

BOOK 280 PAGE 615

DECLARATION
OF
DOCKSIDE CONDOMINIUM

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DECLARATION
OF
DOCKSIDE CONDOMINIUM

THIS DECLARATION, made this 14th day of June, 1984, by ALCO LAND DEVELOPMENT ASSOCIATES, a Virginia general partnership, hereinafter called the "Declarant", as developer and sole owner in fee simple absolute of the real property described herein, (hereinafter referred to as the "Property").

WITNESSETH: That ALCO Land Development Associates hereby declares as follows:

ARTICLE I

CREATION AND ESTABLISHMENT OF THE CONDOMINIUM

This Declaration and the accompanying Articles of Incorporation, Bylaws and plats and plans, all being attached hereto as an integral part hereof and recorded simultaneously herewith as Exhibits A, B, C-1 through C-5, respectively, all such instruments hereinafter referred to by the collective term "Condominium Instruments," records the property of a condominium, and through recordation hereof the Declarant, undertaking to develop a residential real estate condominium project to be known as Dockside Condominium (hereinafter referred to as the "Condominium"), located in the County of Gloucester, Virginia, hereby expressly declares its desire to submit, and does hereby submit, the Property to the regime established by the Condominium Act, Title 55, Chapter 4.2, §§ 55-79.39 through 55-79.103 of the Code of Virginia of 1950, as amended, (hereinafter referred to as the "Condominium Act") and does hereby create and establish a condominium form of ownership for the Property and does constitute the Property into a condominium to be known as Dockside Condominium, the particulars of which are set forth hereinafter. These Condominium Instruments shall be complementary and shall be construed together and shall be deemed to incorporate one another to the extent that any requirement of the Condominium Act as to the content of one shall be deemed satisfied if the deficiency can be cured by reference to any one or more of the others. Any amendment or certification of any Condominium Instrument shall, from the time of the recordation of such amendment or certification, be deemed an integral part of the affected Condominium Instrument, so long as such amendment or certification was made in accordance with the provisions of the Condominium Act.

This Declaration is recorded also for the purpose of complying with the provisions of §§ 55-79.39 et seq. of the Condominium Act, and hereafter provision shall be made for the recordation of the individual Condominium Units (hereinafter referred to as "Units") on subsequent resales, mortgages and other encumbrances, as is done with all other real estate recordation, and each Unit shall constitute a separate parcel of real property, distinct from all other Units.

ARTICLE II

DEFINITIONS

Except to the extent otherwise provided by the Condominium Instruments, the terms defined in § 55-79.41 of the Condominium Act, shall be deemed to have the meanings therein specified and ascribed to them wherever they appear in the Condominium Instruments, unless the context clearly indicates a different meaning.

ARTICLE III

DESCRIPTION OF PROPERTY

The Property submitted by this Declaration to the Condominium Act is as follows:

All that certain lot, piece or parcel of land situate, lying and being in the County of Gloucester, Virginia, containing 9.28 acres, as shown on that certain plat entitled, "DOCKSIDE CONDOMINIUM, Phase One, owned by ALCO Land Development Associates located in the York District of Gloucester County, Virginia," dated June, 1984, and made by Dawson and Phillips, P.C., Certified Land Surveyors, said plat being attached hereto and made a part hereof as Exhibit C-4, recorded in Plat Book 20, page 852, in the Clerk's Office of the Circuit Court for the County of Gloucester, Virginia; said property being more particularly described as follows:

Beginning at a point on the southerly side of State Route No. 1228, which point marks the northwest corner of the property herein conveyed, and from the point of beginning thus established, running thence N 84° 36' 15" E a distance of 21.36 feet to a point; thence N 78° 30' 34" E a distance of 32.72 feet to a point; thence S 6° 07' 19" E a distance of 242.11 feet to a point; thence S 21° 07' 19" E a distance of 11.51 feet to a point; thence N 70° 35' 00" E a distance of 274.46 feet to a point; thence S 19° 25' 00" E a distance of 150.00 feet to a point; thence S 70° 35' 00" W a distance of 242.28 feet to a point; thence S 35° 08' 17" E a distance of 31.82 feet to a point; thence S 54° 51' 43" W a distance of 27.74 feet to a point; thence S 69° 59' 11" W a distance of 160.71 feet to a point; thence S 58° 34' 59" W a distance of 108.39 feet to a point; thence S 46° 17' 52" W a distance of 109.28 feet to a point; thence S 29° 02' 68" W a distance of 142.26 feet to a point; thence S 47° 19' 09" W a distance of 227.17 feet to a point; thence S 45° 35' 52" W a distance of 125.86 feet to a point; thence S 71° 23' 23" W a distance of 178 feet more or less to the mean low water mark of Sarah's Creek; thence meandering in a generally easterly direction along the mean low water mark of Sarah's Creek as it abuts the hereindescribed property a distance of 1,262 feet, more or

less to a point; thence S 21° 36' 00" W a distance of 46 feet more or less to a point; thence N 68° 24' 00" W a distance of 35.00 feet to a point; thence S 28° 47' 50" W a distance of 5.00 feet to a point; thence N 61° 12' 10" W a distance of 84.00 feet to a point; thence S 68° 28' 10" W a distance of 147.50 feet to a point; thence S 88° 41' 50" W a distance of 112.00 feet to a point; thence S 70° 22' 40" W a distance of 132.00 feet to a point; thence S 20° 14' 17" W a distance of 271.00 feet to a point; thence S 70° 22' 40" W a distance of 241.00 feet to a point; thence N 19° 37' 20" W a distance of 598.50 feet to a point; thence N 70° 22' 40" E a distance of 113 feet more or less to the mean low water mark of Sarah's Creek; thence meandering in a generally northerly direction along the mean low water mark of Sarah's Creek as it abuts the hereindescribed property a distance of 500 feet more or less to a point; thence S 64° 46' 17" E a distance of 240 feet more or less to a point; thence N 46° 17' 52" E a distance of 107.00 feet to a point; thence N 58° 34' 59" E a distance of 116.69 feet to a point; thence N 69° 59' 11" E a distance of 110.51 feet to a point; thence N 18° 21' 43" E a distance of 36.84 feet to a point; thence N 35° 08' 17" W a distance of 173.64 feet to a point; thence N 1° 37' 05" W a distance of 219.79 feet to the point or place of beginning.

ARTICLE IV

UNIT BOUNDARIES AND COMMON ELEMENTS

Section One. Unit Boundaries: The boundaries of each Unit are as follows:

A. Upper and Lower Boundaries.

The top surface of the concrete slab shall constitute the lower boundary of the Unit and the upper boundary of the Common Elements, and the underface of the roof trusses shall constitute the upper boundary of the Unit.

B. Vertical Boundaries.

The planes of the interior unfinished surface of the studs of the exterior walls, and the plane of the unfinished surface of the interior surface of the studs of the party walls which separate one Unit from another shall constitute the vertical boundaries of the Unit.

C. The dimensions of the Units are as shown on the plans which are Exhibit C-2 and C-3 hereof, recorded in Plat Book 20, pages 850 and 851, in the Gloucester Circuit Court Clerk's Office. All boundaries shall be the physical as-built boundaries.

D. To the extent that walls, floors and/or ceilings are designated as the boundaries of the Units or of any specified Units, all

lath, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished surfaces thereof, shall be deemed a part of such Units, while all other portions of such walls, floors and/or ceilings shall be deemed a part of the Common Elements.

E. If any chutes, flues, ducts, conduits, wires, bearing walls, bearing columns or any other apparatus lies partially within and partially outside of the designated boundaries of a Unit, any portions thereof serving only that Unit shall be deemed a part of that Unit, while any portions thereof serving more than one Unit or any portion of the Common Elements shall be deemed a part of the Common Elements.

F. Subject to the provisions of subsection E hereof, all space, interior partitions and other fixtures and improvements within the boundaries of a Unit shall be deemed a part of that Unit.

G. Notwithstanding any of the provisions of this Article IV to the contrary, the air conditioning, refrigerating, heating and electrical lines within the Unit, and the heating/air conditioning unit (heat pump), fan units and other apparatus in connection therewith, which serve an individual Unit (wherever located), shall be owned by the Unit Owner as a part of the Unit and are not part of the Common Elements.

H. The term "Unit" shall include the undivided interest of the Unit Owner in the Common Elements.

Section Two. Limited Common Elements - Generally. Any apparatus designed to serve a single Unit, but located outside the boundary thereof, shall be deemed a Limited Common Element appertaining to that Unit exclusively. Each Unit is hereby assigned, as a Limited Common Element for each such respective Unit, that certain stoop, porch, doorstep, storage shed, patio and/or deck, if any, adjacent to and contiguous with each such respective Unit. In addition thereto, any chimney serving a given Unit is also a Limited Common Element of that Unit. Parking spaces are specifically not Limited Common Elements; provided, however, that the Board of Directors of the Association shall have the power, as provided by the Bylaws, to assign one parking space per Unit by making a rule and regulation to that effect.

Section Three. Common Elements Assignable as Limited Common Elements. That portion of the Common Elements lying within Sarah's Creek which is shown and designated as "Common Element To Be Assigned As Limited Common Element Pursuant to § 55-79.57(c)" on Exhibit C-4 may subsequently be assigned, in whole or in part, at any time or times, as Limited Common Elements appurtenant to Units. Within such Common Elements Declarant may create and assign to Unit Owners as Limited Common Elements one hundred fifty (150) boat slips. Attached as Exhibit C-5 is a plat which shows the locations and dimensions of the one hundred fifty (150) boat slips. Declarant intends to establish as Limited Common Elements within such portion of the Common Elements. Declarant reserves the right to alter and amend the design and number of boat slips to be assigned as Limited Common Elements to Units at any time. Such assignments shall be made by amendments to this Declaration, prepared and executed by the Declarant, pursuant

to § 55-79.57(c) of the Condominium Act, which shall designate by reference to the plat attached hereto as Exhibit C-5, or any new plat recorded with said amendment, the portion of such Common Element being assigned to a Unit Owner as a Limited Common Element appurtenant to that Unit.

Section Four. Use and Reassignment of Limited Common Elements. Notwithstanding the right of assignment contained in Section Three above, a Limited Common Element may be reassigned by and among Unit Owners in accordance with § 55-79.57 of the Condominium Act and Article XIV, Section Two of this Declaration. The primary use of any Limited Common Element shall be restricted to the occupants of the Unit to which the Limited Common Element is appurtenant.

Section Five. Allocation of Common Element Interest. Each Unit in the Condominium is allocated an equal undivided interest in the Common Elements, which interest is appurtenant to the Unit. This equal undivided interest for each Unit is defined as a fraction, the numerator of which is the number one (1), and the denominator of which is the total number of Units in the Condominium. The Common Element interest of each Unit in the Condominium may be changed from time to time if the Condominium is expanded to include other Units; provided, however, that the formula for determining the amount of the equal undivided interest in the Common Elements shall remain as hereinabove stated.

Section Six. Ownership of Common Elements. All Common Elements in the Condominium shall be owned by the Unit Owners as an undivided interest appurtenant to the Unit owned by each Unit Owner. This appurtenant interest shall not be separated from the Unit, and shall be deemed to be conveyed with each Unit even though such interest is not expressly mentioned or described in the conveying instrument or deed. Any profits derived from any of the Common Elements shall be owned by each Unit Owner in the same percentage or fraction as his ownership in the Common Elements.

Section Seven. Obligation to Complete the Common Elements. The Declarant is hereby obligated to begin and complete those portions of the Common Elements described as "tennis courts" and "swimming pool area" and labeled "Not Yet Begun" on the plat attached hereto as Exhibit C-1. The Declarant shall construct two standard size tennis courts made of asphalt with red/green coloring over the asphalt base. The swimming pool will be a thirty foot by fifty foot rectangle with ten foot radius roman steps with a depth ranging from three feet to eight feet six inches. The pool will be constructed with reinforced concrete floor and walls with a six inch band of ceramic tile at the waterline. The swimming pool and tennis courts shall be completed no later than June 30, 1985.

It is the intention of the Declarant to construct 150 boat slips within the Common Elements as described on Exhibit C-5 to the Declaration. However, Declarant cannot obligate itself to the construction of said boat slips until approval has been obtained from the Gloucester County Wetlands Board, the Virginia Marine Resources Commission, the Virginia State Water Control Board, the Tennessee Valley Authority, and the United States Army Corps of Engineers. Upon receipt of permits from the above named federal,

state and local agencies, and any other governmental agency requiring licensing for the construction of boat slips upon the property submitted to the Condominium Act by this Declaration, the Declarant hereby agrees to construct said boat slips as described on Exhibit C-5 attached hereto, or to construct said boat slips in any form or number as may be approved from time to time by the various governmental agencies referred to herein, and is further obligated to obtain a bond in favor of the Association to insure the completion of said boat slip construction in accordance with § 55-79.58:1 of the Condominium Act.

ARTICLE V

EXPANSION OF THE CONDOMINIUM

Section One. Reservation of Right to Expand. The Declarant expressly reserves the option to expand the Condominium in accordance with the provisions of this Article and pursuant to § 59-79.54(c) of the Condominium Act.

Section Two. Limitations on Option to Expand. Except as expressly stated in this Article V, there shall be no limitations on the option of the Declarant to expand as set forth herein. The Declarant shall not be required to obtain the consent of any Unit Owner or mortgagee in order to exercise said option to expand the Condominium.

Section Three. Time Limitation on Expansion. The option of the Declarant to expand the Condominium as set forth in this Article V shall terminate seven (7) years after the date of recordation of this Declaration, or at such other time as all additional land described herein is added to the Condominium by amendment of this Declaration, or at such time as the Declarant terminates said option by amendment of this Declaration, whichever shall first occur; provided, however, such time limit as set forth herein may be extended by an amendment to the Declaration in accordance with § 55-79.54(c)(3) of the Condominium Act.

Section Four. Description of Optional Additional Land. The Additional Land, as hereinafter referred to in this Declaration, which may be added to the Condominium at the option of the Declarant is described as follows:

PARCEL I

All that certain lot, piece or parcel of land situate, lying and being in the County of Gloucester, Virginia, containing 18.35 acres and being designated as "Additional Land, Parcel I, 18.35 acres" as shown on that certain plat entitled "COCKSIDE CONDOMINIUM, Phase One, Owned by ALCO Land Development Associates, Located in the York District of Gloucester County, Virginia," dated June, 1984, and made by Dawson and Phillips, P.C., Certified Land Surveyors, Gloucester, Virginia, said plat being attached hereto and made a part hereof as Exhibit C-4, recorded in Plat Book 20, page 852, in the Clerk's Office of the Circuit Court for the County of Gloucester, Virginia; said property being more fully

described as follows:

Beginning at a point on the southerly side of State Route No. 1228, which point marks the northwest corner of the property described as "Additional Land, Parcel I," on that certain plat entitled, "DOCKSIDE CONDOMINIUM, Phase One, Owned by ALCO Land Development Associates, Located in the York District of Gloucester County, Virginia," dated June, 1984, and made by Dawson and Phillips, P.C., Certified Land Surveyors, and marked as Exhibit C-4 to the Declaration of Dockside Condominium, and from the point of beginning thus established, running thence N 78° 30' 34" E a distance of 375.34 feet to a point; thence S 74° 48' 47" E a distance of 260.81 feet to a point; thence S 5° 40' 07" W a distance of 410.17 feet to a locust tree; thence S 79° 33' 47" E a distance of 130.32 feet to a point; thence N 1° 33' 47" W a distance of 58.47 feet to a point; thence S 68° 08' 52" E a distance of 153.13 feet to a point; thence S 32° 53' 36" W a distance of 485.65 feet to an iron pipe located at the mean low water mark of Sarah's Creek; thence meandering in a generally westerly direction along the mean low water mark of Sarah's Creek as it abuts the hereindescribed property a distance of 1,664 feet more or less to a point; thence N 71° 23' 23" E a distance of 178 feet more or less to a point; thence N 45° 35' 52" E a distance of 125.86 feet to a point; thence N 47° 19' 09" E a distance of 227.17 feet to a point; thence N 29° 02' 08" E a distance of 142.26 feet to a point; thence N 46° 17' 52" E a distance of 109.28 feet to a point; thence N 58° 34' 59" E a distance of 108.38 feet to a point; thence N 69° 59' 11" E a distance of 160.71 feet to a point; thence N 54° 51' 43" E a distance of 27.74 feet to a point; thence N 35° 08' 17" W a distance of 31.82 feet to a point; thence N 70° 35' 00" E a distance of 242.28 feet to a point; thence N 19° 25' 00" W a distance of 150.00 feet to a point; thence S 70° 35' 00" W a distance of 274.46 feet to a point; thence N 21° 07' 19" W a distance of 11.51 feet to a point; thence N 6° 07' 19" E a distance of 242.11 feet to the point or place of beginning.

AND ALSO:

PARCEL II

All that certain lot, piece or parcel of land situate, lying and being in the County of Gloucester, Virginia, containing 2.79 acres and being designated as "Additional Land, Parcel II, 2.79 acres" as shown on that certain plat entitled "DOCKSIDE CONDOMINIUM, Phase One, Owned by ALCO Land Development Associates, Located in the York District of Gloucester County, Virginia," dated June, 1984, and made by Dawson and Phillips, P.C., Certified Land Surveyors, Gloucester, Virginia, said plat being attached hereto and made

a part hereof as Exhibit C-4, recorded in Plat Book 20, page 852, in the Clerk's Office of the Circuit Court for the County of Gloucester, Virginia; said property being more fully described as follows:

Beginning at a point marking the northerly corner of the property described as "Additional Land, Parcel II," on that certain plat entitled, "DOCKSIDE CONDOMINIUM, Phase One, Owned by ALCO Land Development Associates, Located in the York District of Gloucester County, Virginia, dated June, 1984, and made by Dawson and Phillips, P.C., Certified Land Surveyors, and marked as Exhibit C-4 to the Declaration of Dockside Condominium, and from the point of beginning thus established, running thence S 35° 08' 17" E a distance of 173.64 feet to a point; thence S 18° 21' 43" W a distance of 36.84 feet to a point; thence S 69° 59' 11" W a distance of 110.51 feet to a point; thence S 58° 34' 59" W a distance of 116.69 feet to a point; thence S 46° 17' 52" E a distance of 107.00 feet to a point; N 64° 46' 17" E a distance of 240 feet more or less to the mean low water mark of Sarah's Creek; thence meandering in a generally northerly direction and then a westerly direction along the mean low water mark of Sarah's Creek as it abuts the hereindescribed property a distance of 220 feet more or less to a point; thence N 48° 48' 00" E a distance of 250 feet more or less to a point; thence N 73° 17' 54" E a distance of 325 feet more or less to the point or place of beginning.

Section Five. Improvements and Expansion Area. The Declarant makes no assurances with respect to the location of improvements that may be made on the additional land. The maximum number of Units which may be created upon the additional land shall not exceed one hundred thirty-five (135) Units upon Parcel I, and twenty-five (25) Units upon Parcel II, and any such Units created upon the additional land shall be restricted exclusively for residential use, except that the Declarant reserves the right and easement to maintain within the additional land offices and models pursuant to the terms and conditions of this Declaration. The Declarant covenants that any structures erected upon the additional land shall be compatible with structures on the land submitted herein in terms of the principal materials to be used and the architectural style, and shall be consistent with structures on the land submitted herein in terms of quality of construction. The Declarant reserves the right to change the interior design. Except as stated herein, the Declarant makes no assurances as to the number of Units to be so constructed, or the size, location or configuration of the same, and further, makes no assurance that any improvements will be made to the additional land, nor that any improvements, if made, will be identical to improvements made to the Property submitted herein. It is noted that both parcels described above as additional land are adjacent to and contiguous with the Property.

Section Six. Other Improvements in Expansion Area. In addition to any structures that may be erected on the Additional Land, Declarant reserves the right, but shall not be obligated, to construct improvements thereon for recreational and/or service purposes such as a swimming pool.

tennis courts, boat ramps and other recreational amenities as it desires. Declarant makes no assurances that any improvements will be made on any portion of either parcel comprising the additional land.

Section Seven. Declarant's Reservations of Rights. The Declarant reserves the right to establish Unit boundaries; create, identify and establish Common Element interests; create, identify, establish and assign Limited Common Elements; and/or designate Common Elements which may be subsequently assigned as Limited Common Elements, all with respect to any Units and improvements created upon the additional land described herein, and no assurances are made in those regards.

Section Eight. Declarant Not Obligated to Expand. Nothing herein contained shall be construed to impose upon the Declarant, its successors or assigns, any obligation to construct Condominium Units, develop or otherwise perform any acts with respect to the additional land described herein, or to submit all or any portion thereof to the Condominium.

Section Nine. No Limitations on Area of Expansion. If this Condominium is expanded under the provisions of this Article V, Declarant is not obligated to submit the additional land in its entirety nor is Declarant obligated to submit Parcel I, or any portion thereof prior to submitting Parcel II or any portion thereof. The Unit density on any additional land added to the Condominium, whether said Condominium is located in Parcel I or Parcel II, shall not exceed eleven (11) units per acre. Further, different portions of the additional land, whether lying in Parcel I or Parcel II, may be added at different times within the time limits established for adding additional land to the Condominium as explained in Section Three of this Article V.

ARTICLE VI

EASEMENTS

Section One. Perpetual Non-Exclusive Easement. The Common Elements are hereby declared to be subject to a perpetual non-exclusive easement in favor of all of the Unit Owners in the Condominium for their use and the use of their immediate families, guests and invitees, for all proper and normal purposes, including the providing of services for the benefit of all Units.

Section Two. Easement to Facilitate Sales. The Declarant hereby reserves the right and easement, pursuant to § 55-79.66 of the Condominium Act, to maintain, anywhere within the Condominium, management offices, sales offices, settlement offices, rental offices and model Units in, and to relocate the same among, any of the Units now or hereafter owned by the Declarant. It is hereby specified that any one or more of the Units may be used for the purposes specified in this paragraph, and the Declarant may relocate to other Units within the Condominium in order to carry out any of those functions. Each space used for any purpose provided for in this Section shall be deemed to be a Unit and, as such, shall not become a Common Element. The Declarant also reserves the right and easement

throughout the Common Elements to place and relocate or remove signs and other devices advertising the Condominium.

Section Three. Utility Easements. Utility easements are reserved, and granted, through the Condominium Property as may be required for construction and maintenance of utility services in order to adequately serve the Condominium.

Section Four. Easement for Support. Each Unit and Common Element has an easement for support from every other Unit and Common Element, including, but not limited to, both horizontal and vertical support.

Section Five. Ingress and Egress Easements. Each Unit shall have appurtenant thereto nonexclusive easements in the Common Elements designed for ingress to, egress from, utility services for, and landscaping, support, maintenance, repair and construction of all Units in Common Elements.

Section Six. Easement to Facilitate Expansion. The Declarant shall have a transferable easement over and on the Common Elements for the purpose of making improvements on the submitted land and any additional land pursuant to the provisions of this Declaration and for the purpose of doing all things reasonably necessary and proper in connection therewith.

Section Seven. Easements for Encroachments. If any portion of the Common Elements encroaches upon any Unit or Limited Common Element or if any Unit encroaches upon any portion of the Common Elements or another Unit as the same are defined and described herein, an easement for such encroachment and the maintenance thereof, so long as it continues, shall and does exist. In the event any Unit or building containing individual Units in the Condominium shall be partially or totally destroyed and then rebuilt, minor encroachments of any parts of the Common Elements due to reconstruction shall be permitted, and easements for such encroachments and maintenance thereof shall and do exist.

Section Eight. Easement for Association. Dockside Condominium Owner's Association, Inc. (hereinafter the "Association") shall have the right, which right shall be exercised by its Board of Directors and its agents, to enter any Unit or Limited Common Element from time to time during reasonable hours as may be necessary for the operation of the Condominium and the prevention of damage to any Unit or Common Element. Further, the Association shall have the right to enter any Unit at any hour in the event of an emergency only.

Section Nine. Easements May Be Granted by the Association. Declarant and, subject to any restrictions and limitations specified herein, the Association, shall have the irrevocable power as attorney-in-fact on behalf of all the Unit Owners and their successors in title, to grant easements through the Common Elements and accept easements benefiting the Condominium or a portion thereof. These may be granted or accepted in accordance with § 55-79.80 of the Condominium Act.

Section Ten. Use. The use of any easement by a Unit Owner shall

be subject to all of the provisions of this Declaration, as the same may exist from time to time.

ARTICLE VII

ADMINISTRATION OF THE CONDOMINIUM

Section One. General. The administration of the Condominium, the maintenance, repair, replacement and operation and general management of the Common Elements, and those acts required of the Association by the Condominium Act and by this Declaration shall be vested in and be the responsibility of the Association. Such administration shall be pursuant to the Condominium Act, this Declaration, the Articles of Incorporation attached hereto as Exhibit A and the Bylaws of the Association attached hereto as Exhibit B.

Section Two. Membership. Each Unit Owner, upon acquiring title to his Unit, shall automatically become a member of the Association and shall remain a member thereof until such time as his ownership of such Units ceases for any reason, at which time his membership in the Association shall automatically cease. No person holding any lien, mortgage, or other encumbrance upon any Unit shall be entitled, by virtue thereof, to membership in the Association or to any of the rights and privileges of such membership.

Section Three. Powers of Association. In the administration of the Condominium, the Association shall have, and is hereby granted, the authority and power to enforce the provisions of this Declaration, levy and collect assessments in the manner hereinafter provided, and to adopt, promulgate and enforce such Rules and Regulations governing the use of the Units and Common Elements as the Board of Directors of the Association may deem to be in the best interest of the Condominium. The Association shall have all of the powers and duties set forth in the Condominium Act. Further, the Association shall have the right, when determined by the Board of Directors to be in the best interests of the Condominium, to grant exclusive licenses, easements, permits, leases or privileges to any individual or entity, including non-Unit Owners, which affect Common Elements and to alter, add to, relocate or improve Common Elements, provided that the rights and the exercise thereof are not in abrogation of the requirements of the Condominium Act.

Section Four. Management Agreement. The Association shall be authorized to enter into such management contracts as it may deem necessary or desirable for the administration and operation of the Condominium, provided that such contracts must comply with the terms and conditions of the Condominium Act. Each Unit Owner agrees to be bound by the terms and conditions of all such management agreements.

Section Five. Voting. The voting of each Unit Owner in the Association shall be governed by the provisions of the Bylaws.

Section Six. Indemnification of Officers and Directors.
 Notwithstanding the duty of the Association to maintain, repair, and replace the Common Elements, as hereinafter set forth, the Association shall not be liable for any injury or damage caused by any latent condition of the Common Elements nor for injury caused by the Common Elements, Unit Owners or other persons, nor shall any officer or director of the Association be liable to any Unit Owner for injury or damage caused by said officer or director in the performance of his duties unless due to the willful misfeasance or malfeasance of such officer or director. Each officer and director of the Association shall be indemnified by the Association as follows:

A. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (including an action or suit by or in the right of the Association) by reason of the fact that he or she is or was a director or officer of the Association, or is or was serving at the request of the Association as a director, officer, partner or trustee of another association, partnership, joint venture, trust or other enterprise, against judgments, fines, amounts paid in settlement and expenses (including attorney's fees) actually and reasonably incurred by him or her in connection with such action, suit or proceeding, excepting from such indemnification only such judgments, fines, amounts paid in settlement and expenses (including attorney's fees) in relation to any claim, issue or matter as to which such person shall have been finally adjudged to be liable for his or her gross negligence or willful misconduct in the performance of his or her duties. Each such indemnity shall inure to the benefit of the heirs, executors and administrators of such person.

B. Any indemnity under paragraph A above shall (unless authorized by a court) be made by the Association only as authorized in a specific case upon determination that the director, officer, partner or trustee was not guilty of gross negligence or willful misconduct in the performance of his or her duties, and, in the case of a settlement, that such settlement was, or if still to be made is, consistent with the best interests of the Association. Such determination shall be made (1) by the Board of Directors by a majority vote of a quorum consisting of directors who are not parties to such action, suit or proceeding; (2) by independent legal counsel in a written opinion if such quorum is not obtainable; or (3) by the members of the Association. If the determination is to be made by the Board of Directors, it may rely as to all questions of law on the advice of independent counsel.

C. Expenses incurred in defending an action, suit or proceeding, whether civil, criminal, administrative or investigative, may be made by the Association in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the director, officer, partner or trustee to repay such amount, unless it shall be ultimately determined that he or she is entitled to be indemnified by the Association as authorized in this Article.

D. The right of indemnification provided by this Article shall not be exclusive of any other rights to which any person may be entitled, including any right under policies of insurance that may be purchased and maintained by the Association or others, even as to claims, issues or matters in relation to which the Association would not have the power to indemnify such person under the provisions of this Article.

E. The Board of Directors shall, generally and in specific cases, indemnify employees and agents of the Association to the same extent as provided in this Article with respect to officers and directors.

F. The Association must purchase and maintain insurance at its sole expense in such amounts and on such terms and conditions as the Board of Directors may deem reasonable, against all liabilities or losses it may sustain in consequence of the indemnification provided for in this Article. Such insurance shall list the Association as the name of the insured.

Section Seven. Declarant Control of the Association. The Declarant hereby reserves unto itself or a managing agent or some other person or persons selected by the Declarant, the right to appoint and remove all of the officers of the Association and/or members of the Board of Directors thereof and to exercise the powers and responsibilities otherwise assigned by the Condominium Instruments and/or the Condominium Act to the Association, the officers or executive organ thereof, for a period of five (5) years from the date of settlement of the first Unit sold, or until Declarant has conveyed Units to which three-fourths (3/4) of the undivided interests in the Common Elements appertain, or at such time as the Declarant, by written notice recorded in the Gloucester County Circuit Court Clerk's Office, relinquishes said control, whichever occurs first. For the purposes of the preceding sentence, the calculation of the fraction of the undivided interest shall be based upon the total undivided interests assigned or to be assigned to all Units registered with the Virginia Real Estate Commission pursuant to § 55-79.92(b) of the Condominium Act, after the additions of all Additional Lands.

ARTICLE VIII

MAINTENANCE AND REPAIR OF THE CONDOMINIUM PROPERTY: ALTERATIONS AND IMPROVEMENTS

Section One. Duties of the Association. The Association shall cause the exterior of each Unit, the parking areas, and all other Common Elements to be kept in good order, condition and repair and in a clean and sanitary condition and appearance, and shall cause to be performed and furnished all the labor and materials which may at any time be necessary to accomplish the same. The Association shall be specifically obligated to maintain in good and working order all sewer septic tanks, drain fields, wells, and water pumping systems located within the Condominium Property and being a part of the Common Elements. The Association shall be the holder of the permit issued by the State Health Commissioner for the operation of the sewage disposal system and shall make all repairs and

maintenance of said system in accordance with provisions of any applicable state and local laws governing sewage disposal. No repair or maintenance of the exterior of any Unit or of the Common Elements shall be performed or furnished by any Unit Owner or any combination of Unit Owners except the Association, its agents or employees, except as hereafter set forth. In addition, the Association shall have the overall responsibility over all matters relating to promoting the recreation, health and welfare of the residents in the Condominium, including, but not limited to, maintaining the service for the collection of garbage and trash, snow removal when appropriate, maintenance of recreational facilities, grass cutting and landscaping, and providing street lighting, security devices, and protection of the Unit Owners and the Condominium where necessary in the opinion of the Association when not provided by public authority.

Section Two. Duties of Unit Owners. Each Unit Owner shall at his expense keep the interior of his Unit and its appliances, equipment and fixtures in good order and shall do all redecorating and painting necessary and incident thereto. Each Unit Owner shall at his expense keep the interior of patios and sheds assigned to his Unit in a clean and sanitary condition. The Association shall not be responsible for loss or damage by theft, casualty or otherwise to any property of any Unit Owner placed or left on any Common Element.

In the event any need for maintenance or repair to the Common Elements is caused by the willful or negligent act of a Unit Owner, his or her family, guests, licensees or invitees, such maintenance and repairs shall be performed by the Association, but the cost of such maintenance or repair shall be added to and become a part of the assessments to which the Unit of such Owner is subject as provided in Article IX hereof.

Section Three. Alterations. No Unit Owner, nor the Association, shall make any alterations to any Unit or building, remove any portion thereof, make any additions thereto or do anything that would jeopardize the safety or soundness of any Unit or building or impair any utility service without first obtaining approval in writing of the Unit Owners of all Units in the same building and the approval of the Board of Directors of the Association. After completion of construction of all Common Elements in the Condominium by the Declarant, there shall be no alteration or further improvement of Common Elements (except the replacement of paving, roofs, fences and other improvements at the end of their useful life) without the prior written approval of not less than seventy-five percent (75%) of the Unit Owners. The cost of any such improvement, including the maintenance and repair of same, shall be deemed part of the Common Expenses.

Section Four. Conformity of Maintenance, Style and Materials. All repairs, painting, replacements and maintenance, whether made by Unit Owners or the Association, to the doors, windows, fences, gates or the exterior surface of any building, including roofs, or to any generally visible portion of the Common Elements or Units, shall be carried out in such a manner so as to conform to the materials, architecture, style, color

and quality of construction initially provided by the Declarant.

Section Five. Liability of Unit Owner. Should a Unit Owner undertake unauthorized additions and modifications to his Unit, as specified above, or refuse to maintain and make repairs as required, or should a Unit Owner cause any damage to the Common Elements, the Association may undertake such repairs, replacements or maintenance, and levy a special assessment for the cost thereof against said Unit Owner. In the event a Unit Owner threatens to or violates the provisions hereof, the Association shall also have the right to proceed in a court of equity for an injunction to seek compliance with the provisions hereof.

Section Six. Reserve Fund. The Association shall establish a reserve fund for the replacement of the Common Elements. Such a reserve fund shall set aside monies for the replacement of certain Common Elements including, but not limited to, roads, driveways, parking lots, recreational facilities, water and septic systems, and building exteriors. The reserve fund shall be funded out of monthly installments of the maximum annual assessment in such amounts as may be determined in accordance with Article IX hereof.

ARTICLE IX

ASSESSMENTS; LIEN FOR COMMON EXPENSES; ENFORCEMENT

Section One. Establishment of Assessments. Each Unit Owner shall pay to the Association his proportionate share of the Common Expenses as determined by the number of votes each Unit Owner has in the Association appertaining to each Unit. Assessments for Common Expenses shall commence with respect to each Unit upon the first day of the month following conveyance of Unit by the Declarant to the first user.

At each annual meeting of the Association, as provided in the Bylaws, the Association shall fix and determine an amount necessary to provide for the Common Expenses for the year commencing on the first day of the month following the month in which the annual meeting occurs, and shall assess against each Unit Owner his proportionate share of the Common Expenses determined by multiplying the total Common Expenses determined as provided above, by a fraction consisting of the number of votes a particular Unit Owner has in the Association divided by the total number of votes in said Association (the total number of votes shall equal the total number of Units existing on that date in the Condominium). The Board of Directors shall determine and recommend to the Association the annual assessment for the coming year. Such recommendation shall be reported to each Unit Owner not less than ten (10) days nor more than sixty (60) days prior to the annual meeting. The Association may, at any special meeting duly called, assess such amounts as from time to time may be necessary to cover any insufficiency in the amount established at the annual meeting to meet the Common Expenses for the forthcoming year or for any previous year, or for any other purpose permitted by this Declaration, the Articles of Incorporation, the Bylaws or the Condominium Act; provided, that the amount

assessed against each Unit Owner shall be his proportionate share of such additional assessment, determined by multiplying the total amount determined by the Association to be needed, by the fraction described hereinabove.

Assessments shall be payable in twelve (12) equal monthly installments commencing on the first day of the first month of each assessment year, and continuing on the first day of each month thereafter.

In addition to the annual assessment authorized above, the Association may levy in any assessment year a special assessment applicable to that year and not more than the next five (5) succeeding assessment years for the purpose of obtaining, in whole or in part, the cost of reconstruction, repair or replacement of the Common Elements, provided that the levying of any such assessment shall have assent of the majority of the votes of the Unit Owners voting in person or by proxy at a special meeting duly called for that purpose, notwithstanding the provisions of Article VIII (it being the intention that alterations and new construction of the Common Elements require the approval of seventy-five percent (75%) of the Unit Owners, but the levying of the assessments to obtain the cost thereof requires only the approval of the majority of Unit Owners).

Section Two. Limited Common Element Expenses. Any Common Expenses associated with the maintenance, repair, renovation, restoration or replacement of any Limited Common Element shall be specially assessed against the Unit to which that Limited Common Element was assigned at the time such expenses were made or incurred. If the Limited Common Elements involved were assigned at that time to more than one Unit, however, such expenses shall be specifically assessed against each such Unit equally so that the total of such special assessments equals the total of such expenses. Maintenance, repair, renovation, restoration or replacement of a Limited Common Element shall occur when the Board of Directors of the Association, in the exercise of its duties, determines that such maintenance, repair, renovation, restoration or replacement of the Limited Common Element should occur in order to maintain the appearance of the Unit at the level at which the Board is maintaining the appearance of the entire Condominium, or at such time as the Unit Owner of the Limited Common Element requests the maintenance, repair, renovation, restoration or replacement of the Limited Common Element. Should the Declarant create boat slips within the Common Elements and reassign the boat slips to become Limited Common Elements serving specific Units, any expenses incurred by the Association in regard to all boat slips in the Condominium shall be treated as expenses common to all Units which have been assigned boat slips as Limited Common Elements. Accordingly, such expenses shall be assessed to said Units in proportion to the size of the boat slips based on the linear footage of the boat slips.

Section Three. Lien for Assessments. The Association shall have a lien on every Unit for unpaid assessments levied against that Unit in accordance with the provisions of the Condominium Act, and all lawful provisions of this Declaration and amendments thereto. The said lien, once

perfected, shall be prior to all other liens and encumbrances except (1) real estate tax liens on that Unit; (2) liens and encumbrances recorded prior to the recordation of this Declaration; and (3) sums unpaid on any first mortgages or first deeds of trust recorded prior to the perfection of said lien of assessments and securing institutional lenders. The provisions of this Section shall not affect the priority of mechanic's and materialmen's liens.

Any Unit Owner or purchaser of a Unit, having executed a contract for the disposition of the same, shall be entitled, upon request, to a recordable statement setting forth the amount of unpaid assessments currently levied against that Unit. Such request shall be in writing and directed to the president of the Association. Failure to furnish or make available such a statement within five (5) business days from the receipt of such request shall extinguish the lien created by this paragraph as to the Unit involved. Such statement shall be binding upon the Association and every Unit Owner. The Board of Directors of the Association may pass a resolution by a majority vote requiring payment of a fee by the person requesting such statement, and said fee, not to exceed TEN DOLLARS (\$10.00), is to be set by the resolution of the Board of Directors and its payment may be a prerequisite to the issuance of such a statement.

Section Four. Enforcement of Lien. Liens are enforced as follows:

A. The Association, in order to perfect the lien given by this Article, shall file before the expiration of ninety (90) days from the time such assessment became due and payable, in the Clerk's Office for the County of Gloucester, a memorandum verified by the oath of the president of the Association which contains the following:

1. A description of the Unit in accordance with the provisions of § 55-79.47 of the Condominium Act, or amendments thereto;
2. The name or names of the persons constituting the Unit Owners of that Unit;
3. The amount of the unpaid assessments currently due or past due, together with the date when each fell due; and
4. The date of issuance of the memorandum.

B. No suit to enforce any lien perfected under paragraph A of this Section Three shall be brought after six (6) months from the time when the memorandum of lien was recorded; provided, however, that the filing of a petition to enforce any such lien in any suit wherein such petition may be properly filed shall be regarded as the institution of a suit under this Section Three.

C. The action brought to enforce such lien shall include, without limitation, a request for reimbursement for costs and attorney's fees, together with interest at the maximum lawful rate for the sums

secured by the lien from the time each such sum became due and payable.

D. When payment or satisfaction is made of the debt secured by the lien perfected as provided for in this paragraph, said lien shall be released in accordance with the provisions of § 55-66.3 of the Code of Virginia of 1950, as amended. For purposes of that Section, the president of the Association shall be deemed a duly authorized agent of the lien creditor.

E. Nothing in this Section Three shall be construed to prohibit actions at law to recover sums for which Section Two of Article IX hereof creates a lien, maintainable pursuant to § 55.79-53 of the Condominium Act.

Section Five. First User's Fee. The first purchaser of each Unit from the Declarant shall pay to the Association a first user's fee of THREE HUNDRED DOLLARS (\$300.00). This shall be a one-time non-refundable fee whose purpose is to establish initial cash reserves for the Association to provide for cash to meet Association expenses during its first year of existence. All provisions set forth in this Article referring to liens and their enforcement shall also apply to first user's fees which, for purposes of establishing liens and enforcement thereof, shall be deemed to be an assessment.

ARTICLE X

USE AND OCCUPANCY: RESTRICTIONS

Section One. General Restrictions. In order to preserve the quality and integrity of the Condominium, the following protective covenants are established for the mutual benefit of all Unit Owners:

A. No Unit Owner shall occupy or use his Unit, or permit the same or any part thereof to be occupied or used, for any purpose other than as a private, single-family residence for the Unit Owner's immediate family, lessees, servants or guests.

B. Except as reserved to the Declarant, no Unit may be divided, redivided or subdivided, nor may any portion thereof be sold or otherwise transferred except as an entity.

C. No Unit Owner shall do or keep or permit anything to be done or kept, in any Unit or in the Common Elements, which will increase the rate of insurance on the Condominium, result in cancellation of insurance on any Unit or on any part of the Condominium, or be in violation of any law without the prior consent of the Association.

D. No sign of any kind shall be displayed to the public view on or from any Unit or the Common Elements without the prior consent of the Association, except as provided in paragraph K below.

E. No animals or livestock or poultry of any kind shall be raised, bred or kept in any Unit or in the Common Elements, except such dogs, cats, or other household pets as may be permitted by the rules and regulations adopted by the Association governing the same.

F. No nuisances shall be allowed in or upon any Unit or the Common Elements, nor shall any use or practice be allowed which interferes with the peaceful occupancy and use of any Unit or the Common Elements by the Unit Owners.

G. No immoral, improper, offensive or unlawful use shall be made of any Unit or any part of the Common Elements.

H. Except as provided in paragraph J below, Units may be rented by the Unit Owner only if the Unit is occupied by the lessee and his immediate family, servants and guests, and only if the minimum term of any such rental and occupancy shall be six (6) months.

I. Reasonable rules and regulations concerning the use of the Common Elements and conduct of the Unit Owners, their families, guests, tenants, agents and invitees within the Condominium may be made, amended and revoked from time to time by the Board of Directors of the Association. Copies of rules and regulations and all amendments thereto shall be furnished by the Association to all Unit Owners and residents of the Condominium upon request.

J. No Unit Owners nor the Association shall interfere in any way with the completion of the contemplated improvements and the sale of the Units by the Declarant. The Declarant may make such use of the unsold Units as may in its judgment facilitate such completion and sale to the extent otherwise set forth in this Declaration and as permitted by the Condominium Act. The Declarant may display such signs as it deems necessary and appropriate in its sales efforts, except as otherwise limited by this Declaration or the Condominium Act. The Declarant shall have the right to lease any unsold Units upon any terms it desires, notwithstanding the provisions of paragraph H above.

K. Except for the right of ingress and egress, the Unit Owner shall use the Common Elements (except the Limited Common Elements which are assigned to them) only as may be allowed by the Association or expressly provided for herein.

ARTICLE XI

INSURANCE

Section One. General. The Association shall procure and maintain at all times for the benefit of the Association and each Unit Owner and all institutional lenders holding a first deed of trust or mortgage encumbering a Unit (hereinafter referred to as "Mortgagees"), as their interest may

appear, the insurance policies and coverage required by this Section. Exclusive authority to adjust losses under such policy shall be vested in the Association and its delegates. Provision shall be made for the issuance by insurers of certificates to Mortgagees reflecting the interests of Mortgagees and Units. Premiums for insurance coverage (including fees due the Insurance Trustee to the extent insurance proceeds do not cover the same) shall be included as a Common Expense and assessed by the Association as provided for in Article IX hereof. Any bank or any trust company authorized to do business in Virginia may be designated by the Board of Directors of the Association as the Insurance Trustee. Such premiums shall be held by the Association and in a separate escrow account solely for the purpose of paying such premiums as they become due. All policies and endorsements thereto shall be deposited with the Insurance Trustee. Each Unit Owner may obtain at his own expense insurance coverage as to his Unit, personal property, personal liability and living expenses, as long as the insurance coverage obtained and maintained by the Association hereunder shall in no event be brought into contribution with any insurance purchased by a Unit Owner or his Mortgagee. Every policy of insurance obtained and maintained by the Association shall:

A. Be written by a company or companies, authorized to do business in the State of Virginia and holding a rating of "AAA" by Best's Insurance Reports and a policy holders rating of "A" or better;

B. Contain no provision in its carriers charter, Bylaws or policy that loss payments are contingent upon action by the carrier's Board of Directors, policy holders or members; and

C. Provide that such policy may not be cancelled or reduced (regardless of whether such cancellation or reduction is requested by the Board of Directors of the Association) except by the insurer giving at least thirty (30) days' prior written notice thereof to the Board of Directors of the Association, to all Unit Owners, to all Mortgagees and to every other person in interest who shall have requested such notice of the insurer.

Section Two. Casualty Insurance. Subject to the following terms and provisions, each building and all personal property included in the Common Elements shall be insured under a master policy in an amount equal to the full insurable replacement value thereof according to "building standards," as determined not less often than every two (2) years by a qualified insurance appraiser appointed by the Board of Directors of the Association. As used in this Section, building standards shall mean the standards by which a building will be reconstructed according to the plans and specifications for the building, or if there are none, as such building exists immediately prior to its destruction, exclusive of any special modifications or improvements to individual Units (such as built-in features) which would not generally be common to like Units in the building; provided, however, that to the extent, because of the requirements of any code or any underwriter's laboratory or insurance

company, changes are required to be made in the manner in which the building is reconstructed in order to meet such requirements, building standards shall be deemed to include such requirements. Such policy may also insure such equipment and other improvements as the Board of Directors shall from time to time determine to be appropriate. Such coverage shall afford protection against (a) loss or damage by fire or other hazards covered by a standard extended coverage endorsement; (b) floods, but only if desired by the Board of Directors in its sole discretion; and (c) such other risks, including, but not limited to vandalism, malicious mischief, windstorm, water damage and machinery explosion or damage, as the Board of Directors shall, from time to time, determine to be customarily covered with respect to other buildings similar in construction, location and use. The aforesaid policy shall state whether the following items are included within the coverage for each Unit, and if covered, any value or limitation applicable thereto, in order that a Unit Owner may obtain insurance if the items are not insured or fully insured under the master policies: heating and air conditioning equipment; service equipment, such as a dishwasher, refrigerator, oven or stove, whether or not such items are built-in equipment; special modifications and built-ins which are not generally common to like Units; interior fixtures, such as electrical and plumbing fixtures; floorcovering; non-bearing interior walls; inside paint and other inside wall coverings and furnishings; and all walls and ceilings internal to the surrounding studs and floorings above the lower surface of the concrete pad. Notwithstanding the obligation of the Association to procure insurance coverage equal to full insurable replacement value, neither the Association nor the Board of Directors (or any of them) shall be liable in the event insurance proceeds do not equal replacement costs, as long as they acted in good faith.

Section Three. Comprehensive General Liability. The Board of Directors shall procure and maintain at all times comprehensive general liability insurance covering the Association, the Board of Directors and its agents against liability to the public or to any Unit Owner, with minimum limits of not less than ONE MILLION DOLLARS (\$1,000,000.00) in respect to injury, and ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) in respect to property damage.

Section Four. Insurance Indemnifying Officers and Directors. The Board must purchase and maintain insurance, to indemnify officers and directors, as set forth in Article VII, Section Six herein.

Section Five. Other Insurance. The Board of Directors may procure such other insurance as it shall determine from time to time to be desirable, including, without limitation, workmen's compensation as to any employees, and casualty and liability insurance as to any vehicles owned by the Association. In no event, however, shall the Association or the Board of Directors (or any of them) be liable for failure to procure such insurance.

ARTICLE XII

INSURANCE PROCEEDS; RESTORATION AND REPAIR

Section One. Insurance Trustee; Shares of Proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association, the Owner and Mortgagees, as their interest may appear, and shall provide that all proceeds from any casualty in excess of FIVE THOUSAND DOLLARS (\$5,000.00) shall be paid in trust to the Insurance Trustee; otherwise, such proceeds shall be payable to the Association. Such proceeds as are paid shall be held in trust for the purposes hereinafter set forth and for the benefit of the Unit Owners and Mortgagees in the following shares, but which shares need not be set forth on the records of the Insurance Trustee:

A. Proceeds on account of damage to Common Elements shall be held as undivided shares for each Unit Owner and his Mortgagees, such shares being equal to the undivided share of such Unit Owner in the Common Elements appurtenant to his Unit; provided, however, that to the extent that any Common Elements damaged serve less than all of the Units within the Condominium, regardless of whether such Common Elements are designated as Limited Common Elements (for example, structural portions of buildings) any proceeds shall be held as undivided shares for the Unit Owners and Mortgagees of the Units thus affected.

B. When any of the buildings is to be restored, proceeds on account of damage to Units shall be held for the Unit Owners of damaged Units (and their Mortgagees) in proportion to the cost of repairing the damage suffered by each Unit Owner, which cost shall be determined by the Association. When a building is not to be restored, the proceeds shall be held as undivided shares for each Unit Owner and his Mortgagees, such shares being equal to the undivided shares of each Unit Owner in the Common Elements appurtenant to his Unit.

Section Two. Determination of Restoration.

A. Except as otherwise provided herein, all insurance proceeds from any damage to improvements shall be used to repair or replace such improvements. If the damaged improvements are Common Elements, the damaged property shall be reconstructed or repaired, unless it is determined that the Condominium shall be terminated as set forth below. If the damaged improvements are one or more of the buildings, and if none of the Units in such building or buildings is found by the Association to be habitable, then the damaged building or buildings shall be reconstructed or repaired unless the Unit Owners of eighty percent (80%) of the Common Elements of the Condominium (which 80% must also include each Unit Owner and Mortgagee of each Unit damaged by such casualty) agree in writing as soon after the casualty as possible (but in any event within thirty (30) days after the casualty) that such reconstruction or repair shall not be made. Such determination that such reconstruction or repair shall not be made shall automatically terminate the Condominium.

B. If the damage improvements are one or more of the buildings, and if one or more, but not all, of the Units in such building or buildings are found by the Board of Directors to be uninhabitable, then each Unit Owner of a damaged Unit shall commence repairing his Unit as soon as possible in cooperation with each other and at the direction of the Association and shall apply the insurance proceeds collected as a result of such damage toward the cost of reconstruction and repair. In all other instances the responsibility of reconstruction and repair, after casualty, shall be that of the Association. The Insurance Trustee may rely upon a certificate of the Association made by its president and secretary to determine if the damaged property is to be reconstructed or repaired.

Section Three. Conduct of Restoration. Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original building or buildings, subject to such minor alterations as are approved by the Board of Directors of the Association. Immediately after determination has been made to rebuild or repair damage to property for which the Association has the responsibility of reconstruction and repair, the Association shall obtain reliable and detailed estimates of the cost of rebuilding or repairing.

Section Four. Inadequate Insurance.

A. Notwithstanding the obligation to procure replacement value insurance, if the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Association or any Unit Owner under Section Two above, or if at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for the payment of the costs thereof are insufficient, the Association may levy assessments against the Unit Owners of the damaged Units, and against all Unit Owners in the case of damage to Common Elements other than buildings, in sufficient amounts to provide funds for the payment of such costs. The assessments against Unit Owners for damage to Units shall be in proportion to the cost of reconstruction and repair of their respective Units and the building or buildings in which they are located, and the assessments due to damage to the Common Elements, other than buildings, shall be in proportion to the Unit Owner's interest in the Common Elements.

B. If the total of assessments levied by the Association in accordance with Section Four A above is less than FIVE THOUSAND DOLLARS (\$5,000.00), then the Association shall hold the sums paid upon such assessments and disburse the same in payment of the costs of reconstruction and repair; provided, however, that upon request to the Association by a Mortgagee which is a beneficiary of an insurance policy, the proceeds of which are held by the Association, such proceeds shall be distributed in the manner provided for in Section Five below.

C. If the total of assessments levied by the Association in accordance with Section Four A above is more than FIVE THOUSAND DOLLARS (\$5,000.00), the sums paid upon such assessments shall be deposited by the Association with the Insurance Trustee and disbursed by the Insurance

Trustee in payment of the costs of reconstruction and repair upon the order of the Association. Assessments paid by the Unit Owners into the fund shall not be made payable to any Mortgagee.

D. If any portion of the assessments levied by the Association in accordance with Section Four A above shall remain after payment of all costs of reconstruction and repair, the Association shall return such surplus to the Unit Owners who were assessed.

Section Five. Distribution of Insurance Proceeds.

A. Proceeds of insurance policies received by the Insurance Trustee shall first be distributed to pay all expenses of the Insurance or reconstructed, the remaining proceeds shall be paid to defray the cost thereof, upon such invoices, receipts or demands for payment as the Insurance Trustee may require. Any proceeds remaining after defraying such costs shall be the property of the Association. If it is determined as provided in Section Two A above that the damage for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the Unit Owners and their Mortgagees jointly as their interest may appear. In making distribution to Unit Owners and their Mortgagees, the Insurance Trustee may rely upon a certificate of the Association as to the names of the Unit Owners and their respective shares of distribution.

B. Notwithstanding the provisions herein, the Insurance Trustee shall not be required to determine whether sums paid by the Unit Owners upon assessments levied in accordance with Section Four A above shall be deposited by the Association with the Insurance Trustee, nor to determine the amounts to be paid, nor to determine whether surplus funds are to be distributed. Instead, the Insurance Trustee may rely upon a certificate of the Association made by its president and secretary as to any or all of such matters stating that the sums to be paid are due and properly payable and stating the name of the payee and the amount to be paid; provided, that when a Mortgagee is herein required to be named as payee, the Insurance Trustee shall also name the Mortgagee as payee.

ARTICLE XIII

CONDEMNATION

Section One. Condemnation Allocation Governed by the Condominium Act. In all matters of condemnation or taking by eminent domain of all or a portion of the Common Elements, and condemnation or taking by eminent domain of one or more of the Units, or portions of any Unit or Units, the method of taking and the method of distributing awards shall be determined by § 55-79.44 of the Condominium Act.

ARTICLE XIV

AMENDMENT OF DECLARATION

Section One. General Provisions. Except as otherwise provided herein, the provisions of this Declaration may be amended by an instrument in writing signed and acknowledged by the Unit Owners of record of seventy-five percent (75%) or more of the Common Elements, which amendment shall be effective upon recordation thereof in the Clerk's Office of the Circuit Court for the County of Gloucester, Virginia. No amendment shall have the effect of altering the title and interest of each Unit Owner in the Common Elements without the consent of all the Unit Owners and Mortgagees affected except as otherwise set forth herein.

Section Two. Reassignment of Limited Common Elements: This Declaration may be amended in accordance with § 55-79.57(b) of the Condominium Act to acknowledge the reassignment of a Limited Common Element between Unit Owners. The Unit Owners concerned shall make written application to the president of the Association to prepare and execute an amendment to the Declaration reassigning all rights and obligations with respect to the Limited Common Elements involved. Said amendment shall be delivered to the Unit Owners of the Units concerned upon payment by them of all reasonable costs for the preparation and acknowledgment thereof. Said amendment shall become effective upon its execution and recordation in the Clerk's Office of the Circuit Court for the County of Gloucester, Virginia.

Section Three. Rights of Declarant May Not Be Eliminated by Amendment. The rights of the Declarant as set forth herein, and as granted by the Condominium Act, may not be changed or altered unless the Declarant is a party to the written instruments described hereinabove in Section One, Article XIV; provided that if the Declarant is a party to the aforesaid writing, the Declarant's interest in the Common Elements may be included in the computation to determine whether or not the instrument contains the acknowledged signatures by the Unit Owners of record of seventy-five percent (75%) or more of the Common Elements; provided, however, that no amendment shall be made to any Condominium Instrument during the period of Declarant control without the written consent of the Declarant. No amendment to the Condominium instruments shall diminish or impair the rights of the Mortgagees under the Condominium instruments without the written consent of all Mortgagees.

ARTICLE XV

WARRANTIES

Section One. Warranties against Structural Defects. Notwithstanding anything in the Condominium Instruments to the contrary, the Declarant hereby warrants against structural defects, each of the Units for two (2) years from the date each is conveyed, and all of the Common

or the heirs, successors, or assigns thereof shall have an exclusive right of occupancy of that portion of said Property which formerly constituted his Unit.

D. Upon recordation of an instrument terminating a Condominium, any rights the Unit Owners may have to the assets of the Association shall be in proportion to their respective undivided interests in the Common Elements immediately prior to such recordation, except that common profits shall be distributed in accordance with the provisions of § 55-79.82 of the Condominium Act.

ARTICLE XVII

MISCELLANEOUS PROVISIONS

Section One. Rights Not Provided For. The rights and obligations of any Unit Owner not otherwise herein or in the Bylaws specifically provided for, shall be determined pursuant to the provisions of the Condominium Act, as amended and enforced on the date of the recordation of this Declaration.

Section Two. Covenants Running With The Land. All provisions of this Declaration shall be construed to be covenants running with the Condominium, and with every part thereof and interest therein including, but not limited to, every Unit and the appurtenances thereto; and every Unit Owner and claimant of the Condominium or any part thereof or interest therein, and his heirs, personal representatives, successors and assigns, shall be bound by all of the provisions of this Declaration.

Section Three. Enforcement. The Association, or any Unit Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Unit Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section Four. Rights of Mortgagees. Notwithstanding any other provisions contained herein to the contrary, bona fide Mortgagees shall be entitled to the following rights, provided that such Mortgagees shall have notified the Association of the fact that they are Mortgagees:

A. A Mortgagee is entitled to written notification from the Association of any default by the Unit Owner of such Unit in the performance of such Unit Owner's obligations under the Condominium Instruments which is not cured within thirty (30) days.

3. Unless at least 75% of the first Mortgagees (based upon one vote for each first mortgage owned) of Units have given their prior written approval, the Association shall not be entitled to:

1. By act or omission, seek to abandon or terminate the Condominium;

2. Except as otherwise provided in this Declaration, change the pro rata interest or obligations of any Unit for (a) purposes of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards and/or (b) determining the pro rata share of ownership of each Unit in appurtenant real estate and in any Common Elements; or

3. Except as otherwise provided for in this Declaration, by act or omission, seek to abandon, partition, sub-divide, encumber, sell or transfer the Common Elements. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements by the Condominium shall not be deemed a transfer within the meaning of this clause.

C. Mortgagees shall have the right to examine the books and records of the Association or the Condominium during reasonable business hours.

D. The Association shall give all Mortgagees notice in writing of any loss to, or taking of, the Common Elements of the Condominium if such loss or taking exceeds TEN THOUSAND DOLLARS (\$10,000.00). In addition, the Association shall give all Mortgagees of a Unit notice in writing if any loss to, or taking of, such Unit exceeds ONE THOUSAND DOLLARS (\$1,000.00).

Section Five. Severability. The provisions hereof shall be deemed individual and severable and the invalidity or partial invalidity or unenforceability of any one provision or any portion thereof shall not affect the validity or enforceability of any other provision hereof.

Section Six. Gender and Grammar. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

Section Seven. Form of Ownership. Each Unit, together with the Common Elements appurtenant thereto, shall for all purposes constitute a separate parcel of real estate which, subject to the terms of this Declaration, and the terms of the Condominium Act, may be owned in fee simple.

Section Eight. Headings. All headings in this document are inserted solely for convenience of reference, and none of them constitutes a part of this document or affects its meaning, construction or effect.

Section Nine. Effective Date. This Declaration shall take effect upon recordation.

Section Ten. Provisions of Declaration for Benefit of Unit Owner and Mortgagees. The provisions of the Declaration, and all exhibits thereto, requiring the Association to maintain Common Elements or portions of the Units, collect assessments, maintain insurance, and make any repairs, and all restrictions of the Declaration and exhibits thereto, are intended to be for the benefit of and may be enforced by either a Unit Owner or any Mortgagee.

Section Eleven. Leases Must Contain Covenant to Abide. If a Unit Owner should lease a Unit or Units, the lease must contain a covenant on the part of the lessees to abide by all provisions of this Declaration and its exhibits and any rules and regulations and any amendments thereto which may subsequently be promulgated by the Association.

Section Twelve. Mortgagees' Rights. No provision in this Declaration is intended to give the Unit Owner or any other party priority over any rights of a first Mortgagee of a Unit relative to the distribution to such Unit Owner of insurance proceeds or condemnation awards; provided, however, that this Section Twelve is intended to be interpreted strictly in accordance with the rules and regulations of the Federal Home Loan Mortgage Corporation and shall not be read or interpreted to give any broader rights to Mortgagees.

Section Thirteen. Declarant's Rights and Obligations. Nothing contained in this Declaration shall be deemed to impose upon the Declarant any obligation of any nature to build, construct, or provide any improvements except to the extent required by the Condominium Act. All rights, powers and privileges created or reserved by the Declaration for the benefit of the Declarant shall inure to any person or persons who hereafter become a Declarant of the Condominium within the meaning of § 55-79.41(k) of the Condominium Act.

Section Fourteen. Compliance with the Condominium Act. Each Condominium Instrument and each amendment thereto is intended to comply with the Condominium Act as of the time of the recordation of such Condominium Instrument, and each amendment thereto shall be construed and interpreted in conformity with the intent expressed in this Section Fourteen. If any part of any Instrument is held to be invalid by a court of competent jurisdiction, then the part thus invalidated shall not in anywise affect the validity of the remainder.

IN WITNESS WHEREOF, ALCO Land Development Associates has caused its name to be signed hereto by its General Partner, he being thereunto duly authorized.

ALCO LAND DEVELOPMENT ASSOCIATES

By: E. Allan Gayle
E. Allan Gayle, General Partner

STATE OF VIRGINIA

CITY OF NEWPORT NEWS, to wit:

I, Barbara S. Parker, a Notary Public in and for the City and State aforesaid, whose commission expires on the 1st day of April, 1987, do hereby certify that E. Allan Gayle, as General Partner of ALCO LAND DEVELOPMENT ASSOCIATES, whose name is signed to the foregoing instrument or writing, has acknowledged the same before me in my City and State aforesaid.

Given under my hand this 12th day of September, 1984.

Barbara S. Parker
Notary Public

INDEX TO EXHIBITS

DECLARATION

OF

DOCKSIDE CONDOMINIUM

- EXHIBIT A Articles of Incorporation of Dockside Condominium Owner's Association, Inc.
- EXHIBIT B Bylaws of Dockside Condominium Owner's Association, Inc.
- EXHIBIT C-1 Plats and Plans of Dockside Condominium through C-5

(FOR PLATS, SEE CLERK'S PLAT BOOK NO. 20, PAGES 849 & 849-A, 850 & 850-A, 851 & 851-A, 852 & 852-A & 853 & 853-A.)

THIS DECLARATION AND PLATS
were delivered to the Clerk of the Circuit Court of Gloucester
County, Virginia, on the 13 day of December 19 84.
admitted to record at 12:10 o'clock P.M. and recorded.

Teste:

Charles E. King, Jr. Clerk