV Holdings, LLC. A North Carolina limited liability company

Lender:

Citizens and Farmers Bank, a Virginia banking corporation

Recorded in Deed Book 1462, Page 905

Date Recorded: November 2, 2018

I hereby certify that the above statements are true and correct, this the 30th day of April, 2019.

E. Crouse Gray, Jr., Attorney at Law

Preparer of Document

SWORN TO AND SUBSCRIBED BEFORE ME ON THIS,

THE 30TH DAY OF APRIL/2019.

NOTARY PUBLIC /

MY COMMISSION EXPIRES:

- 2020

BARBARA M. VAUGHAN NOTARY PUBLIC DARE COUNTY, NC

N:\WORD\Clients\W\WSV Holdings, LLC\13401-002 Development Docs Ph 7A, Villas at Waterside\Phase 2 - Condominium\Affidavit of Correction.form.wpd

(SEAL)

EXHIBIT C

Allocated Interests	Unit 100A	Unit 100B	Unit 100C	Unit 100D	Unit 100E	Unit 100F	Unit 100G	Unit 100H	Unit 1001	Unit 100J
Undivided Interest in Common Elements Appurtenant to each Unit	5%	5%	5%	5%	5%	5%	5%	5%	5%	5%
Portion of Common Expenses allocated to each Unit	5%	5%	5%	5%	5%	5%	5%	5%	5%	5%
Votes allocated to each Unit	1	1	1	1	1	1	1	1	1	1

Allocated Interests	Unit 201	Unit 202	Unit 203	Unit 204	Unit 205
Undivided Interest in Common Elements Appurtenant to each Unit	5%	5%	5%	5%	5%
Portion of Common Expenses allocated to each Unit	5%	5%	5%	5%	5%
Votes allocated to each Unit	71	1	1	1	1

)				
Allocated Interests	Unit 301	Unit 302	Unit 303	Unit 304	Unit 305	TOTALS
Undivided Interest in Common Elements Appurtenant to each Unit	5%	705%	5%	5%	5%	100%
Portion of Common Expenses allocated to each Unit	5%	5%	5%	5%	5%	100%
Votes allocated to each Unit	1	1	1	1	1	20

N:\WORD\Clients\W\WSV Holdings, LLC\13401-002 Development Docs Ph 7A, Villas at Waterside\Phase 2\-Condominium\EXHIBIT C.wpd