

**DECLARATION SUBMITTING REAL PROPERTY TO THE CONDOMINIUM ACT AND
CREATING AND ESTABLISHING A CONDOMINIUM KNOWN AS
MAINSAIL CONDOMINIUM**

THIS DECLARATION, is made this 1st day of February 2007, by MAINSAIL CONDOMINIUM, L.L.C., a Virginia limited liability company, (the "Declarant"), as developer and owner in fee simple of the real property described below:

WITNESSETH THAT:

ARTICLE ONE: CREATION AND ESTABLISHMENT OF THE CONDOMINIUM AND RECORDATION

1.01 This Declaration and the accompanying Bylaws and plats and plans attached hereto as an integral part hereof and recorded simultaneously herewith as Exhibits A and B, 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 real estate condominium regime in the form of a residential project to be known as Mainsail Condominium, located in the City of Hampton, Virginia, hereby expressly declares its desire to submit, and does hereby submit, the property to a regime established by the Condominium Act, Title 55, Chapter 4.2, Sections 55-79.39 through 55-79.103 of the Code of Virginia of 1950, as amended, 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 Mainsail Condominium (the "Condominium") the particulars of which are set forth hereinafter.

1.02 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 other. Any amendment of any Condominium Instrument shall, from the time of the recordation of such amendment be deemed an integral part of the affected Condominium Instrument, so long as such amendment was made in accordance with the provisions of the Condominium Act.

1.03 This Declaration is recorded also for the purpose of complying with the provisions of Section 55-79.39 et seq of the Code of Virginia of 1950, as amended, and hereafter provision shall be made for the recordation of the individual condominium units (as defined hereinafter) on subsequent resales, mortgages and other encumbrances, as is done with all other real estate recordation, and each condominium unit shall constitute for all purposes a separate parcel of real property, distinct from all other condominium units.

Prepared by Harry R. Purkey, Jr., P.C.
303 34th Street, Suite 5
Virginia Beach, VA 23451

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Acct # _____

ARTICLE TWO: DESCRIPTION AND STATUTORY PARTICULARS

2.01 As used herein, the "Property" means and includes the land described hereinafter, which is owned by the Declarant in fee simple, the improvements and structures erected or to be erected thereon, to be known as Mainsail Condominium, in accord with the plats and plans attached hereto as Exhibit B and recorded herewith, hereinafter called the "Plats and Plans", and all easements, rights, privileges and appurtenances thereto belonging and all incidents thereto or interest therein.

A. Legal Description of the Land.

SEE SCHEDULE 1 ATTACHED HERETO

B. Description of Building and General Description and Number of Each Unit.

The Declarant is undertaking to develop a real estate condominium project on the property whereby 6 Condominium Units, as defined hereinafter, contained in two structures, are to be individually offered for sale and sold and conveyed to Unit Owners, and thereafter individually owned, possessed, sold, conveyed, encumbered and disposed of by Unit Owners under condominium ownership. Each Unit is identified by the number of the Unit. The Units are identified by the numbers 109, 111, 113, 155, 177 and 119, respectively, as further shown on the Plats and Plans attached hereto as Exhibit B.

C. Description of the Common Elements and Prohibition Against Partition

The Common Elements of the property are all portions of the Condominium other than the Units.

The Limited Common Elements of the Condominium shall mean a portion of the Common Elements reserved for the exclusive use of the owner of the Unit or Units to which the Limited Common Element appertains. Limited Common Elements shall appertain to one or more, but less than all, of the Units. Limited Common Elements shall include the driveways, front porches, decks and patios adjacent to each Unit as noted on the Plats and Plans.

The General Common Elements are all Common Elements other than Limited Common Elements. While use and enjoyment of Limited Common Elements is restricted, each Unit Owner shall have an equal undivided ownership interest in all Common Elements.

All decks, shutters, awnings, door steps, exterior stairways, walkways, driveways, entrance ways, and landings, balconies, decks, patios, if any, and any other apparatus designated to serve a single Unit, but located outside the boundaries thereof, shall be deemed a Limited Common Element appertaining solely to that Unit to which they are affixed. Expressly provided, however, that all exterior stairways, hallways and landings and appurtenances, and their component parts shall constitute General Common Elements.

2.02 The Plats and Plans attached hereto as Exhibit B shall not be interpreted to mean that any Limited Common Element as defined in the preceding paragraphs is, in fact, a part of any Unit or a General Common Element rather than a Limited Common Element.

2.03 The Common Elements shall remain undivided and shall not be subject to any suit for partition until and unless the Condominium is terminated. No unit owner, nor any other person, shall bring any suit or other proceeding for partition or division of the co-ownership of the Common Elements until and unless the Condominium is terminated.

2.04 Nothing contained herein shall be construed as a limitation on partition by the unit owners of one Condominium Unit in the Condominium as to the individual ownership of such Condominium Unit, provided that upon partition of any such individual Condominium Unit the same shall be sold as an entity and not be partitioned in kind.

ARTICLE THREE: DEFINITIONS, OWNERSHIP, RIGHTS; TITLE AND INTEREST; DEEDS TO INDIVIDUAL UNITS; PROHIBITION AGAINST SUBDIVISION

3.01 Except to the extent otherwise provided by the Condominium Instruments, the terms defined in Section 55-79.41 of the Code of Virginia of 1950, as amended, shall be deemed to have the meanings therein specified and ascribed to them wherever they appear in the Condominium Instruments unless the context clearly otherwise requires.

3.02 "Unit" as used herein, shall generally mean a portion of the Condominium designated and intended for individual ownership and use, and specifically, shall mean a one family dwelling unit which is an enclosed space within an enclosed area, as shown on the Plats and Plans, consisting of and the boundaries of which are designated, delineated and described as the inside space or areas contained within the finished inner surfaces of the perimeter walls (the vertical, lateral or perimetric boundaries of the unit), floors (the lower, horizontal boundaries of the unit) and ceilings (the upper horizontal boundaries of the unit), of each separately designed self-contained dwelling unit, consisting specifically of the rooms, designed, proposed, intended and restricted to be used solely for independent, individual ownership and single family residential dwelling use, together with an undivided percentage interest in the Common Elements.

All doors which provide access to a Unit from the outside, including the exterior surfaces thereof, and all windows and skylights in a Unit, including any glass installed therein, and any replacements thereof, all non-bearing walls, lathe, plasterboard, wallboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting a part of the finished surfaces of a unit shall be deemed a part of that Unit. All other portions of such walls, floors and ceilings shall be deemed a part of the Common Elements. Notwithstanding the foregoing, the exterior framing, trim and jambs of (i) all doors which provide access to a Unit from the outside and (ii) all windows, shall be deemed a part of the Common Elements. All door, window and skylight hardware and apparatus, including but not limited to, locks, handles and hinges shall be deemed a part that Unit.

A Unit shall not include any chutes, flues, ducts, conduits, pipes, wires or other utility facilities or installations which serve more than one Unit or which serve any portion of the General Common Elements, or which serve Limited Common Elements appertaining to another Unit. Any decks, chutes, flues, ducts, conduits, pipes, wires or other utility facilities or installations serving only one Unit or Limited Common Elements appertaining to that Unit shall be deemed to be a part of the Unit served while any chutes, flues, ducts, conduits, pipes, wires or other utility facilities serving more than one Unit or any portion of the General Common Elements or Limited Common Elements appertaining to another Unit shall (i) if the facility serves one or more Units and the General Common Elements, constitute General Common Elements and, (ii) if the facility serves more than one Unit, but not the General Common Elements or any portion thereof, constitute Limited Common Elements appertaining to the Units served. Subject to the foregoing, all space, non-bearing interior partitions and other fixtures and improvements within the boundaries of a Unit shall be deemed a part of that Unit.

3.03 Each Unit Owner shall own his Unit in fee simple absolute, in addition to his undivided fee simple interest as a tenant in common with the other Unit Owners in the Common Elements.

3.04 The General Common Elements consist of the improvements, exclusive of the Units and Limited Common Elements as described above, and all of the land subjected to the Condominium that is not a part of a Unit or a Limited Common Element appurtenant to a Unit.

3.04.A "General Common Area" "General Common Elements", or "Common Areas", or "General Common Areas" as used herein means Common Elements to which all Unit Owners in the Condominium are entitled to use and enjoy, except for those parking areas which may be assigned pursuant to this Article. Otherwise, there are no Common Elements which may be assigned as Limited Common Elements.

3.04.B All General Common Elements shall be maintained and repaired by the Unit Owners' Association and the expenses of maintenance are to be shared equally by all Unit Owners. All Limited Common Elements shall be maintained and repaired by the Unit Owners' Association and the cost of such repairs and maintenance shall be specially assessed against the Unit or Units to which they appertain. Notwithstanding the foregoing, each Unit Owner shall have the right to decorate the deck and any patio areas adjacent to their unit, which deck and patio areas are Limited Common Elements appurtenant to that Unit, subject to any rules and regulations regarding the same that are adopted by the Unit Owners Association. However, should the Unit Owner fail to properly repair any damage to the deck and patio areas adjacent to their Unit caused by their use of such deck or patio areas, then the Unit Owners' Association shall have the right to perform such repair activities as are necessary to keep the deck and patio areas adjacent to the Unit in a neat and presentable manner and the cost of such maintenance shall be specially assessed against the Unit to which such deck and patio areas are an appurtenant Limited Common Element. The Declarant, during the Declarant Control Period and thereafter, the Unit Owners Association, shall have the right to assign parking spaces in the parking areas other than the driveway areas adjacent to each Unit (which driveway areas are Limited Common Elements

appurtenant to the Unit served as provided for hereinabove) subject to the restriction that each Unit is assigned an equal number of spaces.

3.05 "Common Expenses" shall mean all expenditures lawfully made or incurred by or on behalf of the Unit Owners' Association, together with all funds lawfully assessed for the creation and/or maintenance of reserves pursuant to the provisions of the Condominium Instruments; "Future Common Expenses" shall mean Common Expenses for which assessments are not yet due and payable.

3.06 "Unit Owners' Association" shall mean a Virginia non-stock corporation or an unincorporated association composed of the Unit Owners which shall govern the Condominium and be vested with certain rights and duties more fully described in this Declaration and the Condominium Bylaws.

3.07 "Common Profits" shall mean all income collected or accrued by or on behalf of the Unit Owners' Association, other than income derived from assessments pursuant to Article Four of this Declaration.

3.08 "Declarant" shall mean the Declarant on whose behalf this Declaration is executed and any successors of the Declarant who come to stand in the same relation to the Condominium as its predecessor did.

3.09 "Dispose" or "disposition" shall refer to any voluntary transfer of a legal or equitable interest in a Condominium Unit, except as security for a debt.

3.10 "Board of Directors" shall mean the executive and administrative entity herein designated as the governing body of the Unit Owners' Association.

3.11 "Officer" shall mean any member of the Board of Directors or officer of the Unit Owners' Association.

3.12 The number of votes in the Unit Owners' Association, the undivided interest in the Common Elements, rights to Common Profits and liability for Common Expenses, allocated and appurtenant to each Unit and vested in each Unit Owner, are equal except as otherwise provided herein, and same may not be altered or changed except by unanimous agreement of all Unit Owners (except upon creation of additional Units on additional land or contraction of the Condominium by withdrawal of withdrawable land) and any purported transfer, encumbrance or other disposition of the undivided interest in the Common Elements allocated to a Unit without the unit to which it is appurtenant shall be void. The undivided interest in the Common Elements, right to Common Profits and liability for Common Expenses allocated and appurtenant to each Unit shall at all times be in proportion to the number of votes in the Unit Owners' Association appertaining to that Unit.

3.13 "Unit Owner" shall mean one or more persons ("Person" meaning natural person, firm, corporation, partnership, association, trust or other legal entity capable of holding title to real property, or any combination thereof) who own a Unit and whose ownership is reflected by a conveyance duly recorded in the Clerk's Office of the Circuit Court of the City of Hampton, Virginia.

3.14 To the extent that any Unit or Common Element encroaches on any other Unit or Common Element, whether by reason of any deviation from the Plats and Plans in the construction, repair, renovation, restoration, or replacement of any improvement, or by reason of the settling or shifting of any land or improvement, a valid easement for such encroachment and maintenance thereof, so long as it continues, shall exist. In the event any portion of a building shall be partially or totally destroyed and then rebuilt, minor encroachments of any parts of the Common Elements or of any Unit due to construction shall be permitted and valid easements for such encroachments and the maintenance thereof shall exist. The purpose of this paragraph is to protect the Unit Owners, except in cases of willful and intentional misconduct by them or their agents or employees, and not to relieve the Declarant or any contractor, subcontractor, or materialmen of any liability which any of them may have by reason of any failure to adhere strictly to the Plats and Plans.

3.15 The Declarant shall have a transferable easement over and on the Common Elements for the purpose of making improvements on the submitted land (and additional land) pursuant to the provisions of the Condominium Instruments and of the Condominium Act, and for the purpose of doing all things reasonably necessary and proper in connection therewith. To the extent that damage is inflicted on any part of the Condominium by any person or persons utilizing the easement created by the preceding paragraph, the Declarant together with the person or persons causing the same shall be jointly and severally liable for the prompt repair thereof.

3.16 By acceptance of his deed of conveyance, each Unit Owner thereby grants a right of access to his Unit, as provided by Section 55-79.79(a) of the Condominium Act and this Section 3.16 and Section 4.06 of the Declaration, to the Board of Directors or the managing agent, or any other person authorized by the Board or the managing agent, or any group of the foregoing, for the purpose of enabling the exercise and discharge of their respective powers and responsibilities, including without limitation, making inspections, performing required maintenance, repair or replacements, abating violations of rules and regulations, correcting any condition originating in his Unit or in a Common Element to which access is obtained through his Unit and threatening another Unit or the Common Elements or the Limited Common Elements, in his Unit or elsewhere in the Property or to correct any condition which violates any Mortgage; provided however, that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the Unit Owner. In case of an emergency, such right of entry shall be immediate, whether or not the Unit Owner is present. To the extent that damage is inflicted on the Common Elements or Limited Common Elements or any Unit through which access is taken, the Unit Owner, Unit Owners' Association other person causing such damage shall be liable for the prompt repair thereof.

3.17 The executive organ of the Unit Owners' Association, if any, and if not, then the Unit Owners' Association itself, and the Declarant during the period of Declarant control, 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 and leases of the Common Elements and accept easements benefiting the Condominium or any portion thereof. In addition, for a period of seven (7) years from the recordation of this Declaration, the Declarant or its assigns shall have the power and authority to grant utility drainage and access easements through any Common Area if necessary for the creation of Units on additional land. Prior to the expiration of seven (7) years from the recordation of this Declaration, no easement shall be granted or created through any Common Area without the express written consent of the Declarant or its assigns.

3.18 Each Unit Owner shall have an exclusive right to his Unit and shall have as an appurtenance to his Unit a common right to an equal share, with the other Unit Owners, in the Common Elements of the Condominium and in the Common Profits. This right to Common Elements is subject to limitations as to use and enjoyment with regard to Limited Common Elements and with regard to any assigned parking areas and attic space as more fully set forth in this Declaration and the Bylaws. Each Unit Owner has an unrestricted right of ingress and egress to their Unit.

3.19 Subsequent to the establishment of this Condominium, each Unit and the Common Areas attributable thereto shall be subject to individual ownership. A Unit may be individually sold, conveyed, mortgaged, encumbered and disposed of and may be the subject of ownership, possession or sale, and of all juridic acts inter vivos or mortiscausa, as if it were sole and entirely independent of any other Condominium Unit, and the corresponding individual title and interest shall be recordable pursuant to the laws of the State of Virginia relating to the recordation of deeds. A Unit may not be sold, conveyed, encumbered or otherwise disposed of or alienated independently or separate or apart from the Unit Owner's interest in the Common Elements or vice versa.

3.20 Hereafter, no description of a Unit shall be deemed vague, uncertain, or otherwise insufficient or infirm which sets forth the identifying number of that Unit, the name of the Condominium, the name of the city wherein the Condominium is situated, and the deed book and page number where the first page of this Declaration is recorded. Any such description shall be deemed to include the undivided interest in the Common Elements appertaining to such unit even if such interest is not defined or referred to therein.

3.21 No Unit may be subdivided so as to make two or more smaller Units.

3.22 The boundaries between the Units may be relocated in accordance with the provisions of Section 55-79.69 of the Code of Virginia of 1950, as amended.

ARTICLE FOUR: CONTRIBUTIONS AND ASSESSMENTS OF UNIT OWNERS, WARRANTY AGAINST STRUCTURAL DEFECTS; UNIT OWNERS' ASSOCIATION

4.01 Except as otherwise set forth herein and as set forth in the Bylaws attached as Exhibit A hereto, all Unit Owners are bound to maintain and repair their own respective Units and the Limited Common Elements appurtenant thereto and to contribute pro rata toward the expenses of administration and of maintenance and repairs of the General Common Elements, and toward any other expenses lawfully agreed upon by the Unit Owners' Association. The expenses of maintenance, replacement and repair of the Limited Common Elements shall be assessed against the Unit or Units to which the Limited Common Element appertains as provided for herein and in the Bylaws. Each Unit shall be assessed for Common Expenses in proportion to the number of votes in the Unit Owners' Association appertaining to such Unit.

4.02 If a Unit Owner fails to maintain or repair his Unit or fails to contribute his pro rata share towards the expenses set forth above, the manager or Board of Directors of the Unit Owners' Association or, in the proper case, an aggrieved Unit Owner, may, in addition to the remedies set out above, maintain an action at law on behalf of the Unit Owners' Association to recover sums due, for damages, and in equity for injunctive relief and the Unit Owners' Association may file a memorandum of lien therefor against the individual Unit for unpaid assessments.

4.03 Any Unit Owner may make any improvements or alterations in the interior of his Unit that do not impair the structural integrity of any improvement or otherwise lessen the support of any portion of the Condominium.

4.04 If a Unit Owner acquires an adjoining Unit, or an adjoining part of an adjoining Unit, then such Unit Owner shall have the right to remove all or any part of any intervening partition or to create doorways or other apertures therein, notwithstanding the fact that such partition may in whole or in part be a General Common Element, so long as no portion of any bearing wall or bearing column is weakened or removed and no portion of any Common Element other than that partition is damaged, destroyed or endangered. The foregoing shall be subject to the prior review and approval by the Declarant, during the Declarant Control Period, and the Unit Owners Association, after the Declarant Control Period. All such work shall be done in accordance with all applicable laws, rules, ordinances, regulations and building codes and all necessary permits for such work must be obtained prior to the commencement of such work. Such creation of doorways or other apertures shall not be deemed an alteration of boundaries within the meaning of Section 55-79.69 of the Code of Virginia of 1950, as amended, or of the provisions of Article Three of this Declaration relative to relocation of boundaries between Units.

4.05 No Unit Owner, including the Declarant or any mortgagee who acquires title to a Unit, shall be exempt from maintaining or repairing his Unit or from contributing toward Common Expenses by waiver or nonuse of the Common Elements, or by abandonment of the Unit belonging to him. However, the liability of any Unit Owner for future assessments for such expenses shall cease upon the termination of his ownership of the unit belonging to him.

4.06 Express consent and a request by the Unit Owner of any Unit shall be deemed to be given in the case of emergency repairs to his Unit which are necessary to preserve life or property and the expenses thereof shall be that of the Unit Owner. Labor performed and materials furnished for the Common Areas and facilities, duly authorized by the Unit Owners' Association, the manager, or Board of Directors, shall also be deemed to be performed or furnished with the express consent of each Unit Owner and the expense thereof shall be deemed a Common Expense.

4.07 The Unit Owners' Association shall be established and come into being upon the conveyance by the Declarant of the initial Unit. Assessments shall commence to accrue as to all Units (except upon additional land) upon said conveyance of the initial Unit in the Condominium and the Declarant shall henceforth be responsible for 100% of all assessments attributable to the Units which are unsold and until such time as each Unit is conveyed.

4.08 The Declarant warrants and guarantees, against structural defects, each of the Units for two (2) years as provided by Section 55-79.79 of the Code of Virginia of 1950, as amended. Nothing in this paragraph shall be construed to make the Declarant responsible for any items of maintenance relating to the Units, Limited Common Elements, or Common Elements.

4.09 The Unit Owners' Association shall have the power to employ, dismiss and replace agents and employees to exercise and discharge the powers and responsibilities of the Unit Owners' Association, to make or cause to be made additional improvements on and as a part of the Common Elements, and to grant or withhold approval of any action by one or more Unit Owners or other persons entitled to the occupancy of any Unit which would change the exterior appearance of any Unit or of any other portion of the Condominium, or elect or provide for the appointment of a covenants committee, the members of which must have the same qualifications as officers, to grant or withhold such approval. Nothing contained in the foregoing shall be construed to prohibit the grant, by the Condominium Instruments, including the Bylaws, of other powers and responsibilities to the Owners' Association or the Board of Directors thereof.

4.10 Any Common Profits shall be applied to the payment of Common Expenses, and rights in any surplus remaining shall accrue to the Condominium Units in proportion to the number of votes in the Unit Owners' Association appertaining to each such Unit. Any such surplus may, if the Board of Directors approve the same, be distributed accordingly to the Unit Owners, except to such extent as the Condominium Instruments may require the same to be added to reserve funds.

Any Common Expenses associated with the maintenance, repair, renovation, restoration or replacement of any Limited Common Elements, shall be assessed against the Unit or Units to which that Limited Common Element was assigned at the time such expenses were made or incurred as provided for in the Bylaws. Any Common Expense caused or brought about by the misconduct, negligence or omission of the owner of any Unit or his tenant or guest shall be specially assessed against that Unit.

4.11 The amount of all Common Expenses not specially assessed pursuant to the foregoing two paragraphs, less the amount of all Common Profits, shall be assessed against the Units in proportion to the number of votes in the Unit Owners' Association appertaining to each such Unit. No change in the number of votes in the Unit Owners' Association appertaining to any Unit shall enlarge, diminish or otherwise affect any liabilities arising from assessments made prior to such change.

4.12 The Unit Owners' 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 the Condominium Instruments, if perfected as hereinafter provided. The said lien, once perfected, shall be prior to all other liens and encumbrances, except real estate tax liens on that Unit and sums unpaid on any first mortgage or first deed of trust encumbering that Unit and securing an institutional lender. The Unit Owners' Association, in order to perfect the lien given by the foregoing provision and by Section 55-79.84 of the Code of Virginia of 1950, as amended, shall file before the expiration of the time period set out in said Section 55-79.84 in the Clerk's Office of the Circuit Court of the City of Hampton, Virginia, a memorandum, verified by the oath of the principal officer of the Unit Owners' Association, or such other officer or officers as the Bylaws may specify, which contains a description of the Unit in accordance with the provisions of Section 55-79.47 of the Code of Virginia of 1950, as amended, the names of the record owners of that Unit, the amount of unpaid assessments currently due or past due, together with the date when each fell due, and the date of issuance of the memorandum.

When payment or satisfaction is made of a debt secured by the lien perfected by the foregoing paragraph, said lien shall be released in accordance with the provisions of Section 55-66.3 of the Code of Virginia of 1950, as amended. For the purposes of that paragraph, the principal officer of the Unit Owners' Association, or such other officer or officers as the Bylaws may specify, shall be deemed the duly authorized agent of the lien creditor.

Nothing herein shall be construed to prohibit actions at law to recover sums for which Section 55-79.84.A creates a lien, maintainable pursuant to Section 55-79.53 of the Code of Virginia of 1950, as amended.

4.13 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 a request shall be in writing, directed to the principal officer of the Unit Owners' Association or to such other officer as the Bylaws may specify. Failure to furnish or make available such a statement within ten (10) days from the receipt of such request shall extinguish the lien created hereby and by Section 55-79.84.A of the Code of Virginia of 1950, as amended, as to the Unit involved. Such statement shall be binding on the Unit Owners' Association, the Board of Directors, and every Unit Owner. Payment of a fee not exceeding \$10.00 may be required as a prerequisite to the issuance of such a statement.

Upon the sale or conveyance of a Unit, all unpaid assessments against a Unit Owner for his pro rata share in the expenses of administration and of maintenance and repairs of the Common Elements and in any other expenses lawfully agreed upon by the Unit Owners' Association shall first be paid out of the sellers proceeds of the sales price in preference over any other assessments or charges of whatever nature except real estate tax liens on that Unit and sums unpaid on any first mortgage or first deed of trust encumbering that Unit and securing an institutional lender. The liability of the owner of a Unit to the Unit Owners' Association for pro rata expenses shall be limited to the amounts which he is assessed from time to time in accordance with the Condominium Act and the Condominium Instruments.

ARTICLE FIVE: COMPLIANCE BY UNIT OWNERS WITH COVENANTS, CONDITIONS AND RESTRICTIONS OF INDIVIDUAL UNIT DEEDS AND THESE CONDOMINIUM INSTRUMENTS

5.01 The Declarant, each unit owner and all those entitled to occupying a Unit shall comply strictly with the Condominium Instruments and the Condominium Act, as either or the same may be lawfully amended from time to time, and with the covenants, conditions, restrictions, if any, set forth in the Deed to his individual Unit and any rules and regulations adopted pursuant thereto. Any lack of such compliance shall be grounds for an action or suit to recover sums due, for damages or injunctive relief, or for any other remedy available at law or an equity, maintainable by the Unit Owners Association, or by its Board of Directors or any managing agent on behalf of the Association, or in any proper case by one or more aggrieved Unit Owners on their own behalf or as a class action. The prevailing party shall be entitled to recover reasonable attorney's fees and costs expended in the matter. Further, the Unit Owners' Association, acting by and through the Board of Directors and/or any covenants committee or other committee duly appointed by the Board of Directors to assess charges and/or fines for violation of the Condominium Instruments, the Condominium Act and/or any rules or regulations adopted pursuant thereto, all pursuant to Section 55-79.80:2B of the Code of Virginia of 1950, as amended.

5.02 There is recorded simultaneously herewith as Exhibit A hereto a set of Bylaws providing for the self-government of the Condominium by an Association of all the Unit Owners.

The Bylaws provide that the Unit Owners' Association shall elect an executive organ or Board of Directors. The Board of Directors may, among other things, exercise any of the powers and responsibilities assigned by the Condominium Act to the Unit Owners' Association. The Bylaws shall also specify which, if any, of its powers and responsibilities, the unit Owners' Association or its Board of Directors may delegate to a managing agent.

The administration of the Condominium shall be governed by the Bylaws approved and adopted by the Unit Owners' Association. The initial Bylaws may be amended from time to time provided any such amendments shall be enacted in accordance with the provisions of the Condominium Act and the Condominium Instruments. Any such amendment, in order to take effect, must be duly admitted to record in the Clerk's Office of the Circuit Court of the City of

Hampton, Virginia, and the amendment shall set forth the name of the Condominium, the name of the city in which the Condominium is located, and the deed book and page number where the first page of the Declaration is recorded.

ARTICLE SIX: REGROUPING OR MERGER OF FILIAL ESTATES WITH PRINCIPAL PROPERTY; AMENDMENT OF CONDOMINIUM INSTRUMENTS; TERMINATION

6.01 If there is no Unit Owner other than the Declarant, the Declarant may unilaterally terminate the Condominium or amend the Condominium Instruments, and any such termination or amendment shall become effective upon the recordation thereof if the same has been executed by the Declarant.

6.02 If there is any Unit Owner other than the Declarant, then the Condominium shall be terminated only by the agreement of Unit Owners to which four-fifths of the votes in the Unit Owners' Association appertain, and may not be terminated without the consent of the Declarant as provided in Articles Twelve and Thirteen of this Declaration.

6.03 If there is any Unit Owner other than the Declarant, then the Condominium Instruments shall be amended only by agreement of Unit Owners to which two-thirds of the votes in the Unit Owners' Association appertain, except in cases for which the Condominium Act or this Declaration provides different methods of amendment, and unless this Declaration requires a greater majority for the taking of certain action. The consent of the Declarant shall be a prerequisite to any amendment if required by Articles Twelve and Thirteen of this Declaration.

6.04 Agreement of the required number of Unit Owners to termination of the Condominium or to amend the Condominium Instruments, shall be evidenced by the execution of the termination agreement or amendment by or on behalf of the Unit Owners (and the Declarant if required), and the same shall become effective when such agreement is duly recorded in the Clerk's Office of the Circuit Court of the City of Hampton, Virginia.

6.05 Except to the extent expressly permitted or expressly required by other provisions of the Condominium Instruments or of the Condominium Act, no amendment to the Condominium Instruments shall change the boundaries of any Unit, the undivided interest in the Common Elements appertaining thereto, the liability for Common Expenses or rights to Common Profits appertaining thereto, or the number of votes in the Unit Owners' Association appertaining thereto.

6.06 Upon recordation of an instrument terminating this Condominium all the property constituting the same shall be owned by the Unit Owners as tenants in common and each Unit Owners undivided interest in such property shall be determined in accordance with the provisions of Section 55-79.72:1.1 of the Code of Virginia of 1950, as amended. But so long as such tenancy in common lasts, each Unit Owner or the heirs, personal representatives, successors, or

assigns thereof, shall have an exclusive right of occupancy of that portion of Property which formerly constituted his Unit.

Upon recordation of an instrument terminating this Condominium, any rights the Unit Owners may have to the assets of the Unit Owners' Association shall be in proportion to their respective undivided interests which shall be determined in accordance with the provisions of Section 55-79.72:1.I of the Code of Virginia of 1950, as amended.

6.07 The merger or termination provided for in the preceding paragraphs shall in no way bar the subsequent constitution of the Condominium into another condominium whenever so desired and upon the observance of the Condominium Act.

6.08 In the event of termination of the Condominium, any Unit Owner may maintain a partition suit for the sale of the whole Property. The net proceeds of the partition sale, together with the assets of the Unit Owners' Association excepting Common Profits, and insurance proceeds, shall be distributed pro rata to the Unit Owners and their mortgagees in accordance with the undivided interest in the Common Elements appertaining to each Unit.

6.09 No provision of this Article shall prevent or limit the Declarant or its assigns from creating additional Units and Limited Common Elements on additional land as further set forth in this Declaration.

ARTICLE SEVEN: INSURANCE

7.01 Authority to Purchase, Notice.

A. Except as otherwise provided in Section 7.05 hereof, all insurance relating to the Property shall be purchased by the Board of Directors. The Board of Directors, the managing agent and the Declarant shall not be liable for failure to obtain any coverage required by this Article Seven or for any loss or damage resulting from such failure if such failure is due to the unavailability of such coverage from reputable insurance companies, or if such coverage are available only at demonstrably unreasonable cost. The Board of Directors shall promptly furnish to each Unit Owner written notice of the procurement of, subsequent changes in, or termination of, insurance coverage obtained on behalf of the Unit Owners' Association, in compliance with Section 55-79.81(b) of the Code of Virginia of 1950, as amended. In the event the Board of Directors shall fail or refuse to provide any of the insurance for which this Article provides, the Declarant or any Mortgagee (including the Construction Lender) shall have the right to obtain and pay the premiums for such insurance and shall be subrogated to the lien rights of the Unit Owners' Association as herein provided against all the Units to recover any such payments of premiums. So long as all or any portion of any construction loan of the Declarant remains outstanding, the insurers issuing the insurance coverage for which this Article provides, the form and content of such insurance policies and the amounts and deductibles for such insurance coverage must be satisfactory to the Declarant's construction lender.

B. Each such policy shall provide that:

(1) The insurer waives any right to claim by way of subrogation against the Unit Owners' Association, the Board of Directors, the managing agent of the Unit Owners, and their respective agents, employees, guests and, in the case of the Unit Owners, the members of their households;

(2) Such policy shall not be cancelled, invalidated or suspended due to the conduct of any Unit Owner (including the members of such Unit Owner's household and such Unit Owner's guests, invitees, agents and employees) or of any member, Officer, or employee of the Board of Directors or the managing agent without a prior demand in writing that the Board or the managing agent cure the defect and neither shall have so cured such defect within sixty (60) days after such demand;

(3) Such policy may not be cancelled or substantially modified (other than cancellation for nonpayment of premium) without at least sixty (60) days prior written notice to the Board of Directors, and the managing agent and, in the case of physical damage and flood insurance, to all Mortgagees.

C. The Declarant, so long as Declarant shall own any Unit, shall be protected by all such policies as a Unit Owner. The coverage provided to the Declarant under insurance policies obtained in compliance with this Article Seven shall not be deemed to protect or to be for the benefit of any general contractor engaged by the Declarant nor shall such coverage be deemed to protect the Declarant against liability for (or waive any rights with respect to) warranty claims.

D. All policies of insurance shall be written by reputable companies licensed to do business in the Commonwealth of Virginia. Physical damage policies shall be in form and substance and with carriers acceptable to the first Mortgagees holding a majority of the first Mortgages (based upon one vote for each Mortgage owned) and acceptable to the Construction Lender so long as all or any portion of Declarant's construction loan remains outstanding.

E. The deductible, if any, on any insurance policy purchased by the Board of Directors shall be a Common Expense; provided, however that the Association may, pursuant to subsection 5.6(a) of the Bylaws, assess any deductible amount necessitated by the negligence, misuse or neglect of a Unit Owner against such Unit Owner.

7.02 Physical Damage Insurance.

A. The Board of Directors shall obtain and maintain a blanket, "all-risk" form policy of fire insurance with extended coverage, and vandalism, malicious mischief, windstorm, sprinkler leakage (if applicable), debris removal, cost of demolition, plate glass and water damage and leakage endorsements, insuring the Common Elements, but not the Units and their appurtenant Limited Common Elements, as originally constructed and installed, and insuring the buildings, improvements, and the personal property associated therewith, and such other

improvements as the Board of Directors shall determine, in an amount equal to the full insurable replacement value as determined annually by the Board of Directors of the Association, subject to such reasonable deductibles as the Board of Directors shall elect. Such coverage shall afford protection against (1) loss or damage by fire or other hazards covered by a standard fire and extended coverage endorsement, together, if available, with coverage for common expenses with respect to Units during any period of repair or reconstruction of Common Elements, and during which said Common Elements are rendered unusable by virtue of such casualty, (2) floods, to the extent that coverage is available at reasonable rates or through the National Flood Insurance Program, (3) such other risks, including but not limited to, vandalism, theft, malicious mischief, windstorm, water damage, machinery explosion or damage, and other perils as the Board of Directors of the Association shall, from time to time, determine to be customarily covered with respect to comparable facilities. The aforesaid policy shall state whether, and if so the extent, if at all, to which coverage is included for a Unit and for the Limited Common Elements appertaining thereto, and if covered, any value limitation applicable thereto in order that a Unit owner may obtain such insurance as may be necessary with respect to Common Expenses payable with respect to his Unit if it is rendered unusable and/or any losses associated with Limited Common Elements to the extent not covered by the policy obtained by the Association.

B. Such policy shall also provide:

(1) A waiver of any right of the insurer to repair, rebuild or replace any damage or destruction, if a decision is made pursuant to these Bylaws not to do so;

(2) The following endorsements (or equivalent) (i) "no control" (to the effect that coverage shall not be prejudiced by any act or neglect of any occupant or Unit Owner or their agents when such act or neglect is not within the control of the insured, or the Unit Owners collectively; nor by any failure of the insured, or the Unit Owners collectively, to comply with any warranty or condition with regard to any portion of the Condominium over which the insured, or the Unit Owners collectively, have no control); (ii) "contingent liability from operation of building laws or codes"; (iii) "increased cost of construction" or "Condominium replacement cost"; and (iv) "agreed amount" or elimination of coinsurance clause; and

(3) That any "other insurance" clause expressly exclude individual Unit Owners policies from its operation so that the physical damage policy purchased by the Board of Directors shall be deemed primary coverage and any individual "Unit Owners" policies shall be deemed excess coverage, and in no event shall the insurance coverage obtained and maintained by the Board of Directors hereunder provide for or be brought into contribution with insurance purchased by individual Unit Owners or their Mortgagees, unless otherwise required by law.

C. A duplicate original of the policy of physical damage insurance, all renewals thereof, and any subpolicies or certificates and endorsements issued thereunder, together with proof of payment of premiums, shall be delivered by the insurer to any Mortgagee requesting the same, at least thirty (30) days prior to expiration of the then-current policy. Prior to obtaining any policy of physical damage insurance or any renewal thereof the Board of Directors shall

obtain an appraisal from an insurance company, or such other source as the Board may determine, of the then current replacement cost of the Common Elements (exclusive of the Land, excavations, foundations and other items normally excluded from such coverage), without deduction for depreciation, for the purpose of determining the amount of physical damage insurance to be secured pursuant to this section.

7.03 Liability Insurance. The Board of Directors shall obtain and maintain comprehensive general liability (including libel, slander, false arrest, and invasion of privacy coverage and errors and omissions coverage for directors) and property damage insurance in such limits, (but in no event less than one Million Dollars (\$1,000,000.00), as the Board may from time to time determine, insuring each director, the managing agent, each Unit Owner, the Declarant and the Mortgagees against any liability to the public or to the Unit Owners (and their invitees, agents and employees) arising out of, or incident to the ownership or use of the Common Elements. Such insurance shall be issued on a comprehensive liability basis and shall contain: (i) a cross liability endorsement under which the rights of a named insured under the policy shall not be prejudiced with respect to his action against another named insured; (ii) hired and non-owned vehicle coverage; (iii) host liquor liability coverage with respect to events sponsored by the Unit Owners' Association; (iv) deletion of the normal products exclusion with respect to events sponsored by the Unit Owners' Association; and (v) a "severability of interest" endorsement which shall preclude the insurer from denying liability to a Unit Owner because of negligent acts of the Unit Owners' Association or of another Unit Owner. The Board of Directors shall review such limits once each year, but in no event shall such insurance be less than One Million Dollars (\$1,000,000.00) covering all claims for bodily injury or property damage that arises out of one occurrence. Reasonable amounts of "umbrella" liability insurance in excess of the primary limits shall also be obtained in an amount not less than One Million Dollars (\$1,000,000.00).

7.04 Other Insurance. The Board of Directors shall obtain and maintain:

A. adequate fidelity coverage to protect against dishonest acts on the part of officers, directors, trustees and employees of the Unit Owners' Association and all others who handle, or are responsible for handling funds of the Association, including the managing agent. Such fidelity bonds shall: (i) name the Unit Owners' Association as an obligee; (ii) be written in an amount not less than one-fourth (1/4th) the total annual condominium assessments for the year or the amount required by the Mortgagees, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, whichever is greatest; and (iii) contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression;

B. if required by any governmental or quasigovernmental agency, including without limitation the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, flood insurance in accordance with the then applicable regulations of such agency;

C. worker's compensation insurance if and to the extent necessary to meet the requirements of law;

D. directors and officers liability insurance in an amount not less than one Million Dollars (\$1,000,000.00); to the extent such coverage is not obtained pursuant to Section 7.03 of this Declaration; and

E. such other insurance as the Board of Directors may determine or as may be requested from time to time by a Majority Vote.

7.05 Separate Insurance. Each Unit Owner of shall, at his own expense, obtain hazard insurance for his own Unit and its appurtenant Limited Common Elements, for any structure or improvement located therein in an amount equal to the full replacement cost of the improvements located in his Unit, and for his own benefit and may obtain insurance coverage upon his personal property and for his personal liability as well as upon any improvements made by him to his Unit and its appurtenant Limited Common Elements; provided, however, that no Unit Owner shall acquire or maintain such insurance coverage so as to decrease the amount which the Board of Directors, on behalf of all Unit Owners, may realize under any insurance policy maintained by the Board or to cause any insurance coverage maintained by the Board to be brought into contribution with insurance coverage obtained by a Unit Owner. All such policies shall contain waivers of subrogation. No Unit Owner shall obtain separate insurance policies on the Condominium except as provided in this section. Each Unit Owner shall forward to the Unit Owners' Association evidence of such insurance in form and content acceptable to the Unit Owners' Association or the managing agent.

7.06 Insurance Trustee.

A. All physical damage insurance policies purchased by the Board of Directors shall be for the benefit of the Unit Owners' Association, the Unit Owners, their Mortgagees and the Declarant, as their interests may appear, and shall provide that all proceeds of such policies in excess of Twenty-Five Thousand Dollars (\$25,000.00) shall be paid in trust to a bank or savings and loan association with trust powers and with at least one office in the City of Hampton, Virginia, as "insurance trustee" to be applied pursuant to the terms of Article Eight. All proceeds of such policies not in excess of Twenty-Five Thousand Dollars (\$25,000.00) shall be paid to the Board of Directors in trust to be applied pursuant to the terms of Article Eight.

B. The sole duty of the insurance trustee shall be to receive such proceeds as are paid to it and to hold the same in trust for the purposes elsewhere stated in these Bylaws, for the benefit of the insured and their beneficiaries thereunder. The Unit Owners' Association may enter into an insurance trust agreement with the insurance trustee upon such terms and conditions as the Unit Owners' Association shall deem appropriate; provided, however, such insurance trust agreement shall not contain any term, provision or condition inconsistent with the Declaration or these Bylaws. Such insurance trust agreement shall provide that the insurance trustee shall not be liable for the payment of premiums, the renewal of the policies, the sufficiency of insurance coverage, the form or content of the policies, the correctness of any amounts received on account of the proceeds of any such insurance policies or for failure to collect the insurance proceeds.

The duties of the insurance trustee shall be only to receive any proceeds of the physical damage or, flood insurance policies purchased by the Unit Owners' Association, as paid, and to hold and disburse such proceeds in trust for the benefit of the Declarant, the Unit Owners' Association, the Unit Owners and their respective Mortgagees.

ARTICLE EIGHT: REPAIR AND RECONSTRUCTION AFTER FIRE OR OTHER CASUALTY

8.01 When Repair and Reconstruction Required. Except as otherwise provided in Section 8.04, in the event of damage to or destruction of all or any part of the Common Elements, the Units and their appurtenant Limited Common Elements and the improvements thereon, as a result of fire or other casualty, the Board of Directors shall arrange for, initiate and supervise the prompt repair and restoration thereof.

8.02 Procedure for Reconstruction and Repair.

A. Cost Estimates. Immediately after a fire or other casualty causing damage to any portion of the Common Elements the Units or their appurtenant Limited Common Elements, or any improvements thereon, the Board of Directors shall obtain reliable and detailed estimates of the cost of repairing and restoring such portion to a condition as good as that existing before such casualty. Such costs may also include professional fees and premiums for such bonds as the Board of Directors determines to be necessary.

B. Assessments for Reconstruction or Repair. If the proceeds of insurance are not sufficient to defray such estimated costs of reconstruction and repair, or if any time during such reconstruction and repair of that portion of the Condominium damaged by casualty, the proceeds of insurance are insufficient to defray the then estimated cost of such reconstruction and repair, or if upon completion of reconstruction and repair the funds for the payment of the costs thereof are insufficient, the amount necessary to complete such reconstruction and repair shall be immediately obtained from the appropriate reserve for replacement funds and/or shall be deemed a Common Expense and a special assessment therefor shall be levied immediately. The proceeds from such reserves and special assessments shall be deposited with the insurance trustee (if the costs of such reconstruction and repair exceed \$25,000.00 for disbursement by such insurance trustee in accordance with this Article).

C. Plans and Specifications. Any such reconstruction or repair shall be substantially in accordance with the original construction of the Property, subject to any modifications required by changes in applicable governmental regulations, and using contemporary building materials and technology to the extent feasible.

8.03 Disbursements of Construction Funds Under Master Physical Damage Policy.

A. Construction Fund and Disbursement. The proceeds of insurance collected on account of casualty or flood damage under policies of insurance obtained pursuant to Article

Seven, and the sums received by the insurance trustee from collections of assessments against Unit Owners on account of such casualty, shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner:

(1) If the estimated cost of reconstruction and repair is less than Twenty Five Thousand Dollars (\$25,000.00), then the construction fund shall be disbursed in payment of such costs upon order of the Board of Directors; provided, however, that upon request of twenty percent (20 %) of the Mortgagees (based upon one vote for each Mortgage owned), such fund shall be disbursed pursuant to paragraph (2).

(2) If the estimated cost of reconstruction and repair is Twenty-five Thousand Dollars (\$25,000.00) or more, then the construction fund shall be disbursed in payment of such costs upon approval of an architect qualified to practice in Virginia and employed by the Board of Directors to supervise such work, payment to be made from time to time as the work progresses. The architect shall be required to furnish statements or invoices from the various contractors, subcontractors, materialmen, the architect and other persons who have rendered services or furnished materials in connection with the work, together with a certificate giving a brief description of the services and materials furnished by such contractors, subcontractors, materialmen, the architect and other persons who have rendered services or furnished materials in connection with the work stating that: (i) the sums requested by them in payment are justly due and owing and that such sums do not exceed the value of the services and materials furnished; (ii) there is no other outstanding indebtedness known to such architect for the services and materials described; and (iii) the cost as estimated by such architect for the work remaining to be done subsequent to the date of such certificate does not exceed the amount of the construction fund remaining after payment of the sum so requested.

B. Surplus. The first monies disbursed in payment of the cost of reconstruction and repair shall be from insurance proceeds and, if there is a balance in the construction fund after the payment of all of the costs of the reconstruction and repair for which the fund is established, such balance shall be divided among all Unit Owners and their Mortgagees in proportion to their undivided interests in the Common Elements and shall be distributed in accordance with the priority of interests of their Mortgagees at law or in equity in each Unit.

C. Common Elements. When the damage is to both Common Elements and Units, the insurance proceeds shall be applied first to the cost of repairing those portions of the Common Elements which enclose and service the Units or those portions of the buildings which enclose an improvement on a Unit, then to the cost of repairing the other Common Elements and thereafter to the cost of repairing the Units.

D. Certificate. The insurance trustee shall be entitled to rely upon a certificate executed by the President or Vice President, and the Secretary, certifying: (1) whether the damaged Property is required to be reconstructed and repaired; (ii) the name of the payee and the amount to be paid with respect to disbursement from any construction fund and whether surplus funds to be distributed are less than the assessments paid by the Unit Owners; and (iii) all other

matters concerning the holding and disbursing of any construction fund. Any such certificate shall be delivered to the insurance trustee promptly after request.

8.04 Determination to Reconstruct Condominium Common Elements after Casualty. If any casualty shall damage any part of the Condominium, the following shall govern whether or not the damaged improvements shall be reconstructed:

A. The damaged portion of the Condominium shall be reconstructed, repaired or replaced; provided, however, that if the Board of Directors shall determine that such damage is insubstantial and shall elect not to repair such damage, the Board of Directors shall remove all remains of the damaged improvements and restore the site thereof to an acceptable condition compatible with the remainder of the Condominium and the balance of any insurance proceeds shall be distributed among all Unit Owners and/or their Mortgagees, as their interest may appear, in proportion to their respective undivided interests in the Common Elements.

B. In the event of any other casualty loss to a portion of the Condominium, the damaged improvements shall be reconstructed, repaired or replaced unless in a meeting of the Unit Owners' Association which shall be called within thirty (30) days of the date on which the Unit Owners' Association received the casualty appraisal report, the Condominium regime shall be terminated as provided in the Declaration and Bylaws. If the Condominium regime is not so terminated, such reconstruction or repair shall be commenced within a reasonable time after the occurrence of the casualty and in no event later than ninety (90) days after the occurrence of the casualty, and shall be completed within a reasonable time as determined by the Board of Directors with provisions to be made in the construction contract for liquidated damages to the Unit Owners' Association in the event of any failure to complete construction within the time specified therein.

C. Certificate. The insurance trustee may rely upon a certificate of the Board of Directors executed by its President and Secretary as to whether or not any damaged improvements are to be reconstructed, repaired or replaced.

8.05 Termination of the Condominium. If the Condominium shall be terminated pursuant to Section 55-79.72:1 of the Code of Virginia of 1950, as amended, the net assets of the Condominium together with the net proceeds of insurance policies purchased or caused to be purchased by the Board of Directors, if any, shall be divided by the insurance trustee among all Unit Owners in proportion to their respective undivided interests, which shall be determined in accordance with the provisions of Section 55-79.72.1.1 of the Code of Virginia of 1950, as amended, after first paying out of the share of each Unit Owner, to the extent sufficient therefore, the amount of any unpaid liens and Mortgages on such Owner's Unit in the order of priority of such liens and Mortgages.

ARTICLE NINE: RIGHTS OF MORTGAGEES AND RELATED MATTERS

9.01 Notwithstanding any provision of this Declaration to the contrary, the provisions contained in this Article shall apply to the Condominium.

9.02 An adequate reserve fund for replacement of Common Element components shall be established, and will be funded by monthly payments. There shall be established a working capital fund for the initial months of operation of the Condominium equal to at least three months estimated assessment for each Unit which will be collected from the initial purchaser of each Unit. The Declarant is prohibited from using capital funds to defray any of the Declarant's expenses, reserve contributions or construction costs or make up any budget deficits during the period of Declarant control described in Article Eleven of this Declaration.

9.03 The Unit Owners' Association shall give all Mortgagees (as the term is defined in the Bylaws) prompt notice of any default in a Unit Owner's obligations under the Condominium Instruments not cured within thirty (30) days of default.

9.04 All Mortgagees shall have the right to examine the books and records of the Unit Owners' Association and to require annual reports and other financial data, said report to be furnished within ninety (90) days of the end of the Condominium's fiscal year, if requested.

9.05 Timely written notice shall be given to each Unit Owner of any condemnation or eminent domain proceeding, or of any substantial damage or of destruction to Common Elements or to any Unit.

9.06 Any Mortgagee shall be entitled to receive timely written notice of all meetings of the Unit Owners' Association and each Unit Owner shall be entitled to designate a representative to attend any such meeting.

9.07 Any right or privilege given the Unit Owners' Association or any individual Unit Owner by the Condominium Instruments shall inure to the benefit of any Mortgagee and any such right or privilege may be enforced by a Unit Owner.

9.08 The Unit Owners' Association shall have the right to maintain existing improvements regardless of any present or future encroachments of the Common Elements upon another Unit.

9.09 No Unit shall be subject to any unreasonable restraints on alienation which would adversely affect the title or marketability of the Unit, or the ability of a Mortgagee to foreclose its first mortgage lien and thereafter to sell or lease the mortgaged Unit, **except as set forth in Section 5.8.A(6) of the Bylaws.**

9.10 Appropriate fidelity bond coverage shall be required for any person or entity handling funds of the Unit Owners' Association, including, but not limited to, employees of professional managers. Such fidelity bonds shall name the Unit Owners' Association as obligee, and be

written in an amount equal to at least one fourth (1/4) of the estimated annual operating expenses of the Condominium including reserves or the amount required by the Federal National Mortgage Corporation or the Federal Home Loan Mortgage Corporation, whichever is greatest.

9.11 Any obligation or duty of any Unit Owner or of the Unit Owners' Association imposed by this Declaration, the Condominium Bylaws or any amendment of either said document may be enforced by any Unit Owner of the holder of a first mortgage.

9.12 Any agreement for professional management of the Condominium, or any other contract providing for services of the developer, sponsor, or builder, may not exceed two (2) years. Any such agreement must provide for termination by either party without cause and without payment of a termination fee on ninety (90) days or less written notice.

9.13 Each Unit Owner shall be required to keep and maintain his Unit in good repair and first class condition at all times.

9.14 It is expressly provided, however, that no provision of this Article shall limit, preclude or restrict the right of the Declarant or its assign from creating additional Units and Limited Common Elements on additional land or to contract the Condominium as set forth in this Declaration.

ARTICLE TEN: EASEMENTS

10.01 The Declarant expressly reserves an easement for itself or its assigns pursuant to Section 55-79.66 of the Code of Virginia of 1950, as amended, to facilitate sales, and may maintain model units and/or a sales office in any Unit owned by the Declarant or its assignees. Said easement shall include the reasonable use of Common Areas for sales and promotion of any Unit or Units.

The easement described above to facilitate sales shall cease and terminate upon the conveyance by the Declarant of the last Unit sold in this Condominium and including any expansion thereof. The Declarant reserves no permanent easement or other interest in the real property subjected to this Condominium.

10.02 The submitted land is subject to utility and drainage and other easements which are of record in the Clerk's Office of the Circuit Court of the City of Hampton, Virginia. The Plats and Plans attached hereto as Exhibit B do not show the location and dimensions of all such easements as it is not feasible to do so as contemplated by Section 55-79.58.A of the Code of Virginia of 1950, as amended.

ARTICLE ELEVEN: CONTROL BY THE DECLARANT

11.01 The Declarant, or a managing agent or some other person or persons selected or to be selected by the Declarant, are authorized to appoint and remove all of the officers of the Unit

Owners' Association and/or its Board of Directors, and to exercise powers and responsibilities otherwise assigned by these Condominium Instruments and by the Condominium Act to the Unit Owners' Association, their officers, or the Board of Directors, for a period of five (5) years, or until Units that the Declarant has registered with the Virginia Real Estate Board to which three-fourths of the undivided interests in the Common Elements appertain have been conveyed, as determined as provided for in Section 55-79.74 of the Code of Virginia of 1950, as amended, whichever occurs first (the "Declarant Control Period").

If entered into during the Declarant Control Period, no management contract, or any other contract executed by or on behalf of the Unit Owners' Association, its Board of Directors, or the Unit Owners as a group, shall be binding after such period of control unless then renewed or ratified with the consent of the Unit Owners to which majority of the votes in the Unit Owners' Association appertain.

11.02 Prior to the creation of additional Units on additional land and the completion of construction thereof, the Declarant, its agents and assigns, shall have a transferable easement across all General Common Areas for ingress and egress to all portions of the Condominium. In addition, prior to the aforesaid completion of construction, the Declarant and its assigns shall have the unqualified right to grant easements for installation and maintenance of drainage and utility facilities over, under and across any General Common Area.

11.03 Since the Unit Owners' Association is not in existence at the time of the creation of this Condominium, the Declarant shall, until there is such an Association with officers, have the power and the responsibility to act in all instances where the Condominium Act requires action by the Unit Owners' Association, its Board of Directors, or any officer or officers or until the period of control contemplated by Section 11.01 expires, whichever occurs first.

ARTICLE TWELVE: EXPANSION OF THE CONDOMINIUM

12.01 The Declarant hereby expressly reserves the option to expand the Condominium by subjecting additional real property to the Condominium. The option to expand shall be without limitation except as hereinbelow provided, and the consent of any Unit Owner or Unit Owners or mortgagee shall not be required.

12.02 The Declarant shall have a period of seven (7) years from the recording of this Declaration within which to exercise the option to expand the Condominium, and upon the expiration of seven years, said option to expand, if not previously exercised, shall become null and void and shall terminate unless extended pursuant to the provisions of Section 55-79.54(c)(3) of the Code of Virginia of 1950, as amended (or any successor section). The option to expand the Condominium shall not terminate prior to the expiration of seven years, unless the Declarant waives its right to expand the Condominium by written instrument recorded in the Clerk's Office of the Circuit Court of the City of Hampton, Virginia.

12.03 The additional land which may be added to the Condominium is briefly described and designated as "Additional and Withdrawable Land", all as shown on the Plat and Plans attached hereto as Exhibit B. The legal description of said additional land is described on Schedule 2 attached hereto. Portions of said additional land may be added to the Condominium in any order at the Declarant's sole discretion, and at such different times as the Declarant sees fit, subject only to the seven-year limitation provided for above. Further, the Declarant may add to the Condominium any portion of any of the said additional land without adding the remainder of the additional land, without limitation, except as otherwise provided herein. The Declarant shall not be required to add any of the additional land to the Condominium, and any addition shall be made in the Declarant's sole discretion, without limitation except as expressly provided herein.

12.04 In the construction of improvements on any additional land, the Declarant will meet all setback requirements prescribed by the City of Hampton, Virginia. No further assurances are made or given with regard to limitation upon the location of any improvement.

12.05 The maximum number of Units, which may be created on the additional land, taken as a whole, is 30 units. If less than all of the said additional land is added to the Condominium, then the maximum number of Units to be erected thereon shall not exceed the number permitted under the then current zoning and land use ordinances of the City of Hampton, Virginia.

12.06 All Units shall be restricted exclusively to residential use.

12.07 Structures erected upon any portion of the additional land may or may not be comparable in appearance, quality of construction, principal materials to be used, and architectural style to Units on the submitted land. No assurances are made by the Declarant in this regard. Further, pursuant to Section 55-79.54(c)(11) and (12) of the Code of Virginia of 1950, as amended, no assurances are made by the Declarant regarding whether units created on additional land will be substantially identical to Units on the submitted land, no assurances are made as to what type of improvements may be erected on additional land, other than that any units created on additional land will be residential units, and there are no limitations as to what type of units may be created on additional land, other than that any units created on additional land will be residential units.

12.08 In the event of expansion, any additional improvements may constitute Units, Limited Common Elements, or General Common Elements and the Declarant has the unqualified right to designate such additional improvements as Units, Limited Common Elements, Common Elements and Common Elements which may be subsequently assigned as Limited Common Elements. No further assurances have been made in this regard. Further, other than the foregoing, no assurances are made pursuant to Section 55-79.54 (c)(13) of the Code of Virginia of 1950 as amended, as to the types, sizes and number of Common Elements and Limited Common Elements on additional land or any portion thereof. Further, the Declarant has the unqualified right to designate portions of any structure or structures erected on additional land as convertible space. Any conversion of convertible space to Units and/or Limited Common Elements shall be accomplished in accordance with Section 55-79.62 of the Code of Virginia of 1950, as amended.

12.09 In addition, the Declarant has the unqualified right to designate any additional land added to the Condominium as withdrawable land. The withdrawal of any such withdrawable land shall be governed by the provisions of Article Twelve of this Declaration.

12.10 Upon the due recordation of an amendment or amendments to this Declaration and appropriate Plats and Plans creating additional Units and Limited Common Elements on additional land, each Unit so created shall have as an appurtenance to that Unit an equal Ownership interest in all the Common Elements. Reallocation of fractional interests in the Common Elements among all Units, including the Units depicted on Exhibit B attached to this Declaration, any Units created on additional land shall automatically take place upon the recordation of the appropriate instruments pursuant to the Condominium Act and upon such recordation all Units shall henceforth have an equal undivided interest in the Common Elements. Provided, however, that if the undivided interest in the Common Elements has been reallocated between two or more Units other than by creation of new Units on expansion parcels, then reallocation shall be made so as to preserve the prorata interest in the Common Elements as between such Units.

In addition, upon the creation of additional Units on additional land, each Unit shall henceforth automatically have equal liability for Common Expenses, a equal right to Common Profits and assets, and a equal vote in the Unit Owners' Association.

12.11 Notwithstanding any provision of this Declaration to the contrary, no termination of the Condominium or amendment of the Condominium Instruments shall be effective without the express written consent of the Declarant prior to the addition of all additional land to the Condominium or prior to the end of the seven-year period described above, whichever shall first occur.

ARTICLE THIRTEEN: CONTRACTION OF THE CONDOMINIUM

13.01 Notwithstanding any other provision of this Declaration or of any other Condominium Instrument to the contrary, the Declarant expressly reserves the right to contract the Condominium by the withdrawal of withdrawable land as hereinafter set forth in this Article.

13.02 Notwithstanding any other provision of the Condominium Instruments, prior to the expiration of the 7-year period described below, the Condominium Instruments may not be amended or the Condominium terminated without the express written consent of the Declarant or its assignee.

13.03 The Declarant or its assignee shall have the right to act as attorney-in-fact for the Unit Owners' Association, all Unit Owners and all mortgagees in any resubdivision necessary to accomplish the withdrawal of land as set forth below and may execute any necessary and appropriate subdivision plats or subdivision agreements or other agreements or instruments

required by the City of Hampton, Virginia or any other governmental agency or entity. This power of attorney is a power coupled with an interest and is irrevocable.

13.04 The option to contract the Condominium extends only to any additional land added to the Condominium that the Declarant also designates as withdrawable land. The option to contract the Condominium does not extend to the submitted land described in Schedule 1 attached hereto. The legal description of the withdrawable land is shown on Schedule 3 attached hereto and is briefly described and designated as "Additional and Withdrawable Land" on the Plat and Plans attached hereto as Exhibit B.

13.05 The contraction of the Condominium shall, notwithstanding any other provision of the Condominium Instruments, be exercised at the sole and exclusive discretion of the Declarant and shall not require any consent of any Unit Owner, the Unit Owners' Association nor any lender and there are not limitations on the Declarant's right to contract the Condominium other than expressly set forth in this article and as further provided by the Virginia Condominium Act.

13.06 The contraction, or contractions, of the Condominium shall occur by the Declarant's admitting to record in the office of the Clerk of the Circuit Court of the City of Hampton, Virginia, of an amendment or amendments to this Declaration withdrawing land from the Condominium. The time limit for contraction of the Condominium shall be seven (7) years from the date of the recording of this Declaration and under no circumstances shall said time period expire except in accordance with the provisions of this Condominium Act.

13.07 The contraction of the Condominium may take place in phases and portions of the withdrawable land may be withdrawn from time to time as the Declarant shall see fit in its sole discretion subject only to the provisions of this Declaration and the Condominium Act.

ARTICLE FOURTEEN: SOUTHALL LANDINGS BY THE BAY MASTER ASSOCIATION

14.01 The Condominium constitutes part of the Southall Landings Property Association (the "Master Association") and is governed by the Declaration of Covenants and Restrictions for Southall By The Bay recorded in the Clerk's Office of the Circuit Court of the City of Hampton, Virginia in Deed Book 870 at page 817, as the same may be amended, modified or supplemented from time to time (the "Master Declaration") The Condominium, and all Unit Owners, tenants, invitees and guests are subject in all respects to the Master Declaration and all rules and regulations promulgated pursuant thereto.

ARTICLE FIFTEEN: SEVERABILITY AND WAIVER

15.01 In the event any provisions or provision of this Declaration shall be determined to be invalid, void, or unenforceable, such determination shall not render invalid, void or unenforceable any other provisions hereof which can be given effect. No restriction, condition,

obligation or provision of this Declaration shall be deemed to have been abrogated or waived by reason of any failure or failures to enforce the same.

ARTICLE SIXTEEN: CAPTIONS AND GENDER, STATUTORY REFERENCES

16.01 The captions contained in this Declaration are for convenience only and are not a part of this Declaration and are not intended in any way to limit or enlarge the terms and provisions of this Declaration. The use of the masculine gender in this Declaration shall be deemed to include the feminine and neuter genders and the use of the singular shall be deemed to include the plural, and vice-versa as the context may require.

16.02 Should any statute referenced herein or in the Bylaws be superceded, replaced or amended, then any reference in this Declaration of the Bylaws to a statute that has been superceded, replaced or amended shall automatically refer to the replacement, successor or amendment to such statute.

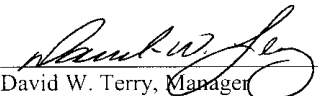
ARTICLE SEVENTEEN: NO OBLIGATIONS

17.01 Nothing contained in the Condominium Instruments shall be deemed to impose upon the Declarant, its successors or assigns any, obligation of any nature to build, renovate or provide any improvements except to the extent required by the Condominium Act.

IN WITNESS WHEREOF, the Declarant, Mainsail Condominium, L.L.C., a Virginia limited liability company, has caused this Declaration to be executed pursuant to due authority this ~~12~~^{1st} day of ~~February~~, 2007.

Mainsail Condominium, L.L.C., a Virginia limited liability company

By:

 (SEAL)
David W. Terry, Manager

COMMONWEALTH OF VIRGINIA,
CITY OF VIRGINIA BEACH, to-wit;

I, Renee A. Morlan, a Notary Public in and for said City/County and State, do hereby certify David W. Terry, Manager of Mainsail Condominium, L.L.C., a Virginia limited liability company, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of such limited liability company.

Witness my hand and official stamp or seal, this 1st day of February, 2007.

Renee A. Morlan
Notary Public

My commission expires:

4/30/10

(Seal)

Network/Condominium Declaration and Bylaws/Mainsail Declaration
Rev: 1/11/07

SCHEDULE I

SUBMITTED LAND

ALL THAT certain lot, piece or parcel of land, lying, situate and being in the City of Hampton, Virginia, and being known, described and designated as "Phase I", as shown on that certain plat entitled "Condominium Plat of Mainsail Condominium Phase I, Hampton, Virginia", which said plat is recorded simultaneously herewith as Exhibit "B" to this Declaration and being bounded and described as follows:

BEGINNING at a point in the northwestern corner of the property herein described, which said point is located on the eastern side of Mainsail Drive South 32°30'00" E, 197.59 feet from the southeastern intersection of Mainsail Drive and Mizzen Circle; thence North 87°30'00" E, 78.95 feet to a point; thence South 02°30'00" E, 61.27 feet to a point; thence South 27°45'00" W, 26.22 feet to a point; thence South 02°28'36" E, 22.72 feet to a point; thence South 62°15'00" E, 28.85 feet to a point; thence South 27°45'00" W, 68.52 feet to a point; thence North 62°15'00" W, 25.41 feet to a point; thence along a curve to the left having a radius of 52.50 feet and a distance of 27.72 feet to a point; thence South 87°30'00" W, 7.74 feet to the eastern side of Mainsail Drive; thence North 02°30'00" W, 160.42 feet to the point of beginning.

SCHEDULE 2

ADDITIONAL LAND

ALL THAT certain lot, piece or parcel of land, lying, situate and being in the City of Hampton, Virginia, and being known, described and designated as "Additional Land A", as shown on that certain plat entitled "Condominium Plat of Mainsail Condominium Phase 1, Hampton Virginia", which said plat is recorded simultaneously herewith as Exhibit "B" to this Declaration and being bounded and described as follows:

BEGINNING at a point in the northwestern corner of the property herein conveyed, which said point is on the eastern side of Mainsail Drive, South 02°30'00" E, 68.59 feet from the southeastern corner of the intersection of Mainsail Drive and Mizzen Circle; thence North 87°30'00" E, 181.24 feet to a point; thence North 63°24'15" E, 165.47 feet to a point; thence South 80°09'08" E, 70.75 feet to a point; thence South 09°50'52" W, 286.36 feet to a point; thence South 27°08'27" W, 277.49 feet to a point; thence North 62°15'00" W, 234.92 feet to a point; thence North 02°30'00" W, 60.72 feet to a point; thence North 87°30'00" E, 7.74 feet to a point; thence along a curve to the right having a radius of 52.50 feet and a distance of 27.72 feet to a point; thence South 62°15'00" E, 25.41 feet to a point; thence North 27°45'00" E, 68.52 feet to a point; thence North 62°15'00" W, 28.85 feet to a point; thence North 02°28'36" W, 22.72 feet to a point; thence North 27°45'00" E, 26.22 feet to a point; thence North 02°30'00" W, 61.27 feet to a point; thence South 87°30'00" W, 78.95 feet to a point; thence North 02°30'00" W, 129.00 feet to the point of beginning.

SCHEDULE 3WITHDRAWABLE LAND

ALL THAT certain lot, piece or parcel of land, lying, situate and being in the City of Hampton, Virginia, and being known, described and designated as "Additional Land A", as shown on that certain plat entitled "Condominium Plat of Mainsail Condominium Phase 1, Hampton, Virginia", which said plat is recorded simultaneously herewith as Exhibit "B" to this Declaration and being bounded and described as follows:

BEGINNING at a point in the northwestern corner of the property herein conveyed, which said point is on the eastern side of Mainsail Drive, South 02°30'00" E, 68.59 feet from the southeastern corner of the intersection of Mainsail Drive and Mizzen Circle; thence North 87°30'00" E, 181.24 feet to a point; thence North 63°24'15" E, 165.47 feet to a point; thence South 80°09'08" E, 70.75 feet to a point; thence South 09°50'52" W, 286.36 feet to a point; thence South 27°08'27" W, 277.49 feet to a point; thence North 62°15'00" W, 234.92 feet to a point; thence North 02°30'00" W, 60.72 feet to a point; thence North 87°30'00" E, 7.74 feet to a point; thence along a curve to the right having a radius of 52.50 feet and a distance of 27.72 feet to a point; thence South 62°15'00" E, 25.41 feet to a point; thence North 27°45'00" E, 68.52 feet to a point; thence North 62°15'00" W, 28.85 feet to a point; thence North 02°28'36" W, 22.72 feet to a point; thence North 27°45'00" E, 26.22 feet to a point; thence North 02°30'00" W, 61.27 feet to a point; thence South 87°30'00" W, 78.95 feet to a point; thence North 02°30'00" W, 129.00 feet to the point of beginning.

EXHIBIT "A"
MAINSAIL CONDOMINIUM
CONDOMINIUM ASSOCIATION BYLAWS

ARTICLE 1
General Provisions

Section 1.1. Applicability. These Bylaws provide for the governance of the Condominium pursuant to the requirements of Article 3 of the Virginia Condominium Act. The Property, located in the City of Hampton, Virginia, and more particularly described in the Declaration, has been submitted to the provisions of the Condominium Act by recordation simultaneously herewith of the Declaration among the land records of the City of Hampton, Virginia.

Section 1.2. Office. The office of the Condominium, the Unit Owners' Association, and the Board of Directors shall be located at the Property or at such other place as may be designated from time to time by the Board of Directors.

Section 1.3. Definitions. Terms used herein without definition shall have the meanings specified for such terms in the Declaration to which these Bylaws are attached as Exhibit A, or if not defined therein, the meanings specified for such terms in Section 55-79.41 of the Condominium Act. The following terms have the following meanings in the Condominium instruments:

(a) "Board of Directors" or "Board" means the Executive organ established pursuant to Article 3 of these Bylaws.

(b) "Common Element Interest" means the number, which establishes each Unit's undivided interest in the Common elements.

(c) "Declarant" means Mainsail Condominium, L.L.C., a Virginia limited liability company, and its successors and assigns, any person or entity who reserves or succeeds to any Special Declarant Right and any person or entity who or which offers to sell or transfer his or its legal or equitable interest in a Unit not previously sold or transferred to a person or entity other than the Declarant.

(d) "Declarant Control Period" means the period prior to the earlier of (i) the date on which Units registered with the Virginia Real Estate Board to which seventy-five percent (75%) or more of the aggregate Common Element Interests appertain have been conveyed to Unit Owners other than the Declarant or (ii) five (5) years after the date on which the first Condominium Unit has been conveyed to a Unit owner other than the Declarant (the maximum time period permitted by Section 55-79.74(A) of the Condominium Act). For purposes of the preceding sentence only, the calculation of the fraction of undivided interest shall be based upon the total undivided interests assigned or to be assigned to all units then registered with the Virginia Real Estate Board pursuant to subsection (B) of Section 55-79.72 of the Condominium Act.

(e) "Limited Common Expenses" means expenses separately assessed against one or

more, but less than all, of the Condominium Units, as permitted by Section 55-79.83 of the Condominium Act.

(f) "Majority Vote" means a vote by those Unit Owners owning Condominium Units to which more than fifty percent (50%) of the votes appertain of the Unit Owners who actually voted in person or by proxy at a duly convened meeting at which a quorum is present.

(g) "Mortgagee" means any Institutional Lender (as the term is defined in Section 55-79.41 of the Code of Virginia, as amended) which holds a mortgage or deed of trust ("Mortgage") of record in the Clerks Office of the Circuit Court of the City of Hampton, Virginia, encumbering a Condominium Unit in the Condominium and who or which has caused written notice of the existence of such Mortgage to be delivered to the Unit Owners' Association by such Mortgagee, the Unit Owner or otherwise. The term "Mortgagee" shall also refer to the Declarant's construction lender, if any, now or in the future, ("Construction Lender"), so long as the Declarant has a construction loan outstanding in whole or in part, and the term "Mortgage" shall also refer to a construction loan deed of trust so long as the Declarant has a construction loan outstanding in whole or in part.

(h) "Officer" means any person holding office pursuant to Article 4 of these Bylaws, but, contrary to Section 55-79.41 of the Condominium Act, shall not mean members of the Board of Directors unless such directors are also officers pursuant to Article 4.

(i) "Unit Owners' Association" or "Association" means the incorporated, non-stock, not-for-profit association of all the Unit Owners owning Condominium Units in the Condominium.

(j) "Reserved Common Element" means a common element in which the Board of Directors has granted a revocable license for exclusive use by less than all of the Unit Owners.

ARTICLE 2

Unit Owners' Association

Section 2.1. Composition. The Unit Owners' Association shall consist of all of the Unit Owners. The name of the Unit Owners' Association shall be "MAINSAIL CONDOMINIUM ASSOCIATION". For all purposes the Unit Owners' Association shall act merely as an agent for the Unit Owners as a group. The Unit Owners' Association shall have the responsibility of administering the Condominium, establishing the means and methods of collecting assessments and charges, arranging for the management of the Condominium and performing all of the other acts that may be required or permitted to be performed by the Association by the Condominium Act and the Declaration. Except as to those matters which the Condominium Act specifically requires to be performed by the vote of the Association, the foregoing responsibilities shall be performed by the Board of Directors or managing agent as more particularly set forth in Article 3 of these Bylaws.

Section 2.2. Annual Meetings. The initial meeting of the Unit Owners' Association shall be held within one year from the date there is a Unit owner other than the Declarant. Thereafter, the annual meetings of the Association shall be held at least forty-five (45) days before the beginning of

each fiscal year, on a date to be designated by the Board of Directors. At such annual meetings the Board of Directors shall be elected by ballot of the Unit Owners in accordance with the requirements of Section 3.4 of these Bylaws. During the Declarant Control Period, the Declarant shall be entitled to designate members of the Board of Directors.

Section 2.3. Place of Meetings. Meetings of the Unit Owners' Association shall be held at the principal office of the Association or at such other suitable place convenient to the Unit Owners as may be designated by the Board of Directors.

Section 2.4. Special Meetings.

(a) The President shall call a special meeting of the Unit Owners' Association if so directed by resolution of the Board of Directors or, after the termination of the Declarant Control Period, upon a petition signed and presented to the Secretary by Unit Owners of not less than twenty-five percent (25%) of the Unit Owners. The notice of any special meeting shall state the time, place and purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

(b) Not later than the termination of the Declarant Control Period, a special meeting of the Unit Owners' Association shall be held at which three of the directors shall be elected by the Unit Owners, including the Declarant if the Declarant owns one or more Units, to serve terms as provided in Section 3.3 of these Bylaws. If such election is held prior to the time required by this section, the directors elected at such election shall not take office until the earlier of the time such election is required to be held or resignation of a director appointed by the Declarant without appointment of a replacement within ten (10) days. The elected directors shall assume office in the order of the highest number of votes received. Any remaining directors designated by the Declarant shall continue to serve until their terms expire.

Section 2.5. Notice of Meetings. The Secretary shall mail to each Unit Owner a notice of each annual or regularly scheduled meeting of the Unit Owners at least twenty-one (21) but not more than sixty (60) days, and of each special meeting of the Unit Owners, at least seven (7) but not more than thirty (30) days, prior to such meeting, stating the time, place and purpose thereof. The mailing of a notice of meeting in the manner provided in this section and Section 9.1 of these Bylaws shall be considered service of notice.

Section 2.6. Quorum and Adjournment of Meetings. Except as otherwise provided in these Bylaws, the presence in person or by proxy of Unit Owners owning Units to which twenty-five percent (25%) or more of the total Common Element Interest appertain shall constitute a quorum at all meetings of the Unit Owners' Association. If at any meeting of the Unit Owners' Association a quorum is not present, a majority of the Unit Owners who are present at such meeting in person or by proxy may adjourn the meeting to a time not less than forty-eight (48) hours after the time the original meeting was called.

Section 2.7. Order of Business. The order of business at all meetings of the Unit Owners' Association shall be as follows, unless otherwise agreed to by a majority vote of the Board of

Directors:

- (a) roll call (proof of quorum);
- (b) proof of notice of meeting;
- (c) reading of minutes of preceding meeting;
- (d) reports of Officers;
- (e) report of Board of Directors;
- (f) reports of committees;
- (g) election or appointment of inspectors of election (when so required);
- (h) election of members of the Board of Directors (when so required);
- (i) unfinished business; and
- (j) new business

Section 2.8. Conduct of Meetings. The President shall preside over all meetings of the Unit Owners' Association and the Secretary shall keep the minutes of the meetings and record in a minute book all resolutions adopted at the meeting, as well as a record of all transactions occurring thereat. The President may appoint a person to serve as parliamentarian at any meeting of the Unit Owners' Association. The then current edition of Robert's Rules of order shall govern the conduct of all meetings of the Unit Owners' Association when not in conflict with the Condominium Act or the Condominium Instruments. All votes shall be tallied by tellers appointed by the President or other officer presiding over the meeting.

Section 2.9. Voting

(a) Voting at all meetings of the Unit Owners' Association shall be on the basis of one vote for each Unit. Where the ownership of a Unit is in more than one person, the person who shall be entitled to cast the vote of such Unit shall be the person named in a certificate executed by all of the Owners of such Unit and filed with the Secretary or, in the absence of such named person from the meeting, the person who shall be entitled to cast the vote of such Unit shall be the person owning such Unit who is present. If more than one person owning such Unit is present, then such vote shall be cast only in accordance with their unanimous agreement pursuant to Section 55-79.77.C of the Condominium Act. Such certificate shall be valid until revoked by a subsequent certificate similarly executed subject to the requirements of Sections 55-79.71, 55-79.72:1 and 55-79.72:2 of the Condominium Act, wherever the approval or disapproval of a Unit Owner is required by the Condominium Act or the Condominium Instruments, such approval or disapproval shall be made only by the person who would be entitled to cast the vote of such Unit at any meeting of the Unit Owners' Association.

(b) Except where a greater number is required by the Condominium Act or the Condominium instruments, a Majority Vote is required to adopt decisions at any meeting of the Unit Owners' Association. If the Declarant or any other person or entity owns or holds title to more than one Unit, the Declarant or any other person or entity shall have the right at any meeting of the Unit Owners' Association to cast the votes to which such Unit or Units are entitled.

(c) No Unit Owner may vote at any meeting of the Unit Owners' Association or be

elected to or serve on the Board of Directors if payment of the assessment on his Unit is delinquent more than thirty (30) days and the amount necessary to bring his account current has not been paid at the time of such meeting or election. There shall be no cumulative voting.

Section 2.10. Proxies. A vote may be cast in person or by proxy. Such proxy may be granted by any Unit Owner in favor of only another Unit Owner, the Declarant or any Mortgagee, or in the case of a nonresident Unit Owner, the lessee of such Unit Owner's Unit, his attorney, the managing agent or an officer of the Unit Owners' Association; provided, however, that no person other than the Declarant, a Mortgagee, the managing agent or an officer of the Unit Owners' Association shall cast votes as a proxy for more than one Unit not owned by such person. Proxies shall be duly executed in writing, each signature shall be witnessed by a person who shall sign his full name and address, shall be valid only for the particular meeting designated therein and must be filed with the Secretary before the appointed time of the meeting. Such proxy shall be deemed revoked only upon actual receipt by the person presiding over the meeting of notice of revocation from any of the persons owning such Unit. A proxy shall terminate after the first meeting is held on or after the date of the proxy and any recess or adjournment of that meeting held within 30 days. The proxy shall include a brief explanation of the effect of leaving the proxy uninstructed. Any proxy shall be void if it is not dated, if it purports to be revocable without notice as provided herein, or if not signed by a person having authority at the time of the execution thereof to execute deeds on behalf of the Unit Owner(s) for whom the proxy is issued.

ARTICLE 3 **Board of Directors**

Section 3.1. Powers and Duties. The Board of Directors shall have all of the powers and duties necessary for the administration of the affairs of the Unit Owners' Association and may do all such acts and things as are not by the Condominium Act or the Condominium Instruments required to be exercised and done by the Association. The Board of Directors shall have the power from time to time to adopt any rules and regulations deemed necessary for the benefit and enjoyment of the Condominium, provided, however, that such rules and regulations shall not be in conflict with the Condominium Act or the Condominium Instruments. The Board of Directors shall delegate to one of its members or to a person employed for such purpose the authority to act on behalf of the Board on such matters relating to the duties of the managing agent (as defined in Section 3.2 hereof), if any, which may arise between meetings of the Board as the Board deems appropriate. In addition to the duties imposed by these Bylaws or by any resolution of the Association that may hereafter be adopted, the Board shall, on behalf of the Association:

- (a) Prepare and adopt an annual budget, in which there shall be expressed the assessments of each Unit Owner for the Common Expenses and Limited Common Expenses.
- (b) Make assessments against Unit Owners to defray the costs and expenses of the Condominium, establish the means and methods of collecting such assessments from the Unit Owners and establish the period of the installment payment of the annual assessment for Common Expenses.

(c) Provide for the operation, care, upkeep and maintenance of all of the Property and services of the Condominium.

(d) Designate, hire and dismiss the personnel necessary for the maintenance, operation, repair and replacement of the Common Elements and provide services for the Condominium and, where appropriate, provide for the compensation of such personnel and for the purchase of equipment, supplies and material to be used by such personnel in the performance of their duties, which supplies and equipment shall be deemed part of the Condominium.

(e) Collect the assessments against the Unit Owners, deposit the proceeds thereof in institutional depositories designated by the Board of Directors and use the proceeds to carry out the administration of the Condominium.

(f) Make and amend the rules and regulations, including, but not limited to rules and regulations regarding definition of nuisances, keeping of animals, storage and use of all vehicles, storage and use of machinery, use of outdoor drying lines, antennas, satellite dishes, signs, trash and trash containers, parking, and usage of Units and of Common Elements.

(g) Open bank accounts on behalf of the Unit Owners' Association and designate the signatories thereon.

(h) Make, or contract for the making of repairs, additions, and improvements to or alterations of the Condominium, and repairs to and restoration of the Condominium, in accordance with these Bylaws, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings.

(i) Enforce by legal means the provisions of the Declaration these Bylaws and the rules and regulations, act on behalf of the Unit Owners with respect to all matters arising out of any eminent domain proceeding, and notify the Unit Owners of any litigation against the Unit Owners' Association involving a claim in excess of ten percent (10%) of the amount of the annual budget.

(j) Obtain and carry insurance against casualties and liabilities, as provided in the Declaration, pay the premiums therefore and adjust and settle any claims thereunder.

(k) Pay the cost of all authorized services rendered to the Unit Owners' Association and not billed to Unit Owners of individual Units or otherwise provided for in Sections 5.1 and 5.2 of these Bylaws.

(l) Keep current copies of the Declaration, Bylaws and other rules concerning the Condominium and books with detailed accounts in chronological order of the receipts and expenditures affecting the Property, and the administration of the Condominium, specifying the expenses of maintenance and repair of the Common elements and any other expenses incurred. Such copies, books and vouchers accrediting the entries therein shall be available for examination by the Unit Owners, their attorneys, accountants, lenders and the holders and insurers of any first mortgages or deeds of trust on any Unit, and authorized agents during general business hours on business days

at the time and in the manner set and announced by the Board of Directors for the general knowledge of the Unit Owners. All books and records shall be kept in accordance with generally accepted accounting principles, and if required by Department of Veterans' Affairs, the Federal Housing Administration, or any other insuring or guaranteeing entity of any Mortgagee, the same may be audited at least once each year by an independent auditor retained by the Board of Directors who shall not be a resident of the Condominium or a Unit Owner. The cost of such audit shall be a Common Expense.

(m) Notify a Mortgagee of any default hereunder by the Unit Owner of the Unit subject to such Mortgage, in the event such default continues for a period exceeding sixty (60) days.

(n) Borrow money on behalf of the Condominium when required in connection with any one instance relating to the operation, care, upkeep and maintenance of the Common Elements; provided, however, that the consent of at least two-thirds (2/3) in number and in Common Element Interest of all Unit Owners, obtained either in writing or at a meeting duly called and held for such purpose in accordance with the provisions of these Bylaws, shall be required to borrow any sum in excess of Five Thousand Dollars (\$5,000.00). If any sum borrowed by the Board of Directors on behalf of the Condominium pursuant to the authority contained in this subsection (n) is not repaid by the Unit Owners' Association, a Unit Owner who pays to the creditor a percentage of the total amount due equal to his Common Element Interest in the Condominium shall be entitled to obtain from the creditor a release of any judgment or other lien which such creditor shall have filed or shall have the right to file against such Unit Owner's Condominium Unit, and the Association shall not be entitled to assess his Unit for payment of the remaining amount due such creditor.

(o) Acquire, hold and dispose of Condominium Units and mortgage the same if such expenditures and hypothecation are included in the budget adopted by the Unit Owners' Association.

(p) Furnish the statement required by section 55-79.97 of the Condominium Act, (a Certificate of Resale), within ten (10) days after the receipt of a written request therefor from any Unit Owner. The Association may charge a fee not to exceed one Hundred Dollars (\$100.00), or such larger amount as may be subsequently allowed by law, for the issuance of this Certificate.

(q) Do such other things and acts not inconsistent with the Condominium Act or the Condominium Instruments which the Board of Directors may be authorized to do by a resolution of the Unit Owners' Association.

(r) In its sole discretion, from time to time to designate certain Common Elements as Reserved Common Elements and impose such restrictions and conditions on the use thereof as the Board of Directors deems appropriate. However, the Board of Directors shall make no such designation of Reserved Common Elements as would interfere with the Unit Owners' use of Common Elements for ingress and egress or any other function of a Common Element which is necessary to the proper functioning and maintenance of the Condominium and the Units.

(s) Lease, upon terms that are commercially reasonable, portions of the Common Elements to third parties. However, the foregoing shall not be interpreted to allow or provide for the

leasing of a portion of the Common Elements to a Unit Owner or Unit Owners.

Section 3.2. Managing Agent. The Board of Directors may employ for the Condominium a "managing agent" at a compensation to be established by the Board.

(a) Requirements. The managing agent shall be a bona fide business enterprise, unaffiliated with the Declarant, which manages common interest communities. Such firm shall have a minimum of two (2) years experience in real estate community management and shall employ persons possessing a high level of competence in the technical skills necessary to proper management of the Condominium. The managing agent must be able to advise the Board of Directors regarding the administrative operation of the Condominium and shall employ personnel knowledgeable in the areas of Condominium insurance, accounting, contract negotiation, labor relations and Condominium regulation.

(b) Duties. The managing agent shall perform such duties and services, as the Board of Directors shall direct. Such duties and services may include, without limitation, the duties listed in subsections 3.1 (a), (c), (d), (e), (h), (i), (j), (k), (l), (m), (p) and (q). The Board of Directors may delegate to the managing agent all of the powers granted to the Board of Directors by these Bylaws other than the powers set forth in subsections 3.1 (b), (f), (g), (n), (o) and (r). The managing agent shall perform the obligations, duties and services relating to the management of the property, the rights of Mortgagees and the maintenance of reserve funds in compliance with the provisions of these Bylaws.

(c) Standards. The Board of Directors shall impose appropriate standards of performance upon the managing agent. Unless the managing agent is instructed otherwise by the Board of Directors:

(1) a method of accounting shall be employed and expenses required by these Bylaws to be charged to more than one but less than all Unit Owners shall be accounted for separately;

(2) two or more persons may be responsible for handling cash to maintain adequate financial control procedures;

(3) cash accounts of the Unit Owners' Association shall not be commingled with any other accounts;

(4) no remuneration shall be accepted by the managing agent from vendors, independent contractors or others providing goods or services to the Unit Owners' Association whether in the form of commissions, finder's fees, service fees or otherwise; any discounts received shall benefit the Association;

(5) any financial or other interest which the managing agent may have in any firm providing goods or services to the Unit Owners' Association shall be disclosed promptly to the Board of Directors: and

(6) a monthly financial report shall be prepared for the Unit Owners' Association containing:

- (A) an "income statement" reflecting all income and expense activity for the preceding month on an accounting basis established by the Board of Directors;
- (B) an "account activity statement" reflecting all receipt and disbursement activity for the preceding month on a cash basis;
- (C) an "account status report" reflecting the status of all accounts in an "actual" versus "projected" (budget) format;
- (D) a "balance sheet" reflecting the financial condition of the Unit Owners' Association on an unaudited basis;
- (E) a "budget report" reflecting any actual or pending obligations which are in excess of budgeted amounts by an amount exceeding the operating reserves or ten percent (10%) of a major budget category (as distinct from a specific line item in an expanded chart of accounts); and
- (F) a "delinquency report" listing all Unit Owners who are delinquent in paying Condominium assessments and describing the status of any actions to collect such assessments.

(d) Limitations. During the Declarant Control Period, the Board of Directors shall employ a managing agent for a term not to exceed two (2) years. The unit Owners' Association and the Board of Directors shall not undertake "self-management" or fail to employ a managing agent without the consent of Unit Owners to which sixty-seven percent (67%) of the votes in the Unit Owners' Association appertain and the consent of first Mortgagees together holding fifty-one percent (51%) of the first Mortgages on the Condominium units based on one vote for each Mortgage held. Any contract with the managing agent must provide that it may be terminated, without payment of a termination fee, without cause on no more than ninety (90) days written notice and with cause without prior written notice of any kind.

Section 3.3. Number and Term of Office

(a) Designated Members. During the Declarant Control Period, the Declarant shall be entitled to designate Directors not elected pursuant to Section 3.4 of these Bylaws. The initial Board of Directors shall consist of no less than three (3) nor more than five (5) persons, all of whom shall be designated by the Declarant. The term of office of at least two (2) directors shall expire at the third annual meeting after the special meeting held pursuant to subsection 2.4(b); the term of office of an additional two (2) additional directors shall expire at the second annual meeting after the special meeting held pursuant to subsection 2.4(b); and the term of office of one director shall expire

at the first annual meeting after the special meeting held pursuant to subsection 2.4(b). The term of each director shall be fixed by the Declarant. At the special meeting required by subsection 2.4(b), a number of the directors designated by the Declarant shall resign if necessary so that three of the directors shall have been elected in accordance with subsection 2.4(b). The persons elected shall serve for the remainder of the terms of office of the resigning directors whom such persons replace, or if no resignation was required, for the terms of office necessary so the term of office of two (2) directors shall expire at each of the first two (2) annual meetings after their election. The directors receiving the greatest vote shall be elected for the longest available terms. At the expiration of the term of office of all directors designated by the Declarant or elected at the special meeting held pursuant to subsection 2.4(b), all successor directors shall be elected to serve for a term of two (2) years.

(b) Elected Members. No later than the first annual meeting of the Unit Owners' Association, the Board of Directors shall be composed of at least three (3), but no more than five (5) persons, all of whom shall be Unit Owners, Mortgagees (or designees of Mortgagees) or designees of the Declarant. Except for resignation or removal, the directors shall hold office until their respective successors shall have been elected by the Unit Owners' Association.

Section 3.4. Election of Directors. Except for designation of Directors by Declarant, as hereinbefore provided, election of Directors shall be conducted in the following manner:

- (a) Except as set forth above, election of Directors shall be held at the Annual Meeting.
- (b) A nominating committee of three (3) members shall be appointed by the then existing Board, not less than thirty (30) days prior to the annual member's meeting. The Committee shall nominate at least one for each director then serving. Nominations may be made from the floor.
- (c) The election shall be by secret ballot (unless dispensed with by unanimous consent) and by a plurality of the votes cast. There shall be no cumulative voting.

Section 3.5. Removal or Resignation of Directors. Except with respect to directors designated by the Declarant, at any regular or special meeting duly called, any one or more of the directors may be removed with or without cause by a Majority Vote of the members and a successor may then and there be elected to fill the vacancy thus created. Any director whose removal has been proposed by the Unit Owners shall be given at least seven (7) days notice of the time, place and purpose of the meeting and shall be given an opportunity to be heard at the meeting. A director may resign at any time and, except for a director designated by the Declarant, shall be deemed to have resigned (a) upon disposition of his Unit as provided for officers in Section 55-79.78.A of the Condominium Act if such director is a Unit Owner, or (b) if not in attendance at three (3) consecutive regular meetings of the Board, unless the minutes reflect consent to such absence. Any Director designated by the Declarant may only be removed by the Declarant with or without cause, upon written notification to the Board of Directors.

Section 3.6. Vacancies. Vacancies in the Board of Directors caused by any reason other than the removal of a director by a vote of the Unit Owners' Association shall be filled by a vote of a

majority of the remaining directors at a special meeting of the Board held for such purpose promptly after the occurrence of any such vacancy, even though the directors present at such meeting may constitute less than a quorum, notwithstanding any provision in these Bylaws to the contrary. Each person so elected shall be a director until a successor shall be elected at the next annual meeting of the Association. During the Declarant Control Period, the Declarant shall designate the successor to any director previously designated by the Declarant who resigns or is removed.

Section 3.7. Organizational Meeting. The first meeting of the Board of Directors following the annual meeting of the Unit Owners' Association shall be held within thirty (30) days thereafter at such time and place as shall be fixed by the Board at the meeting at which such Board of Directors shall have been elected, and no notice shall be necessary to the newly elected directors in order legally to constitute such meeting, providing a majority of the whole Board of Directors is present at the meeting.

Section 3.8. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the directors, but such meetings shall be held at least once every four (4) months during each fiscal year. Notice of regular meetings of the Board of Directors shall be given to each director, personally or by mail, telegraph, telecopier or telephone, at least five (5) business days prior to the day named for such meeting.

Section 3.9. Special Meetings. Special meetings of the Board of Directors may be called by the President on three (3) business days notice to each director, given personally or by mail telegraph or telephone, which notice shall state the time, place and purpose of the meeting. special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of at least three (3) directors.

Section 3.10. Waiver of Notice. Any director may at any time, in writing, waive notice of any meeting of the Board of Directors, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director, in person or by telephone communication, at any meeting of the Board of Directors shall constitute a waiver of notice by him of the time, place and purpose of such meeting. If all directors are present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting.

Section 3.11. Quorum of Board of Directors. At all meetings of the Board of Directors a majority of the directors constitutes a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors. If at any meeting of the Board of Directors there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice. A director who participates in a meeting by means of telephone communication shall be deemed present at the meeting for all purposes.

Section 3.12. Compensation. No director shall receive any compensation from the Condominium for acting as such, nor shall engage in, conduct or contract with the Association for

any business or services, for which such Director shall receive compensation or services.

Section 3.13.A Conduct of Meetings and Related Matters. The President shall preside over all meetings of the Board of Directors and the Secretary shall keep a minute book of the Board recording therein all resolutions adopted by the Board and a record of all transactions and proceedings occurring at such meetings. The then current edition of Robert's Rules of Order shall govern the conduct of the meetings of the Board of Directors when not in conflict with the Condominium Instruments. Except as otherwise provided in the Condominium Act regarding meetings and executive sessions, all meetings of the Board of Directors shall be open to all Unit Owners of record. The Board of Directors shall not use work sessions or other informal gatherings of the Board of Directors to circumvent the open meeting requirements set forth herein. The minutes of such meetings shall be available to the Unit Owners as provided for in the Condominium Act. Notice of the time, date and place of each meeting of the Board of Directors shall be published where it is reasonably calculated to be available to a majority of the Unit Owners and shall be sent by first class mail or e-mail to any Unit Owner requesting such notice. A Unit Owner may make a request to be notified on a continual basis of any such meetings, which request shall be made at least once a year, in writing, and include the Unit Owners' name, address, zip code and e-mail address, as appropriate. Any notice, reasonable under the circumstances, of special or emergency meetings shall be given contemporaneously with the notice provided by the Board of Directors conducting the meeting. Otherwise exempt as relating to an executive session pursuant to the Virginia Condominium Act, at least one (1) copy of all agenda packets and materials furnished to members of the Board of Directors for a meeting shall be made available for inspection by Unit Owners of the Unit Owners' Association at the same time such documents are furnished to the members of the Board of Directors. Any Unit Owner may make an audible recording of any portion of a meeting of the Board of Directors required to be open. The Board of Directors may adopt rules governing the placement and use of equipment necessary for recording a meeting of the Board of Directors in order to prevent interference with the proceedings. If a meeting of the Board of Directors is conducted by telephone conference or video conference or similar electronic means, at least two (2) members of the Board of Directors shall be physically present at the meeting place stipulated in the notice of that meeting. The audio equipment shall be sufficient for any member of the Board of Directors or Unit Owners in attendance to hear what is said by any Board Member participating in the meeting who is not physically present.

Section 3.13.B Executive Session. The Board of Directors may convene in executive session to consider personnel matters, consult with legal counsel, discuss and consider contracts, probable or pending litigation and matters involving violation of the Condominium instruments or rules and regulations adopted pursuant thereto for which a Unit Owner, his family members, tenants, guests or other invitees are responsible or to discuss and consider the personal liability of Unit Owners to the Unit Owners' Association, upon the affirmative vote in an open meeting to assemble in executive session. The motion shall state specifically the purpose for the executive session. Reference to the motion and the stated purpose for the executive session shall be included in the minutes. The Board of Directors shall restrict consideration of matters during such portions of meetings to only those purposes specifically exempted and stated in the motion to convene in executive session. No contract, motion or other action adopted, passed or agreed to in an executive session shall become effective unless the Board of Directors, following the executive session, reconvenes an open meeting

and takes a vote on such contract, motion or other action, which shall have its substance reasonably identified in the open meeting. None of the foregoing; however, shall require the disclosure of information in violation of any applicable law.

Section 3.14. Action Without Meeting. Any action by the Board of Directors required or permitted to be taken at any meeting may be taken without a meeting if all of the directors shall individually or collectively consent in writing to such action. Any such written consent shall be filed with the minutes of the proceedings of the Board of Directors.

Section 3.15. Board of Directors as Attorney in Fact. The Board of Directors is hereby irrevocably appointed as agent and attorney-in-fact for the Unit Owners of all of the Units and for each of them, to manage, control and deal with the interests of such Unit Owners in the Common elements of the Condominium to permit the Board of Directors to fulfill all of its powers, rights, functions and duties. The Board of Directors is hereby irrevocably appointed as agent and attorney-in-fact for each Unit Owner, each Mortgagee (other than the Construction Lender), other named insured and their beneficiaries and any other holder of a lien or other interest in the Condominium or the Property to adjust and settle all claims arising under insurance policies purchased by the Board of Directors and to execute and deliver releases upon the payment of claims; provided, however, that the consent of all Mortgagees shall be required as to such mortgagees that notify the Board of Directors pursuant to Section 9.1 of these Bylaws within thirty (30) days after receipt of the notice of damage pursuant to Section 9.05 of the Declaration. The powers hereby granted shall be in addition to any rights granted by Section 55-79.80 of the Code of Virginia of 1950, as amended. The Board of Directors may grant and accept easements and licenses pursuant to Section 55-79.80.B of the Code of Virginia of 1950, as amended. Further, the Board may grant leases in accordance with the provisions of Section 3.1.(s) of the Bylaws. The above-described deployments of the Board of Directors as attorney in fact for each Unit Owner is a power coupled with an interest and is irrevocable.

Section 3.16. Liability of the Board of Directors, Officers, Unit Owners and Unit Owners' Association.

(a) The Officers, directors and members of the Covenants Committee shall not be liable to the Unit Owners Association or any Unit Owner for any mistake of judgment, negligence or otherwise, except for their own individual willful misconduct or bad faith. The Unit Owners Association shall indemnify and hold harmless each of the officers and directors from and against all contractual liability to others arising out of contracts made by the officers or the Board of Directors on behalf of the Association unless any such contract shall have been made in bad faith or contrary to the provisions of the Condominium Act or the Condominium Instruments, except to the extent that such liability is satisfied by directors and officers liability insurance officers and directors shall have no personal liability with respect to any contract made by them on behalf of the Unit Owners' Association. The liability of any Unit Owner arising out of any contract made by the officers or Board of Directors, or out of the indemnification of the officers or directors, or for damages as a result of injuries arising in connection with the Common Elements solely by virtue of his Ownership of a Common Element Interest therein or for liabilities incurred by the Unit Owners' Association, shall be limited to the total liability multiplied by his Common Element Interest. Every agreement

made by the officers, the Board of Directors or the managing agent on behalf of the Unit Owners' Association shall, if obtainable, provide that the Officers, the directors or the managing agent, as the case may be, are acting only as agents for the Association and shall have no personal liability thereunder (except as Unit Owners), and that each Unit Owner's liability thereunder shall be limited to the total liability thereunder multiplied by his Common Element Interest. The Unit Owners' 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 by reason of the fact that he is or was an officer or director of the Association against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the Condominium.

(b) Except as may be covered by any insurance maintained by the Unit Owners' Association, the Unit Owners' Association shall not be liable for any failure of water supply or other services to be obtained by the Association or paid for as a Common Expense, or for injury or damage to person or property caused by the elements or by the Unit Owner of any Condominium Unit, or any other person, or resulting from electricity, water, snow or ice which may leak or flow from or over any portion of the Common Elements or from any pipe, drain, conduit, appliance or equipment. Except as may be covered by any insurance maintained by the Unit Owners' Association, the Unit Owners' Association shall not be liable to any Unit Owner for loss or damage, by theft or otherwise, of articles which may be stored upon any of the Common Elements. No diminution or abatement of any assessments, as herein elsewhere provided, shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Common Elements or from any action taken by the Unit Owners' Association to comply with any law, ordinance or with the order or directive of any governmental authority.

Section 3.17. Common or Interested Directors. Each director shall exercise his powers and duties in good faith and with a view to the interests of the Condominium. No contract or other transaction between the Unit Owners' Association and any of its directors, or between the Association and any corporation, firm or association (including the Declarant) in which any of the directors of the Association are directors or officers or are pecuniarily or otherwise interested, is either void or voidable because any such director is present at the meeting of the Board of Directors or any committee thereof which authorizes or approves the contract or transaction, or because his vote is counted for such purpose, if any of the conditions specified in any of the following subsections exist:

(a) The fact of the common directorate or interest is disclosed or known to the Board of Directors or a majority thereof or noted in the minutes, and the Board authorizes, approves or ratifies such contract or transaction in good faith by a vote sufficient for the purpose; or

(b) The fact of the common directorate or interest is disclosed or known to at least a majority of the Unit Owners, and the Unit Owners approve or ratify the contract or transaction in good faith by a vote sufficient for the purpose; or

(c) The contract or transaction is commercially reasonable to the Unit Owners'

Association at the time it is authorized, ratified, approved or executed.

Any common or interested directors may be counted in determining the presence of a quorum of any meeting of the Board of Directors or committee thereof which authorizes, approves or ratifies any contract or transaction, and may vote at the meeting to authorize any contract or transaction with like force and effect as if such director of the Unit Owners' Association were not an officer or director of such other corporation, firm or association or not so interested.

ARTICLE 4 **Officers**

Section 4.1. Designation. The principal officers of the Unit Owners Association shall be the President, the Vice President, the Secretary and the Treasurer, all of whom shall be elected by the Board of Directors. The Board of Directors may appoint an assistant treasurer, an assistant secretary and such other officers as in its judgment may be necessary. The President and Vice President shall be members of the Board of Directors. Any other officers may, but need not, be members of the Board of Directors. A person may serve in more than one office.

Section 4.2. Election of Officers. The officers of the Unit Owners' Association shall be elected annually by the Board of Directors at the organizational meeting of each new Board of Directors and shall hold office at the pleasure of the Board.

Section 4.3. Removal of Officers. Upon the affirmative vote of a majority of all members of the Board of Directors, any officer may be removed, either with or without cause, and a successor may be elected at any regular meeting of the Board or at any special meeting of the Board called for such purpose.

Section 4.4. President. The President shall be the chief executive Officer of the Unit Owners' Association; preside at all meetings of the Association and of the Board of Directors; have general and active management of the business of the Association subject to the control of the Board; see that all orders and resolutions of the Board are carried into effect; and appoint committees from among the Unit Owners from time to time as the President may in his discretion decide is appropriate to assist in the conduct of the affairs of the Association.

Section 4.5. Vice President. The Vice President shall take the place of the President and perform the duties of the President whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board of Directors shall appoint some other director to act in the place of the President on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed by the Board of Directors or by the President.

Section 4.6. Secretary. The Secretary shall keep the minutes of all meetings of the Unit Owners' Association and of the Board of Directors; keep a book of the resolutions passed by the Board; have charge of such books and papers as the Board may direct; give or cause to be given all notices required to be given by the Association; maintain a register setting forth the place to which

all notices to Unit Owners and Mortgagees hereunder shall be delivered; and, in general, perform all the duties incident to the office of secretary.

Section 4.7. Treasurer. The Treasurer shall (together with the managing agent) be responsible for Unit Owners' Association funds and securities; keep full and accurate financial records and books of account showing all receipts and disbursements; prepare all required financial data; deposit all monies and other valuable effects in the name of the Board of Directors, the Association or the managing agent, in such depositories as may from time to time be designated by the Board; and, in general, perform all the duties incident to the office of treasurer.

Section 4.8. Execution of Documents. All agreements, contracts, deeds, leases, checks and other Instruments of the Unit Owners' Association for expenditures or obligations and all checks drawn upon reserve accounts, shall be executed by the person or persons designated by the Board of Directors.

Section 4.9. Compensation of Officers. No officer who is also a director or who is a Unit Owner shall receive any compensation from the Unit Owners' Association for acting as such officer.

ARTICLE 5

Operation of the Property

Section 5.1. Determination of Common Expenses and Assessments Against Unit Owners.

(a) Fiscal Year. The fiscal year of the Unit Owners Association shall be January 1 through December 31 unless otherwise determined by the Board of Directors.

(b) Preparation and Approval of Budget.

(1) At least forty-five (45) days before the beginning of each fiscal year, the Board of Directors shall adopt a budget for the Unit Owners' Association containing an estimate of the total amount considered necessary to pay the cost of maintenance, management, operation, repair and replacement of the Common Elements and those parts of the Units as to which it is the responsibility of the Association to maintain, repair and replace, and the cost of wages, materials, insurance premiums, services, supplies and other expense that may be declared to be Common Expenses by the Condominium Act, the Condominium Instruments or a resolution of the Association and which will be required during the ensuing fiscal year for the administration, operation, maintenance and repair of the Property and the rendering to the Unit Owners of all related services. The budget shall reflect the separate assessment for any Limited Common Expenses.

(2) Such budget shall also include such reasonable amounts as the Board of Directors considers necessary to provide working capital, a general operating reserve and reserves for contingencies and replacements. At least thirty (30) days before the beginning of each fiscal year, the Board of Directors shall send to each Unit Owner a copy of the budget in a reasonably itemized form which sets forth the amount of the Common Expenses

and any special assessment payable by each Unit Owner. Such budget shall constitute the basis for determining each Unit Owner's assessment for the Common Expenses of the Condominium.

(c) Assessment and Payment of Common Expenses. Subject to the provisions of subsection 7.1(a) hereof, the total amount of the estimated funds required from assessments for the operation of the Property set forth in the budget adopted by the Board of Directors shall be assessed against each Unit Owner on an equal basis, and shall be a lien against each Unit Owner's Unit as provided in Section 7.2 of these Bylaws, except Limited Common Expenses which shall be assessed equally against each Unit Owner benefited. On or before the first day of each fiscal year, and the first day of each of the succeeding eleven (11) months in such fiscal year, each Unit Owner shall be obligated to pay to the Board of Directors or the managing agent (as determined by the Board), one-twelfth (1/12th) of such assessment, unless the Board determines that assessments are to be paid on a quarterly or annual basis. Within one hundred and twenty (120) days after the end of each fiscal year, the Board of Directors shall supply to all Unit Owners, and to each Mortgagee requesting the same, an itemized accounting or compilation of the Common Expenses for such fiscal year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the budget adopted by the Board of Directors for such fiscal year, and showing the net amount over or short of the actual expenditure plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall, at the discretion of the Board of Directors, be placed in reserve accounts, be placed in a special account to be expended solely for the general welfare of the Unit Owners, be refunded to each Unit Owner or his Mortgagee(s) who paid assessments according to each Unit Owner's Common Element Interest, or be credited according to each Unit Owner's Common Element Interest to the next monthly installments due from unit Owners under the current fiscal year's budget, until exhausted. Any net shortage shall be assessed promptly against the Unit Owners in accordance with their Common Element Interest and shall be payable either: (1) in full with payment of the next monthly assessment due; or (2) in not more than six (6) equal monthly installments; or (3) such other periods of time as the Board of Directors may determine.

Assessments shall commence to accrue as to all recorded Units upon the conveyance of the initial Unit and the Declarant shall henceforth be responsible for 100% of all assessments attributable to the recorded Units which are unsold, until such time as each Unit is conveyed.

(d) Reserves. The Board of Directors shall build up and maintain reasonable reserves for working capital, operations, contingencies, and replacements for all Common Elements and Limited Common Elements. Extraordinary expenditures not originally included in the annual budget which may become necessary during the year shall be charged first against such reserves. If the reserves are inadequate for any reason, including nonpayment of any Unit Owner's assessment, the Board of Directors may at any time levy a further assessment, which shall be assessed against the Unit Owners according to their respective Common Element Interests, and which may be payable in a lump sum or in installments as the Board may determine. The Board of Directors shall serve notice of any such further assessment on Unit Owners by a statement in writing giving the amount and reasons therefor, and such further assessment shall, unless otherwise specified in the notice, become effective with the next monthly payment which is due more than ten (10) days after the delivery of such notice of further assessment. All Unit Owners shall be obligated to pay such further assessment

either in full with the next monthly installment due or, if the Board of Directors so determines, in a number of equal monthly installments sufficient to make up the shortage within a period ending no later than the end of the then current fiscal year. Such assessment shall be a lien as of the effective date as set forth in subsection 7.1(c).

(e) Initial Budget After Period of Declarant Control; Initial Capital Payment.

(1) Upon taking office, the first Board of Directors elected or designated pursuant to these Bylaws shall determine the budget, as defined in this section, for the period commencing thirty (30) days after such election and ending on the last day of the fiscal year in which such election occurs. Assessments shall be levied and become a lien against the Unit Owners during such period as provided in subsection (c).

(2) The Declarant, as the agent of the Board of Directors, will collect from each initial Purchaser at the time of settlement an "initial capital payment" equivalent to at least three (3) times the estimated monthly assessment for Common Expenses. The Declarant will deliver the funds so collected to the Board of Directors to provide the necessary working capital for the Unit Owners' Association. Such funds may be used for certain prepaid items, initial equipment, supplies, organization costs and other start-up costs, and for such other purposes as the Board of Directors may determine, including the payment of Common Expenses. Said initial capital payment shall not be considered as the payment of any monthly assessment. Upon expiration of the Declarant Control Period, the working capital shall be transferred to the Unit Owners' Association for deposit to a segregated fund. While the Declarant is in control of the Unit Owners' Association, the Declarant may not use any of the working capital funds to defray its expenses, reserve contributions, or construction costs or to make up any budget deficits.

(f) Effect of Failure to Prepare or Adopt Budget. The failure or delay of the Board of Directors to prepare or adopt a budget for any fiscal year shall not constitute a waiver or release in any manner of a Unit Owner's obligation to pay his allocable share of the Common Expenses as herein provided whenever the same shall be determined and, in the absence of any annual budget or adjusted budget, each Unit Owner shall continue to pay each monthly installment at the monthly rate established for the previous fiscal year until notice of the monthly payment which is due more than ten (10) days after such new annual or adjusted budget shall have been delivered.

(g) Accounts. All sums collected by the Board of Directors with respect to assessments against the Unit Owners or from any other source may be commingled into a single fund or held for each Unit Owner in accordance with his Common Element Interest. All sums collected shall be deposited in a Federally insured account.

(h) Books and Records, External Review. The Treasurer of the Unit Owners' Association or the Board of Directors, shall keep, in accordance with good and generally accepted accounting procedures, a book, to be subjected to a compilation at least annually by an independent outside auditor, with a detailed account of the receipts and expenditures affecting the Condominium and its administration and specifying the maintenance and repair expenses of the Common Elements and

any other expenses incurred by or in behalf of the Condominium, with vouchers verifying the entries made. Both the book and vouchers shall be available for examination by all of the Unit Owners and mortgagees of record at convenient hours on working days that shall be set and announced in writing for general knowledge of the Unit Owners' Association.

Section 5.2. Payment of Common Expenses. Each Unit Owner shall pay the Common Expenses and Limited Common Expenses, assessed by the Board of Directors pursuant to the provisions of Section 5.1 hereof. No Unit Owner may be exempted from liability for the assessment of Common Expenses by waiver of the use or enjoyment of any of the Common Elements or by abandonment of his Unit. No Unit Owner shall be liable for the payment of any part of the Common Expenses assessed against his Unit subsequent to the date of recordation of a conveyance by him in fee of such Unit. Prior to or at the time of any such conveyance, all liens, unpaid charges and assessments shall be paid in full and discharged. If expressly assumed by Purchaser, the Purchaser of a Unit shall be jointly and severally liable with the selling Unit Owner for all unpaid assessments against the latter for his proportionate share of the Common Expenses up to the time of such recordation, without prejudice to the Purchaser's right to recover from the selling Unit Owner amounts paid by the Purchaser therefor; provided, however, that any such Purchaser shall be entitled to a statement setting forth the amount of the unpaid assessments against the selling Unit Owner within ten (10) days following a written request therefor to the Board of Directors or managing agent and such Purchaser shall not be liable for, nor shall the Unit conveyed be subject to a lien for, any unpaid assessments in excess of the amount therein set forth; and provided, further, that each Mortgagee who comes into possession of a Condominium Unit by virtue of foreclosure or by deed or assignment in lieu of foreclosure, or any Purchaser at a foreclosure sale, shall take the Condominium unit free of any claims for unpaid assessments or charges against such Unit which accrue prior to the time such Mortgagee comes into possession thereof.

Section 5.3. Collection of Assessment, Acceleration.

(a) Collection. The Board of Directors, or the managing agent at the request of the Board, shall take prompt action to collect any assessments for Common Expenses or Limited Common Expenses due from any Unit Owner which remain unpaid for more than thirty (30) days from the due date for payment thereof. Any assessment, or installment thereof, not paid within ten (10) days after the date due shall accrue a late charge in the amount of ten percent (10%) of the amount of such assessment or thirty dollars (\$30.00), whichever is greater, or such other amount as may be established from time to time by the Board of Directors. In addition, interest shall accrue at the rate of twelve percent (12%) per annum commencing thirty (30) days from the date such assessment is due and continuing until such assessment is paid in full.

(b) Acceleration. In any case where an assessment against a Unit Owner is payable in installments, upon a default by such Unit Owner in the timely payment of any two (2) consecutive installments, the maturity of the remaining total of the unpaid installments of such assessments may be accelerated, at the option of the Board of Directors, and the entire balance of the annual assessment may be declared due and payable in full by the service of notice to such effect upon the defaulting Unit Owner by the Board of Directors or the managing agent.

Section 5.4. Statement of Common Expenses. The Board of Directors shall promptly provide any Unit Owner, contract Purchaser or Mortgagee so requesting the same in writing with a written statement of all unpaid assessments for Common Expenses and Limited Common Expenses due from such Unit Owner. The Board of Directors may impose a reasonable charge for the preparation of such statement to cover the cost of preparation.

Section 5.5. Units Taxed Separately. So long as permitted by law, each Unit and its undivided interest in the Common elements shall be deemed to be a parcel and shall be separately assessed and taxed for all types of taxes authorized by the law, including, but not limited to, special ad valorem levies and special assessments, and 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 the Unit nor any of the Common Elements shall be deemed to be a parcel.

Section 5.6. Maintenance, Repair, Replacement, and Other Common Expenses.

(a) By the Unit Owners' Association. The Unit Owners' Association shall be responsible for the maintenance, repair and replacement (unless, if in the opinion of not less than fifty-one percent (51%) of the Board of Directors such expense was necessitated by the negligence, misuse or neglect of a Unit Owner) of all of the Common Elements and Limited Common Elements as defined herein or in the Declaration, whether located inside or outside of the Units.

The cost of the maintenance, repair and replacement of the Common Elements shall be charged to all Unit Owners as a Common Expense.

Subject to Section 5.6 (b), the cost of the maintenance, repair and replacement of any Limited Common Element appurtenant to any Units shall be specially assessed as a Limited Common Expense to the Unit or Units served thereby.

(b) By the Unit Owner.

(1) Each Unit Owner shall keep his Unit and its equipment, including all heat pumps or other heating and air-conditioning equipment, and all appliances and appurtenances in good order, condition and repair and in a clean and sanitary condition. In addition, each Unit Owner shall be responsible for all damage to any other Units or to the Common Elements resulting from his failure or neglect to make any of the repairs required by this section. Each Unit Owner shall perform his responsibility in such manner as shall not unreasonably disturb or interfere with the other Unit Owners. Each Unit Owner shall promptly report to the Board of Directors or the managing agent any defect or need for repairs for which the Unit Owners Association is responsible.

(2) The Unit Owner of any Unit to which a Limited Common Element is appurtenant, shall perform the normal cleaning and upkeep for such Limited Common Element, including the decks and patios appurtenant to their Unit, as determined by the Board of Directors. All maintenance, repair or replacement of the Limited Common Elements shall be made by the Unit Owners' Association as a Limited Common Expense.

(3) In the event a Unit Owner shall fail to maintain, repair or replace his Unit, as provided herein, the Unit Owners' Association, after thirty (30) days notice to the Unit Owner and approval of the Board of Directors shall have the right to enter the Unit and perform such maintenance, repair or replacement and the cost of the same shall be specially assessed as a Limited Common Expense against that Unit. Further, the Unit Owners Association shall have the right to file suit in the General District or Circuit Court of the City of Hampton, Virginia for injunctive relief or such other relief as a court of competent jurisdiction may direct. All costs and fees, including reasonable attorney's fees related to such correction shall be payable on demand and shall become a special assessment upon such Unit. Such assessment shall be regarded as any other assessment with respect to lien rights of the Association and remedies provided herein for nonpayment.

(c) Manner of Repair and Replacement. All repairs and replacements shall be substantially similar to the original construction and installation and shall be of first-class quality, but may be done with contemporary building materials and equipment. The method of approving payment vouchers for all repairs and replacements shall be determined by the Board of Directors.

Section 5.7. Additions, Alterations or Improvements by the Board of Directors. Except during the Declarant Control Period, whenever in the judgment of the Board of Directors the Common Elements shall require additions, alterations or improvements, the making of such additions, alterations or improvements shall be approved by the Board of Directors. The Board of Directors shall proceed with such additions, alterations or improvements and shall assess all Unit Owners benefited for the cost thereof as a Common Expense (or Limited Common Expense).

Section 5.7.1. Additions, Alterations or Improvements by the Unit Owner. No Unit Owner shall make any structural addition, alteration or improvement in his Unit without the prior written consent of the Board of Directors. No Unit Owner shall paint or alter the exterior of his Unit, including doors and windows, nor shall any Unit Owner paint or alter the exterior of any building, or alter any Unit or any landscaping, shrub or plantings, without the prior written consent of the Board of Directors. Any request for such addition, alteration, improvement, etc. shall be in writing and directed to the managing agent, or such other party as the Board of Directors may designate. The Board of Directors, or its designee, shall be obligated to answer any written request by a Unit Owner for approval of a proposed alteration or improvement of such Unit Owner's Unit within forty-five (45) days after such request is received. Should no response be made to such request received by the Board of Directors, or its designee within said forty-five (45) days, then said request shall be deemed approved. If any application to any governmental authority for a permit to make any such alteration or improvement in or to any Unit requires execution by the Unit Owners' Association, and provided consent has been given by the Board of Directors, then the application shall be executed on behalf of the Association by an authorized officer only, without however incurring any liability on the part of the Board of Directors, the Association or any of them to any contractor, subcontractor or materialman on account of such addition, alteration or improvement, or to any person having claim for injury to person or damage to property arising therefrom. Subject to the approval of any Mortgagee(s) of such affected Units, the Board of Directors and any Unit Owner affected, any Unit may be altered so as to relocate the boundaries between such Unit and any adjoining Units. The Secretary shall record any necessary amendment to the Declaration to effect such action as provided

in Section 55-79.69 of the Code of Virginia of 1950, as amended. The provisions of this section shall not apply to Units owned by the Declarant until deeds of conveyance of such Units shall have been recorded; provided, however, that the Declarant's construction or alterations shall be compatible with existing Units in terms of quality of construction. The Declarant shall have the right to make such alterations or additions without the consent of the Board of Directors, and an authorized officer shall execute any such application required.

Section 5.8. Restrictions on Use of Units and Common Elements; Rules and Regulations.

A. Restrictions. Each Unit and the Common Elements shall be occupied and used as follows:

(1) No Unit shall be used for other than residential purposes and the related common purposes for which the Property was designed. Each Unit, and the Limited Common Elements appertaining thereto, shall be occupied and used only by the Unit Owner, his or her family, employees, guests or by authorized tenants and such tenants' family, employees and guests. No Unit may be used for the conduct of commercial activity (except for the leasing of the Units as permitted by the Condominium Instruments). However, the foregoing shall not be deemed to prohibit "home offices" or "home occupations" provided that the same are in conformance with the Zoning Ordinance of the City of Hampton as a non-conditional use and such "home office" or "home occupation" does not entail the entry upon the Unit of customers, clients, employees or suppliers as part of such "home office" or "home occupation". Nothing in these Bylaws shall be construed to prohibit the Declarant from using any Unit owned by the Declarant for promotional, marketing or display purposes or from using any appropriate portion of the Common Elements for settlement of sales of Condominium Units and for customer service purposes.

(2) Nothing shall be done or kept in any Unit or in the Common Elements which will increase the rate of insurance for the Property without the prior written consent of the Board of Directors. No Unit Owner shall permit anything to be done or kept in his Unit or in the Common Elements which will result in the cancellation of insurance on the Property or any part thereof or which would be in violation of any law, regulation or administrative ruling. No waste will be committed on the Common Elements.

(3) No immoral, improper, offensive or unlawful use shall be made of the Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental agencies having jurisdiction thereof shall be observed. All laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereof relating to any portion of the Property shall be complied with, by and at the sole expense of the Unit Owner(s) responsible for any violation thereof, but if such cannot be determined, then the costs of such compliance shall be a Common Expense.

(4) No Unit Owner shall obstruct any of the Common Elements or Limited Common Elements nor shall any Unit Owner place or cause or permit anything to be placed on or in any of the Common Elements (except those areas designated for storage by the

condominium Instruments or the Board of Directors) without the approval of the Board. Nothing shall be altered or constructed in or removed from the Common Elements except with the prior written consent of the Board of Directors or the Covenants Committee, as appropriate.

(5) The Common Elements shall be used only for the furnishing of the services and facilities for which the same are reasonably suited and which are incident to the use and occupancy of the Units.

(6) No Unit Owner shall be permitted to lease his Unit for transient or hotel purposes nor for a period of less than twelve (12) consecutive months. A lease with an initial term of twelve (12) consecutive months that subsequently renews for month to month periods or renewal periods of less than twelve (12) months shall not be deemed to be in violation of the previous sentence. No portion of any Unit (other than the entire condominium unit) shall be leased for any period. **No more than twenty-five percent (25%) of the Units in the Condominium may be rented at any one time.** Any Unit Owner or purchaser of a Unit, having executed a contract for the disposition or purchase of the same, shall be entitled upon request to the recordable statement contemplated by Section 55-79.85 of the Code of Virginia of 1950, as amended, regarding restraints on the free alienability of Units in the Condominium, including, but not limited to, with regard to the maximum number of Units in the Condominium that may be rented at one time as set forth in this Section 5.8.A(6), in accordance with the requirements of said Code section. Such a request shall be in writing, directed to the principal Officer of the Unit Owners' Association or such Officer as the Declaration or Bylaws may specify, and shall identify the person to whom the Unit is to be conveyed or transferred. Failure to furnish or make available such a statement within ten (10) days from the receipt of such request shall make such restraints on the free alienability of Units in the Condominium, including, but not limited to, the provisions of this Section 13, inapplicable as to the disposition of such Unit. Any such statement shall be binding on the Unit Owners' Association, the Board of Directors and every Unit Owner. Payment of the a fee not exceeding Twenty-five and no/100ths Dollars (\$25.00) or such higher amount as may be subsequently established by the Board of Directors, if authorized by law, may be required as a prerequisite to the issuance of such statement.

No Unit Owner shall lease a Unit other than on a written form of lease: (i) requiring the lessee to comply with the Condominium Instruments and rules and regulations; (ii) providing that failure to comply constitutes a default under the lease; and (iii) providing that the Board of Directors has the power to terminate the lease or to bring summary proceedings to evict the tenant in the name of the lessor thereunder after thirty (30) days prior written notice to the Unit Owner, in the event of a default by the lessee in the performance of the lease. The Board of Directors may suggest a standard form lease for use by Unit Owners. Each Unit Owner of a Condominium Unit shall, promptly following the execution of any lease of a Condominium Unit, forward a conformed copy thereof to the Board of Directors and the managing agent prior to occupancy by the tenant. The foregoing provisions of this paragraph, shall not apply to a Mortgagee in possession of a Unit as a result of foreclosure,

judicial sale, a proceeding in lieu of foreclosure or a deed in lieu of foreclosure.

(7) Trailers, campers, recreational vehicles, boats and other large vehicles may not be parked in the Condominium unless expressly permitted by the rules and regulations and only in such parking areas, if any, as may be designated for such purpose by the Board of Directors. No junk or derelict vehicle or other vehicle on which current registration plates and local vehicle licenses and state inspection stickers are not displayed and no commercial vehicles shall be kept upon any of the Common Elements or within the land area of any Unit. Vehicle repairs other than ordinary light maintenance are not permitted in the Condominium. Guest parking shall only be used by guests and invitees in the Condominium and shall not be used for parking purposes by unit owners and/or their tenants or occupants of a unit. All vehicles shall be parked in the Condominium only in accordance with the Declaration, these Bylaws, and the Rules and Regulations as may be promulgated from time to time by the Board of Directors.

(8) Any Unit Owner who keeps or maintains any pet upon any portion of the Property shall be deemed to have indemnified and agreed to hold the Unit Owners' Association, each Unit Owner and the Declarant free and harmless from any loss, claim or liability of any kind or character whatever arising by reason of keeping or maintaining such pet within the Condominium. Any pet causing or creating a nuisance or unreasonable disturbance or noise may be permanently removed from the Property upon ten (10) days written notice from the Board of Directors. Pet droppings shall be promptly removed by the Owner of the pet. All pets shall be registered with the Board of Directors and shall otherwise be registered and inoculated as required by law. All pets must be sufficiently under control at all times so that they do not become a nuisance to owners or occupants of other units. No pets shall be tied or leashed to any part of the Common Elements. No pets shall be left unattended on any deck, balcony, patio or any portion of the Common Elements. The Board of Directors may establish reasonable fees for registration of pets not to exceed the additional costs incurred by the Unit Owners' Association resulting from the presence of such pets. Further, the Board of Directors may promulgate Rules and Regulations regarding the keeping of pets in the Condominium including adopting rules and regulations specifically prohibiting certain types of animals to be kept as pets as the Board may decide. A unit owner may not possess more than three dogs, three cats or a combination of dogs and cats not exceeding three per Unit unless otherwise agreed to by a majority of the Board of Directors at a meeting of the Board of Directors or by written consent in lieu of such a meeting. Should a rule or regulation promulgated by the Board of Directors result in a pet being in violation of such rule or regulation, and such pet was not in violation of the rules and regulations regarding pets prior to the promulgation of such new rule or regulation, then that pet shall be allowed to remain in the Condominium for the balance of its natural life or until it is permanently voluntarily removed from the Condominium by its owner expressly provided; however, all other rules and regulations regarding pets must be adhered to. In the event that a rule or regulation regarding pets adopted by the Master Association (as the term is defined in the Declaration) is more restrictive than a rule or regulation regarding pets as contained in these Bylaws, then a rule or regulation regarding pets as adopted by the Master Association shall control.

(9) Except for such signs as may be posted by the Declarant for promotional or marketing purposes, no signs of any character shall be erected, posted or displayed upon, in, from or about any Unit or Common Element without the prior written approval of the Board of Directors. The foregoing provisions of this paragraph shall not apply to a Mortgagee in possession of a Unit as a result of foreclosure, judicial sale, a proceeding in lieu of foreclosure or a deed in lieu of foreclosure. Unit Owners may not place "for sale" signs within the boundaries of their Units. Notwithstanding the foregoing, the Board of Directors, after the Declarant Control Period, and the Declarant, during the Declarant Control Period, may erect on the Common Elements on a bulletin board or a common posting board for the posting of for sale signs for Units in the Condominium and other general information. Such bulletin board or posting board shall be in control of the Board of Directors after the Declarant Control Period and the Declarant during the Declarant Control Period and the Board of Directors or the Declarant, as the case may be, may adopt rules and regulations regarding the use of such bulletin board or posting. Notwithstanding the foregoing, there are no restrictions upon the Declarant as to the size and location of any signs erected by the Declarant in connection with its marketing and sales activities.

(10) No Unit shall be subjected to or used for any timesharing, cooperative, licensing or other arrangement that would entail weekly, monthly, or any other type of revolving or periodic occupancy by multiple Owners, cooperators, licensees, or timesharing participants.

(11) Residents and guests shall exercise extreme care in making noises or using musical instruments, radios, televisions, tapeplayers, amplifiers or other noise producing instruments that may disturb other residents, and no such device shall be operated outside of a unit or on any general common area including any patio or parking area.

(12) No resident or guest of the project shall post any advertisements or posters of any kind in or on the project except as authorized by the Association.

(13) Hanging of garments, towels, blankets, rugs, and the like, from the decks, porches, balconies or windows or from any of the facades of the project is prohibited.

(14) Trash is to be placed at the designated areas for collection only; no other garbage cans or containers of any sort may be placed outside of any unit.

(15) No owner, resident, guest, lessee, or other person shall install wiring for electrical or telephone installation, television antennae, machines, air conditioning units, or the like on the exterior of the project or that protrude through the walls or the roof of the project except as authorized by the Association.

(16) No owner, guest, or other person shall paint or alter the exterior of his unit without authority and approval of the Association, it being intended to preserve and present a uniform appearance for the project. No owner may otherwise alter the exterior appearance of

his unit.

(17) The Association shall have sole control of all planting and landscaping and sole control of all watering.

(18) No unit owner, tenant or guest shall leave any belongings on or in any common area other than expressly permitted by the condominium instruments or by appropriate action by the Unit Owners' Association.

(19) All draperies, blinds, curtains or other window treatments, visible from the exterior of each unit shall be white or off-white in color.

(20) The Board of Directors shall have the authority to enact and amend rules and regulations regarding the use of charcoal and gas cooking grills, smokers and other outdoor cooking equipment.

(21) Attic areas shall be used only for those purposes as are determined by the Board of Directors.

B. Rules and Regulations. Each Unit and the Common Elements and Limited Common Elements shall be occupied and used in compliance with the rules and regulations which may be promulgated, amended, modified or deleted by the Board of Directors. Copies of the rules and regulations shall be furnished by the Board of Directors to each Unit Owner and, if requested, to any Mortgagee. Changes to the Rules and Regulations shall be furnished to each Unit Owner.

Section 5.09. Utility Charges. The cost of utilities serving the Condominium not individually metered or sub-metered to a specific Unit or Units shall be Common Expenses allocated pursuant to Section 5.1 hereof. The cost of utilities individually metered to any Unit shall be the sole cost of the Unit served thereby. The cost of utilities serving one or more Units and individually sub-metered shall be a Limited Common Expense payable by the Units served based on actual consumption of such services in accordance with Section 55-79.83.B of the Virginia Condominium Act. If one sub-meter serves two or more Units, and the actual consumption of each unit cannot be reasonably determined, the cost of such utilities shall be a Limited Common Expense to the Units so jointly sub-metered assessed to each unit in accordance with their Common element interest, inter se.

Pursuant to Sections 55-79.83.B of the Condominium Act, the Board of Directors may impose reasonable user fees, whether or not designated as Limited Common Expenses, for the use of Reserved Common Elements or personal property of the Unit Owners' Association or services provided by or arranged for through the Association.

Section 5.10. Storage; Disclaimer of Bailee Liability. The Board of Directors, the Unit Owners' Association, any Unit Owner and the Declarant shall not be considered a bailee of any personal property stored on the Common Elements (including vehicles parked on the Common Elements), whether or not exclusive possession of the particular area is given to a Unit Owner for storage or parking purposes, and shall not be responsible for the security of such personal property or for any loss or damage thereto, whether or not due to negligence, except to the extent covered by

insurance in excess of any applicable deductible.

Section 5.11. Security; Disclaimer of Liability. Mainsail Condominium Association will strive to maintain the Condominium as a safe, secure residential environment. HOWEVER, NEITHER MAINSAIL CONDOMINIUM ASSOCIATION, NOR MAINSAIL CONDOMINIUM, L.L.C., A VIRGINIA LIMITED LIABILITY COMPANY, SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS, TENANTS, GUESTS, AND INVITEES OF ANY OWNERS, AS APPLICABLE, ACKNOWLEDGE THAT MAINSAIL CONDOMINIUM ASSOCIATION, AND MAINSAIL CONDOMINIUM, L.L.C., AND COMMITTEES ESTABLISHED BY ANY OF THE FOREGOING ENTITIES, ARE NOT INSURERS AND THAT EACH OWNER, TENANT, GUEST, AND INVITEE ASSUMES ALL RISK OF LOSS OR DAMAGE TO PERSONS, TO UNITS, AND TO THE CONTENTS OF UNITS AND FURTHER ACKNOWLEDGE THAT MAINSAIL CONDOMINIUM, L.L.C., HAS MADE NO REPRESENTATIONS OR WARRANTIES, NOR HAS ANY OWNER, TENANT, GUEST, OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE RELATIVE TO ANY SECURITY MEASURES RECOMMENDED OR UNDERTAKEN.

ARTICLE 6 **Mortgagees**

Section 6.1. Notice to Board of Directors. A Unit Owner who mortgages such Owner's Unit shall notify the Board of Directors of the name and address of such Unit's Mortgagee.

Section 6.2. Notice of Default, Casualty or Condemnation. The Board of Directors when giving notice to any Unit Owner of a default in paying an assessment for Common Expenses and Limited Common Expenses or any other default, shall simultaneously send a copy of such notice to each Mortgagee, if any, of such Unit. Each Mortgagee shall also be promptly notified of any casualty when required by Section 7.02(c) of the Declaration, of all actions taken under Article Eight of the Declaration and of any taking in condemnation or by eminent domain and actions of the Unit Owners' Association with respect thereto. For purposes of this section only, when notice is to be given to a Mortgagee, the Board of Directors shall also give such notice to the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Veterans Administration, the Federal Housing Administration, the Farmer's Home Administration, the Government National Mortgage Association and any other public or private secondary mortgage market entity participating in purchasing or guarantying Mortgages if the Board has notice of such participation.

Section 6.3. Notice of Amendment of Condominium Instruments, Consent of Mortgagees. The Board of Directors shall give notice to all Mortgagees seven (7) days prior to the date on which the Unit Owners, in accordance with the provisions of these Bylaws, materially amend the Condominium Instruments.

Further, the consent of at least fifty-one percent (51%) of the Mortgagees holding mortgages on Units subject to such mortgages (based on one vote for each mortgage owned) shall be required to add or amend any material provisions of the Declaration or the Bylaws, which establish, provide for, govern, or regulate any of the following: (a) voting; (b) assessments (including increases in annual assessments greater than twenty-five percent (25%) of the assessments for the previous fiscal year), assessment liens, or priority of such liens; (c) reserves for maintenance, repair, and replacement of the Common Elements (or Units, if applicable); (d) insurance or fidelity bonds; (e) rights to use the Common Elements; (f) responsibility for maintenance and repair of the Property; (g) the interest in the General or Limited Common Elements; (h) leasing of Units; or (i) impositions of any right of first refusal or similar restriction on the right of Unit Owner to sell, transfer, or otherwise convey his or her Unit; (j) definition of Unit boundaries; (k) convertibility of Units into common areas or vice versa; (l) expansion or contraction of the Condominium regime, or the addition, annexation or withdrawal of Property to or from the Condominium regime (other than by the Declarant); (m) restoration or repair of the Condominium (after a hazard damage or partial condemnation) in a manner other than that specified in the Condominium Instruments (n) any action to terminate the legal status of the Condominium regime after substantial destruction or condemnation occurs; (o) any provisions that expressly benefit mortgage holders, insurers, or guarantors. So long as there is any mortgage against any Unit in the Condominium that is insured by or guaranteed by the Department of Veterans' Affairs (the "VA") or the Federal Housing Administration (the "FHA"), the Condominium regime hereby created may not be merged with a successor Condominium regime without the prior written approval of the VA and/or FHA as applicable. Any Mortgagee, or insurer or guarantor of any such Mortgagee, who receives a written request to approve additions or amendments to the Declaration or the Bylaws, and who does not deliver, to the requesting party a negative response within thirty (90) days of receiving such request shall be deemed to have approved the request, provided the notice was delivered by certified or registered mail "return receipt" requested.

Section 6.3. Other Rights of Mortgagees. All mortgagees or their representatives shall have the right to attend and to speak at meetings of the Unit Owners' Association. All such Mortgagees and insurers or guarantors of any first Mortgage secured by a Unit, including the VA and FHA, shall have the right to examine the books and records of the Condominium, to receive the annual report filed by Declarant pursuant to Section 55-79.93 of the Condominium Act and to require the submission of audited annual financial reports and other budgetary information.

ARTICLE 7

Compliance and Default

Section 7.1. Relief. Each Unit Owner shall be governed by, and shall comply with, all of the terms of the Condominium Instruments and the Condominium Act as any of the same may be amended from time to time. In addition to the remedies provided in Section 55-79.53 of the Condominium Act, a default by a Unit Owner shall entitle the Unit Owners' Association, acting through its Board of Directors or through the managing agent, to the following relief:

(a) Additional Liability. Each Unit Owner shall be liable for the expense of all maintenance, repair or replacement rendered necessary by his act, neglect or carelessness or the act,

neglect or carelessness of any member of his family or his employees, agents or licensees, but only to the extent that such expense is not covered by the proceeds of insurance carried by the Board of Directors. Such liability shall include any increase in casualty insurance rates occasioned by use, misuse, occupancy or abandonment of any unit or its appurtenances. Nothing contained herein, however, shall be construed as modifying any waiver by any insurance company of its rights of subrogation.

(b) Costs and Attorney's Fees. In any proceedings arising out of any alleged default by a Unit Owner, the prevailing party shall be entitled to recover the costs of such proceeding and such reasonable attorney's fees as may be determined by the court.

(c) No Waiver of Rights. The failure of the Unit Owners' Association or the Board of Directors to enforce any right, provision, covenant or condition which may be granted by the Condominium Instruments or the Condominium Act shall not constitute a waiver of the right of the Association, the Board or the Unit Owner to enforce such right, provision, covenant or condition in the future. All rights, remedies and privileges granted to the Unit Owners' Association, the Board of Directors or any Unit Owner pursuant to any term, provision, covenant or condition of the Condominium Instruments or the Condominium Act shall be deemed to be cumulative and the exercise of any one or more thereof shall not be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other privileges as may be granted to such party by the Condominium Instruments or the Condominium Act or at law or in equity.

(d) Late Charges. In the event of a default by any Unit Owner in paying any sum assessed against his Condominium Unit which continues for a period in excess of ten (10) days. A late charge in the amount of ten percent (10%) of the amount of such assessment or Thirty and no/100ths Dollars (\$30.00), whichever is greater, or such other amount as may be established from time to time by the Board of Directors shall automatically be due and payable. In addition, interest shall accrue on any unpaid assessments at the rate of 12% per annum commencing thirty (30) days from the date such assessment is due and continuing until such assessment is paid in full.

(e) Abating and Enjoining Violations by Unit Owners. The violation of any of the rules and regulations adopted by the Board of Directors, the breach of any provision of the Condominium Instruments or the Condominium Act shall give the Board of Directors the right, in addition to any other rights set forth in these Bylaws: (i) to enter the Unit in which, or as to which such violation or breach exists and summarily to abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Board of Directors shall not thereby be deemed guilty in any manner of trespass; or (ii) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach. Provided, however, a judicial proceeding must be instituted before the Board of Directors may require that an item of construction be altered or demolished.

(f) Legal Proceedings. Failure to comply with any of the terms of the Condominium Instruments and the rules and regulations shall be grounds for relief, including without limitation, an

action to recover any sums due for money damages, injunctive relief, foreclosure of the lien for payment of all assessments, any other relief provided for in these Bylaws or any combination thereof and any other relief afforded by a court of competent jurisdiction, all of which relief may be sought by the Unit Owners' Association, the Board of Directors, the managing agent or, if appropriate, by any aggrieved Unit Owner and shall not constitute an election of remedies. All Unit Owners hereby consent to the personal jurisdiction of the Circuit Court of the City of Hampton, Virginia, and/or the General District Court of the City of Hampton, Virginia with regard to all suits, actions and controversies arising out of or relating to the Condominium Instruments and/or the Condominium. Each Unit Owner irrevocably appoints the President of the Unit Owners' Association as his agent to receive service of process for each Unit Owner with regard to any action, suit or other proceeding arising out of or relating to the Condominium and/or the Condominium Instruments. The President of the Unit Owners' Association shall give each Unit Owner for whom the President shall receive service of process notice of such service of process in the manner provided by these Bylaws. In addition to the foregoing, the Board of Directors may adopt rules and regulations regarding the voluntary mediation of disputes and other forms of alternative dispute resolution.

(g) Suspension of Services for Failure to Pay Assessments; Fines. In accordance with 55-79.80:2 of the Condominium Act, the Board of Directors and the Covenants Committee shall have the power to (i) suspend a Unit Owner's right to use facilities, including the right to park motor vehicles in the Condominium, or nonessential services offered by the Association for nonpayment of assessments to the extent that access to the Unit through the Common Elements is not precluded and (ii) to levy reasonable fines against Unit Owners for violations of the rules and regulations, the Condominium Instruments, or the Condominium Act for which the Unit Owner or his family members, tenants, guests or other invitees are responsible. No fine may be levied for more than Fifty Dollars (\$50.00) for any one violation or for more than Ten Dollars (\$10.00) per day for any continuing violation. Before any such charges may be assessed, the Unit Owner shall be given an opportunity to be heard and to be represented by counsel at such hearing. Pursuant to Section 55-79.80:2B of the Act, notice of such hearing shall be hand delivered or mailed by registered or certified United States mail, return receipt requested, to such Unit Owner at the address or addresses required for notices of meetings pursuant to Section 55-79.75 of the Act, at least fourteen (14) days in advance thereof. Fines are special assessments and shall be collectible as such.

Section 7.2. Lien for Assessments.

(a) Lien. The total annual assessment of each Unit Owner for Common Expenses and Limited Common Expenses or any special assessment, or any other sum duly levied (including without limitation fines, interest, late charges, etc.), made pursuant to these Bylaws, is hereby declared to be a lien levied against the Condominium Unit of such Unit Owner as provided in Section 55-79.84 of the Condominium Act, which lien shall, with respect to annual assessments, be effective on the first day of each fiscal year of the Condominium and, as to special assessments and other sums duly levied, on the first day of the next month which begins more than seven (7) days after delivery to the Unit Owner of notice of such special assessment or levy. The Board of Directors or the managing agent may file or record such other or further notice of any such lien, or such other or further document, as may be required to confirm the establishment and priority of such lien.

(b) Enforcement. The lien for assessments may be enforced and foreclosed in the manner provided by the laws of the Commonwealth of Virginia by power of sale or action in the name of the Board of Directors, or the managing agent, acting on behalf of the Unit Owners' Association. During the pendency of such suit the Unit Owner shall be required to pay a reasonable rental for the Unit for any period prior to sale pursuant to any judgment or order of any court having jurisdiction over such sale. The plaintiff in such proceeding shall have the right to the appointment of a receiver, if available under the laws of the Commonwealth of Virginia.

(c) Remedies Cumulative. A suit to recover a money judgment for unpaid assessments may be maintained without foreclosing or waiving the lien securing the same, and a foreclosure may be maintained notwithstanding the pendency of any suit to recover a money judgment.

Section 7.3. Subordination and Mortgage Protection. Notwithstanding any other provisions hereof to the contrary, the lien of any assessment levied pursuant to these Bylaws upon any Unit (and any penalties, interest on assessments, late charges, fines, or the like) shall be subordinate to, and shall in no way affect the rights of the holder of a Mortgage made in good faith for value received; provided, however, that such subordination shall apply only to assessments which have become due and payable prior to a sale or transfer of such Unit pursuant to a decree of foreclosure, or any proceeding in lieu of foreclosure. Such sale or transfer shall not relieve the Purchaser of the Unit at such sale from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment, which lien shall have the same effect and be enforced in the same manner as provided herein.

ARTICLE 8 Amendments to Bylaws

Section 8.1. Amendments. These Bylaws may not be modified or amended except as provided in Section 55-79.71 of the Condominium Act, by a vote to which at least two-thirds (2/3) of the votes in the Unit Owners' Association appertain; provided however, that until the expiration of the Declarant Control Period, Sections 2.2, 2.9, 3.3, and this Section 8.1 may not be amended without the prior written consent of the Declarant. All amendments to the Bylaws shall be prepared and recorded by the Secretary. All amendments to the Bylaws shall be prepared by the Secretary of the Association or by legal counsel for the Association and recorded in the Clerk's Office of the Circuit Court of the City of Hampton, Virginia.

Except to the extent expressly permitted or expressly required by the provisions of the Condominium Act, or agreed to as provided in Section 55-79.71, by one hundred percent (100%) of the Unit Owners, no amendment to the Condominium Instruments shall change (a) the boundaries of any Unit, except in accordance with Section 55.79.69 of the Condominium Act, which such relocations are expressly permitted, (b) the undivided interest in the Common Elements appertaining thereto, or (c) the number of votes in the Unit Owners' Association appertaining thereto.

Section 8.2. Approval of Mortgagees. These Bylaws contain provisions concerning various rights, priorities, remedies and interests of Mortgagees. Such provisions in these Bylaws are

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to be construed as covenants for the protection of such Mortgagees on which they may rely in making loans secured by Mortgages. Section 6.3 of these Bylaws provides for the consent of Mortgagees with regard to the amendment of these Bylaws under certain circumstances.

ARTICLE 9
Miscellaneous

Section 9.1. Notices. All notices, demands, bills, statements or other communications under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or sent by United States mail, postage prepaid (pursuant to Section 55-79.75 of the Condominium Act), or if notification is of a default or lien, sent by registered or certified United States mail, return receipt requested, postage prepaid, (i) if to a Unit Owner, at the address which the Unit Owner shall designate in writing and file with the Secretary or, if no such address is designated, at the address of the Unit of such Unit Owner, or (ii) if to the Unit Owners' Association, the Board of Directors or the managing agent, at the principal office of the managing agent or at such other address as shall be designated by notice in writing to the Unit Owners pursuant to this section. If a Unit is owned by more than one person, each such person, who so designates an address in writing to the Secretary shall be entitled to receive all notices hereunder.

Section 9.2. Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these Bylaws or the intent of any provision thereof.

Section 9.3. Gender. The use of the masculine gender in these Bylaws shall be deemed to include the feminine and neuter genders and the use of the singular shall be deemed to include the plural, and vice versa, whenever the context so requires.

Section 9.4. Construction. These condominium Instruments are intended to comply with all of the applicable provisions of the Condominium Act and shall be so interpreted and applied.

IN WITNESS WHEREOF, the Declarant has caused these Bylaws to be executed pursuant to due authority this 1st day of February 2007.

Mainsail Condominium, L.L.C., a Virginia limited liability company

By: David W. Terry (SEAL)
David W. Terry, Manager

2007-02-05 10:00:00

COMMONWEALTH OF VIRGINIA,
CITY OF Virginia Beach, to-wit;

I, Benee A. Morlan, a Notary Public in and for said City/County and State, do hereby certify that David W. Terry, Manager of Mainsail Condominium, L.L.C., a Virginia limited liability company, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of such limited liability company.

Witness my hand and official stamp or seal, this 1st day of February, 2007.

Benee A. Morlan
Notary Public

My commission expires:
6/30/10

Network/Condominium Declaration and Bylaws/Mainsail Bylaws

INSTRUMENT #070000224
RECORDED IN THE CLERK'S OFFICE OF
HAMPTON ON
FEBRUARY 5, 2007 AT 01:17PM
LINDA B. SMITH, CLERK
RECORDED BY: YXM