

*Declaration*

TABLE OF CONTENTS

<u>Article Number</u>	<u>Section Number</u>	<u>Page Number</u>
1	GENERAL PROVISIONS; SUBMISSIONS; DEFINED TERMS	
	1.1. Definitions.....	5
	1.2. Purpose.....	11
	1.3. Name, Address and Location.....	11
	1.4. The Property.....	11
	1.5. Effect.....	11
	1.6. Submission of Property.....	12
	1.7. Plat and Plans.....	12
2	BUILDINGS AND UNIT BOUNDARIES	
	2.1. Location and Dimensions of Buildings; Obligation to Begin and Complete Improvements.....	12
	2.2. Units.....	12
	2.3. Unit Boundaries.....	13
	2.4. Maintenance Responsibilities.....	14
	2.5. Right to Alter.....	14
	2.6. Restriction Against Relocation of Unit Boundaries and Against Further Subdividing of Units.....	14
3	COMMON ELEMENTS AND LIMITED COMMON ELEMENTS	
	3.1. Common Elements.....	14
	3.2. Limited Common Elements.....	15
	3.3. Alteration of Common Elements by the Declarant.....	17
	3.4. Rental of Units by the Declarant.....	17
4	EASEMENTS	
	4.1. Easement for Repair.....	17
	4.2. Easement for Unintentional Encroachments....	18
	4.3. Easement to Facilitate Sales.....	19
	4.4. Easement for Support.....	19
	4.5. Right of the Declarant and the Unit Owners Association to Grant Easements.....	20
	4.6. Easement for Utility Lines and Equipment Inside Units.....	20
	4.7. Easement for Use of Common Elements.....	21
	4.8. General Easement for Ingress and Egress.....	22

4.9.	Easement to Facilitate Expansion or Contraction .....	22
4.10.	Easements Created by Plat or by Recorded Instrument.....	22
4.11.	Easement to Abate Nuisances.....	23
4.12.	Easement for Access to Expandable Land.....	24
4.13.	Easements Established by the Condominium Act.....	24
4.14.	Successors and Assigns.....	24
4.15.	Use and Enjoyment of Easements.....	24
5	AMENDMENT AND TERMINATION	
5.1.	No Amendment or Termination Without Consent of Mortgagees.....	25
5.2.	Amendment or Termination by Declarant.....	25
5.3.	Amendment or Termination by Unit Owners.....	25
6	OPTION TO EXPAND OR CONTRACT THE CONDOMINIUM	
6.1.	Reservation.....	26
6.2.	Assurances.....	27
6.3.	Method of Exercise of Option; Effect of Option on Common Element Interest.....	28
7	DECLARANT'S RIGHT TO LEASE OR SELL UNITS.....	29
8	SPECIAL DECLARANT RIGHTS	
8.1.	Special Declarant Rights.....	29
8.2.	Transfer of Special Declarant Rights.....	30
9	NO OBLIGATIONS.....	32
10	WARRANTY	
10.1.	Warranty Against Structural Defects.....	33
10.2.	Limitation of Liability.....	34
11	INDEMNITY.....	34
12	COMPLIANCE.....	35
13	MISCELLANEOUS PROVISIONS	
13.1.	Conflicts.....	35
13.2.	Number and Gender.....	36
13.3.	Captions.....	36

13.4.	Severability.....	36
13.5.	Assignment.....	36
EXHIBIT A	Legal Description of Submitted Land.....	38
EXHIBIT B	Legal Description of the Convertible Land and the Withdrawable Land.....	39
EXHIBIT C	Legal Description of the Expandable Land...	42
EXHIBIT D	Table of Common Elements Interests.....	46
EXHIBIT E	Plat.....Recorded in Plat Book 9 Pages 132 and 133	
EXHIBIT F	Plans.....	47



DECLARATION OF CONDOMINIUM  
OF  
MADISON CHASE CONDOMINIUM

Hampton Roads Homes, Inc. (the "Declarant"), a Virginia corporation, as the owner of certain real property (the "Submitted Land") situate in the City of Hampton, Virginia and more particularly described in Exhibit A attached hereto and made a part hereof by this reference, hereby submits the Submitted Land, together with all improvements thereon and all easements, rights and appurtenances thereunto belonging (the Submitted Land, together with all such improvements, easements, rights and appurtenances being hereinafter sometimes collectively referred to as the "Property") to the provisions of Chapter 4.2 of Title 55, Section 55-79.39 et seq., of the Code of Virginia, 1950, as amended, known as the Virginia Condominium Act and hereby creates with respect to the Property a residential condominium including convertible land that may hereafter be converted to create additional Units and Expandable Land which may be added to create additional Units in the Condominium and withdrawable land that may hereafter be withdrawn from this condominium regime to contract the Condominium.

ARTICLE 1

GENERAL PROVISIONS; SUBMISSIONS; DEFINED TERMS

Section 1.1. Definitions. The words and phrases listed below shall have the meanings set forth below whenever and wherever such words and phrases are used in this Declaration of Condominium for Madison Chase Condominium including, without limitation, this Section 1.1. Words and phrases in this Declaration that are not otherwise defined herein or in the other Condominium Instruments but are defined in the Condominium Act shall have the meanings specified in the Condominium Act, unless the context otherwise requires.

(a) The word "Affiliate" means any Person who controls, or is controlled by, or is under common control with, the Declarant. A Person controls the Declarant if the Person (i) is a general partner, officer, director or employer of the Declarant, (ii) directly or indirectly or acting in concert with one or more other Persons or through one or more subsidiaries owns, controls holds with power to vote, or holds proxies representing, more than twenty (20) percent of the voting interests

in the Declarant, (iii) controls in any manner the election of a majority of the directors of the Declarant, or (iv) has contributed more than twenty (20) percent of the capital of the Declarant. A Person is controlled by the Declarant if the Declarant (i) is a general partner, officer, director or employer of the Person, (ii) directly or indirectly or acting in concert with one or more other Persons or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing more, than twenty (20) percent of the voting interests in the Person, (iii) controls in any manner the election of a majority of the directors of the Person, or (iv) has contributed more than twenty (20) percent of the capital of the Person. Control does not exist if the powers described in this subsection are held solely as security for an obligation and are not exercised.

(b) The word "Assessments" means that portion of the funds required for the payment of Common Expenses which is assessed against and payable in cash by the Unit Owners from time to time.

(c) The phrase "Assignable Common Elements" means that portion of the Common Elements marked on the Plat and the Plans as "Common Elements Which May Be Assigned As Limited Common Elements," and include, but are not limited to, parking spaces in the Condominium.

(d) The phrase "Board of Directors" means the executive organ and governing body of the Unit Owners Association established pursuant to Article 3 of the Bylaws. Members of the Board of Directors are designated by the word, "Director".

(e) The word "Bylaws" means the Bylaws of the Condominium recorded simultaneously herewith in the Clerk's Office.

(f) The phrase "Clerk's Office" means the Clerk's Office of the Circuit Court of the City of Hampton, Virginia.

(g) The phrase "Common Elements" means all portions of the Condominium other than the Units.

(h) The phrase "Common Element Interest" means the number assigned to each Unit by Exhibit D attached hereto and hereby made a part hereof by this reference which establishes each Unit's undivided interest in the Common Elements. The Common Element Interest assigned to each Unit is calculated by dividing the square footage of the individual Unit by the total square footage of all the Units in the Condominium.

(i) The phrase "Common Expenses" means 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. Common expense assessments shall be in proportion to the votes in the Unit Owners Association as provided in the By-Laws, each unit having an equal number of votes in the Association.

(j) The phrase "Common Profits" means all income collected or accrued by or on behalf of the Unit Owners Association, other than income derived from assessments pursuant to Section 55-79.83 of the Condominium Act.

(k) The word "Condominium" means the Madison Chase Condominium, which is established by this Declaration.

(l) The phrase "Condominium Act" means the provisions of Chapter 4.2 of Title 55, Section 55-79.39 et seq., of the Code of Virginia, 1950, as amended.

(m) The phrase "Condominium Agencies" means the Virginia Real Estate Board, and the Veterans Administration, the Federal Housing Administration, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Government National Mortgage Association, and other state or federal agencies that purchase, insure or guarantee mortgage loans for condominium units.

(n) The phrase "Condominium Instruments" means this Declaration, the Bylaws, the Plat and the Plans, and any exhibit, schedule or certification accompanying a condominium instrument and recorded simultaneously therewith. Any amendment or certification of any condominium instrument shall, from the time of the recordation of such amendment or certification, be part of the affected condominium instrument.

(o) The phrase "Condominium Rules and Regulations" means any lawfully made rule or regulation and any decision, determination or resolution of the Unit Owners Association.

(p) The phrase "Condominium Unit" means a Unit together with the undivided interest in the Common Elements appertaining to that Unit.

(q) The phrase "Convertible Land" means the real property more particularly described in Exhibit B attached hereto and made a part hereof by this reference.

(r) The word "Declarant" means Hampton Roads Homes, Inc., a Virginia corporation, which has created the Condominium, and its successors and assigns; any Person, group of Persons acting in concert or any entity who reserves or succeeds to any Special Declarant Right; and any Person, group of Persons acting in concert or any entity who or which offers to dispose of his or its interest in a Condominium Unit not previously disposed of or who applies for registration of the Condominium.

(s) The phrase "Declarant Control Period" means the period expiring on the earlier of (i) the date on which Units to which seventy-five (75) percent or more of the aggregate Common Element Interests appertain have been conveyed to Unit Owners other than the Declarant; (ii) five (5) years after the date on which the first Condominium Unit has been conveyed to a Unit Owner other than the Declarant, or (iii) the date specified by the Declarant under Section 55-79-74(a) of the Code of Virginia of 1950, as amended, during which period the Declarant shall control the Unit Owners Association and shall control the membership of the Board of Directors. For purposes of the preceding sentence, the calculation of Common Element Interests is to be based upon the Common Element Interests assigned to, or to be assigned to, all Units registered with the Virginia Real Estate Board and all Units to be registered with the Virginia Real Estate Board if the Declarant fully exercises the rights reserved by the Declarant to expand the Condominium as provided in this Declaration and described in the Public Offering Statement for the Condominium.

(t) The word "Declaration" means this Declaration of Condominium for Madison Chase Condominium.

(u) The phrase "Expandable Land" means the land that may be added to the condominium and on which Units may be constructed in accordance with this Declaration and the Virginia Condominium Act and is described in Exhibit C as "Additional Land".

(v) The phrase "Initial Common Element Interest" means the interest of each Unit in the Common Elements set forth in Exhibit C to this Declaration.

(w) The phrase "Involuntary Sale" means sale and conveyance of a Unit by a foreclosure sale (or deed in lieu of foreclosure), tax sale, judicial sale, sale by a trustee under a deed of trust, or sale under the Bankruptcy Code as codified in Title 11 of the United States Code or under receivership proceedings.

(x) The phrase "Limited Common Elements" means a portion of the Common Elements reserved for the exclusive use of one or more of, but less than all, the Units.

(y) The phrase "Limited Common Expenses" means expenses assessed against one or more of, but less than all, the Condominium Units.

(z) The phrase "Majority Vote" means a simple majority (more than fifty percent) of the votes actually cast in person or by proxy at a duly held meeting at which a quorum is present. Any specified percentage vote means that percentage vote with respect to the votes actually cast in person or by proxy at a duly held meeting at which a quorum is present. Any specified percentage vote of the Mortgagees means a vote by the Mortgagees of Units to which such percentage of the total number of votes appertains. Voting shall be on a percentage basis and the percentage of the vote to which each Unit Owner will be entitled shall be such that each unit has an equal number of votes in the Unit Owners Association. The total of the votes actually cast by or on behalf of the Unit Owners in person or by proxy at a duly held meeting at which a quorum is present shall be equal to the aggregate number of units in the condominium owned by such Unit Owners.

(aa) The phrase "Managing Agent" means the Person, if any, retained by the Board of Director to manage all or any portion of the business and affairs of the Condominium.

(bb) The word "Mortgagee" means any institutional lender or other Person who holds a deed of trust of record in the Clerk's Office, encumbering a Condominium Unit and who has caused written notice of the existence of such deed of trust to be delivered to the Unit Owners Association. The word "Mortgagee" shall include Sovran Bank, N.A., as the holder of deed of trust liens on the Units owned by the Declarant securing the payment of the development and construction loans made to the Declarant to finance the construction of the improvements on the Property.

(cc) The word "Officer" means any Person holding office pursuant to Article 4 of the Bylaws, but shall not mean members of the Board of Directors unless such members are also Officers.

(dd) The word "Person" means a natural person, corporation, partnership, association, trust or other entity capable of holding title to real property, or any combination thereof.



(ee) The word "Plat" means the plat of survey for the Submitted Land and the Condominium recorded simultaneously herewith in the Clerk's Office and incorporated herein as Exhibit D and made a part hereof by this reference.

(ff) The word "Plans" means the plans of every structure which contains or constitutes all or part of any Unit or Units recorded simultaneously herewith in the Clerk's Office and incorporated herein as Exhibit E and made a part hereof by this reference.

(gg) The word "Property" means the Submitted Land, together with all improvements thereon and all easements, rights, and appurtenances thereunto belonging, as submitted by the Declarant to a regime of condominium ownership pursuant to this Declaration.

(hh) The phrase "Special Declarant Rights" means any right reserved for the Declarant (i) to contract the Condominium, (ii) to expand the Condominium, (iii) to convert all or any portion of the Convertible Land, (iv) to appoint or remove any Officers of the Unit Owners Association or any members of the Board of Directors, (v) to exercise any power or responsibility otherwise assigned by any Condominium Instrument or by the Condominium Act to the Unit Owners Association, any officer thereof or the Board of Directors, (vi) to maintain sales offices, management offices, model Units and signs pursuant to the Condominium Act, (vii) to construct and complete all of the improvements to the Property indicated on the Plat and Plans or (viii) to use easements through the Common Elements for the purpose of making improvements within the Condominium, upon the Convertible Land or upon the Expandable Land.

(ii) The phrase "Submitted Land" means the real property owned by the Declarant and more particularly described in Exhibit A to this Declaration.

(jj) The word "Unit" means a portion of the Condominium designed and intended for individual ownership and use.

(kk) The phrase "Unit Owner" means one or more Persons who own a Condominium Unit. The phrase "Unit Owner" does not include any Person holding an interest in a Condominium Unit solely as security for a debt.

(ll) The phrase "Unit Owners Association" or "Association" means the non-stock, non-profit association of all the Unit Owners of the Condominium, that, under the Bylaws, is the organ for the self government of the Condominium.

(mm) The phrase "Utility Lines and Equipment" means all cables, lines, pipes, wires, ducts, connections, transformers, hoses, tubes, apparatus, facilities, systems, machinery and other equipment of every kind and nature constituting a part of the mechanical, electrical and other utility systems serving any of the improvements on the Property including, but not limited to, all heating, ventilating and air conditioning systems and equipment, all electrical and lighting systems and equipment, all cable television lines and equipment, all telephone lines and equipment, all water pipes and equipment, all sewage and drainage systems and equipment, all plumbing systems and equipment, and all other systems and equipment.

(nn) The phrase "Withdrawable Land" means the real property more particularly described in Exhibit B attached hereto and hereby made a part hereof by this reference.

Section 1.2. Purpose. The purpose of this Declaration is to submit the Property to condominium ownership and use in the manner prescribed by the laws of the Commonwealth of Virginia.

Section 1.3. Name, Address, and Location. The name of the Condominium created by this Declaration is Madison Chase Condominium. The Condominium is located in the City of Hampton, Virginia. The address of the Condominium is Madison Chase, Hampton, Virginia 23666.

Section 1.4. The Property. The submission of the Property to the condominium regime for the Condominium is subject to such easements, restrictions, reservations, rights of way, conditions and other matters of record as of the date of recordation of this Declaration, together with those referred to, contained or provided for in this Declaration and the other Condominium Instruments.

Section 1.5. Effect. All of the provisions of this Declaration and the other Condominium Instruments shall be binding upon each Unit and each Unit Owner, his heirs, personal representatives, successors and assigns, and his agents, employees, lessees, licensees, invitees, and family members. All of the provisions of this Declaration and the other Condominium Instruments are enforceable equitable servitudes running with the land and existing in perpetuity unless and until this Declaration is revoked and the Condominium is terminated as provided herein. All grantees, devisees or mortgagees, of any right, title or interest in any Condominium Unit or the Common Elements, all of their respective heirs, personal representatives, successors and assigns, and all parties claiming by, through, or under such Persons agree to be bound by the provisions of

the Condominium Instruments. Both the burdens imposed and the benefits granted by the Condominium Instruments shall run with the land with respect to each of the Condominium Units and the Common Elements.

Section 1.6. Submission of Property. The Declarant hereby submits the Property to a condominium regime and the provisions of the Condominium Act and further declares that on and subject to the terms and conditions set forth in this Declaration and the other Condominium Instruments, the Property, each of the Condominium Units, and the Common Elements shall be held, conveyed, sold, leased, rented, occupied, improved, and encumbered subject to the Condominium Instruments and the provisions of the Condominium Act.

Section 1.7. Plat and Plans. The Plat and the Plans together describe the real property and all of the improvements constituting the Condominium, and together identify each of the Units and the Common Elements and their relative locations and approximate dimensions. Each Unit is identified on the Plans by a specific number. No Unit bears the same number as any other Unit.

## ARTICLE 2

### BUILDINGS AND UNIT BOUNDARIES

Section 2.1. Location and Dimensions of Buildings; Obligation to Begin and Complete Improvements. The location and dimensions of each structure and other improvements, other than structures or other improvements located or proposed to be located on the Convertible Land or Expandable Land, comprising part of the Condominium are depicted on the Plat and the Plans.

Section 2.2. Units. The location of the Units within the buildings and structures constituting the Condominium, the identifying numbers of the Units, and the dimensions of the Units are shown on the Plat and the Plans. Each Unit Owner shall own, as an appurtenance to his Unit, as undivided interest in the Common Elements. The undivided interest of each Unit Owner in the Common Elements shall be equal to the number obtained by dividing the square footage of the Unit owned by such Unit Owner by the total square footage of all the Units then in the Condominium, and is referred to as the Common Element Interest for such Unit. The Initial Common Element Interest allocated to each Unit is set forth in Exhibit D to this Declaration. The Common Element Interest allocated to each Unit shall not be changed (i) unless the Convertible Land is



converted to create additional Units in the Condominium as provided in Article 6 below, (ii) unless the Expandable Land is added to create additional Units in the Condominium as provided in Article 6, below, or (iii) without the Unit Owners unanimously consenting to such change. No Unit Owner shall have the right to bring any suit or action for division or partition of his undivided interest in the Common Elements.

Section 2.3. Unit Boundaries. The boundaries of each Unit are as follows:

(a) Upper and Lower (horizontal) Boundaries: The upper and lower boundaries of each Unit shall be the following boundaries extended to an intersection with the vertical (perimetric) boundaries:

(1) Upper Boundary: The plane of the bottom of the roof rafters of the ceiling of the upper level in each Unit; and

(2) Lower Boundary: The plane of the top surface of the floor slab of the lower level of each Unit.

(b) Vertical (perimetric) Boundaries: The vertical boundaries of the Unit shall be the plane of the inner surfaces of the studs and framing of the perimeter walls extending to the intersection with each other and with the upper and lower boundaries.

(c) Notwithstanding the foregoing description of the boundaries of the Units:

(1) Any portion of the Utility Lines and Equipment which serves more than one Unit or which serves any Common Element shall be a Common Element, whether located within or without, or partially within and partially without, the boundaries of a Unit. Any portion of the Utility Lines and Equipment serving only one Unit which is located outside the Unit or located partially without and partially within the Unit is a Limited Common Element appurtenant to that Unit. Any portion of the Utility Lines and Equipment located entirely within one Unit and serving only one Unit is a part of that Unit.

(2) Load-bearing interior walls, columns, floors or other structures within the boundaries of a Unit are Common Elements except for the unfinished exterior surfaces of such load-bearing walls, columns, floors, or other structures. Non-load-bearing interior walls,

partitions or columns within the boundaries of a Unit are parts of the Unit.

(3) Each Unit shall include as a part of that Unit all doors, windows, frames, casings, glass or sliding doors, and other similar components, and the maintenance, repair, renovation, restoration, and replacement of all such components shall be the responsibility of the Unit Owner subject to the provisions of this Declaration and Bylaws concerning the application of insurance proceeds in the event of the partial or total destruction of the Unit and subject further to the requirement that all such maintenance, repairs, renovation, restoration, and replacement shall be substantially similar to the original construction and installation of such components, and shall be of first-class quality, but may be done with contemporary building materials and equipment.

Section 2.4. Maintenance Responsibilities. The provisions of the Condominium Act and the Condominium Instruments shall govern the division of maintenance and repair responsibilities between each Unit Owner and the Unit Owners Association.

Section 2.5. Right to Alter. The Declarant reserves the right in its sole discretion to alter the interior design and arrangements of all Units so long as the Declarant owns the Units so altered. Such alteration shall be accomplished by an amendment to this Declaration, if such an amendment is required under the Condominium Act, which need only be signed by the Declarant without the approval of any other Person or Unit Owner.

Section 2.6. Restriction Against Relocation of Unit Boundaries and Against Further Subdividing of Units. Relocation or alteration of boundaries between Units by Unit Owners is prohibited. No Unit may be divided or subdivided into two or more smaller Units. No Unit, or portion thereof, shall be added to or incorporated into any other Unit.

### ARTICLE 3

#### COMMON ELEMENTS AND LIMITED COMMON ELEMENTS

Section 3.1. Common Elements. The locations of the Common Elements are set forth in the Plat and the Plans. The Common Elements include the Limited Common Elements and consist of all parts of the Property, other than the Units, as shown on the Plat and the Plans. All the Common Elements except for the

Limited Common Elements may be used by all Unit Owners. The Common Elements include, but are not limited to, the following:

(a) Land, driveway areas, sidewalks, curbs, gutters, roofs, exterior walls including exits, and interior walls without decoration or covering except those non-load bearing partition walls wholly within the Unit;

(b) The foundations and structural members, including columns, girders, beams and supports;

(c) All Utility Lines and Equipment, except those Utility Lines and Equipment described in Sections 2.3(c) and 3.2 of this Declaration as Limited Common Elements or parts of Units.

The Common Elements shall remain undisturbed and no person shall have any right of action for partition or division of the whole or any part thereof, except as provided by law or by the Condominium Instruments. Except as otherwise expressly set forth in this Declaration and the Bylaws, the costs of maintenance, repair, renovations, restoration and replacement of the Common Elements shall be the responsibility of the Units Owners Association as specified in the Bylaws.

Section 3.2. Limited Common Elements.

(a) The Limited Common Elements are Common Elements of the Condominium that have been or may be assigned to one or more of, but less than all, the Units. The use of the Limited Common Elements is restricted to the Unit Owners who own the Units to which the Limited Common Elements have been assigned. Without limiting the generality of the foregoing and except as otherwise set forth in the Condominium Instruments, all shutters, awnings, doorsteps, porches, patios, and any other apparatus designed to serve a single Unit, but located outside the boundaries thereof, shall be deemed a Limited Common Element appertaining exclusively to that Unit. All other Limited Common Elements and the Unit or Units to which they are assigned are shown on the Plat and the Plans.

(b) The cost of maintenance, repair, renovation, restoration, and replacement of the various Limited Common Elements shall be borne as follows: (1) maintenance, repair, renovation, restoration, and replacement of any portion of the Utility Lines and Equipment serving only one Unit shall be at the sole expense of the Unit Owner whose Unit is served thereby; (2) maintenance, repair, renovation, restoration, and replacement of Utility Lines and Equipment serving more than one

Unit shall be Common Expenses; (3) except as set forth below and in Article 5 of the Bylaws, maintenance, repair, renovation, restoration, and replacement of all Limited Common Elements shall be Common Expenses; and (4) maintenance, repair, renovation, restoration, and replacement of Limited Common Element heating and air conditioning equipment and apparatus shall be at the sole expense of the Unit Owner whose Unit is served thereby as set forth in Article 5 of the Bylaws.

(c) A portion of the Common Elements (whether or not contained within any Convertible Land or Expandable Land) is marked on the Plans as "Common Elements Which May Be Assigned As Limited Common Elements" and is referred to in this Declaration as the "Assignable Common Elements". The Assignable Common Elements include (or will include upon converting the Convertible Land or adding the Expandable Land within which such portions of the Common Elements may be contained) the parking spaces for the Units in the Condominium. The Declarant reserves the exclusive right to assign any or all of these Assignable Common Elements either to the Unit Owners Association for reassignment or directly to particular Units as Limited Common Elements for the exclusive use of the Unit Owners of those Units. Assignable Common Elements so assigned shall become Limited Common Elements appertaining to the Units to which they are assigned. The Declarant shall have the right to retain as its sole property any consideration which the Declarant shall receive from the Unit Owners Association or any of the Unit Owners for the assignment of the Assignable Common Elements. The Declarant may assign any of the Assignable Common Elements as a Limited Common Element appurtenant to any Unit by executing an appropriate amendment to this Declaration and by delivering such amendment to each Unit Owner receiving such Assignable Common Element. Any such amendment to this Declaration shall become effective when the Unit Owner receiving such Assignable Common Element has executed and recorded such amendment in the Clerk's Office. If a Unit Owner acquires the right to the exclusive use of any of the Assignable Common Elements simultaneously with the conveyance of his Condominium Unit from the Declarant, the Declarant shall evidence the Unit Owner's right to the exclusive use of any such Assignable Common Element in the deed to the Condominium Unit to which such Assignable Common Element shall become appurtenant. If a Unit Owner acquires the right to the exclusive use of any of the Assignable Common Elements subsequent to the conveyance of his Condominium Unit from the Declarant, the Declarant may, but need not, evidence the Unit Owner's right to the exclusive use of such Assignable Common Element in a separate written agreement with the Unit Owner.

Section 3.3. Alteration of Common Elements by the Declarant. The Declarant reserves the right to modify, alter, remove, repair, improve, or replace any damaged, defective, obsolete, or non-functional portions of the Common Elements, including, but not limited to, any equipment, fixtures, or other appurtenances, when in the Declarant's sole judgment it is necessary or desirable to do so, until such time as the Declarant shall no longer have any liability to any Person under the warranty set forth in Article 10 of this Declaration. The Declarant hereby reserves a non-exclusive easement upon, over, across and through the Common Elements for the purpose of exercising the Declarant's rights under this Section 3.3.

Section 3.4. Rental of Units by the Declarant. The Declarant shall have the right to rent or lease from time to time any Units owned by the Declarant. The Declarant, in its sole discretion, may establish and maintain in the Condominium all such leasing or rental offices, signs, and other accoutrements normally used in the leasing or operation of rental properties. The leasing and rental of any of the foregoing by the Declarant shall be for the sole benefit of the Declarant and neither the Unit Owners Association nor any Unit Owner (other than the Declarant) shall have any right, title or interest in or to any rents or profits from such leasing and rental activities.

#### ARTICLE 4

##### EASEMENTS

Except as otherwise limited in this Article 4, the Declarant hereby reserves unto itself and its successors and assigns, and grants and conveys unto the Unit Owners Association and the Unit Owners and their respective heirs, personal representatives, successors and assigns, the easements and rights described in this Article 4. The reservations and grants of all easements and rights described in this Article 4 shall extend to any Units that may hereafter be added to the Condominium by the conversion or addition of all or any portion of the Convertible Land and Expandable Land.

Section 4.1. Easement for Repair. The Declarant and the Unit Owners Association shall have a perpetual non-exclusive easement in, upon, over, under, across and through the Units and the Common Elements (a) for the construction, renovation, repair, maintenance, betterment, improvement, removal, restoration or replacement of all or any portion of the Common Elements, including, but not limited to, the Utility Lines and Equipment and (b) for the construction, renovation, repair,



maintenance, betterment, improvement, removal, restoration or replacement of any Unit which is damaged or destroyed by any casualty or by any taking by eminent domain and which the Declarant or the Unit Owners Association is obligated to repair or reconstruct. Until the expiration of the warranty period provided under Article 10, the Declarant shall also have a non-exclusive easement in, upon, over, under, across and through each Unit and the Common Elements, with or without the consent and presence of the Unit Owner, to perform and complete warranty-related work for the benefit of the Unit entered, other Units or the Common Elements. Each Unit shall have a perpetual non-exclusive easement appurtenant to such Unit and right of entry for such reasonable ingress and egress through, such reasonable access to, and such reasonable use and occupancy of, each of the other Units and the Common Elements as may be reasonably necessary for the repair, renovation, maintenance, restoration or replacement of such Unit. The Declarant, the Unit Owners Association and each of the Unit Owners may exercise their respective rights under this section only during regular business hours on any day other than a Saturday, a Sunday or a legal holiday and only upon giving the affected Unit Owners written notice of the proposed exercise of such rights at least three (3) days before the date on which the proposed exercise of such rights is to occur; provided, however, that in the event any situation shall arise which involves a substantial possibility of immediate bodily injury to any Person or of immediate substantial property damage to any Unit, its contents or the Common Elements, the Declarant, the Unit Owners Association and the Unit Owners shall each have the right to exercise their rights under this section immediately and without notice but only to the extent reasonably necessary to eliminate any such substantial possibility of immediate bodily harm or immediate substantial property damage. If either the Unit Owners Association or any of the Unit Owners shall exercise their rights under this section, the Person exercising such rights shall be responsible for the immediate and complete repair and restoration of any damage to the Common Elements or any Unit or its contents resulting from the exercise of such rights.

Section 4.2. Easement for Unintentional Encroachments.

In the event that any Unit or Common Element shall encroach upon any other Unit or Common Element for any reason other than the willful and intentional misconduct of the Unit Owner for such Unit or the Unit Owners Association, as the case may be, then an easement for such encroachment and for the repair, renovation, restoration and/or replacement of such encroachment shall exist for the benefit of the encroaching Unit or Common Element for so long as such encroachment shall exist.

Section 4.3. Easement to Facilitate Sales. The Declarant and the duly authorized agents, representatives and employees of the Declarant reserve an easement and the right to occupy, use and maintain any Units owned or leased by the Declarant, regardless of number, size, or location, as models or as management offices, sales offices, or customer service offices, for the management and operation of the Condominium by the Declarant or for the sale, leasing or rental of Condominium Units by the Declarant. The Declarant reserves the unlimited right and easement to relocate all such models and management, sales and customer service offices on one or more occasions. Upon the relocation or sale of any model, management office, sales office or customer service office maintained by the Declarant, the Declarant reserves the right and easement to remove the furnishings thereof. The Declarant further reserves the right and easement to establish and maintain on the Property advertising and other signs to attract potential tenants, lessees or purchasers of Condominium Units and to facilitate the sale, rental or leasing of Condominium Units, which may be placed in any number of locations on the Property and which may be relocated or removed, all at the sole discretion of the Declarant. Further, the Declarant reserves an easement and the right to erect, maintain, occupy and use temporary offices in or upon the Common Elements for models, sales, management, customer service, and similar purposes and to use and occupy all or any portion of the Common Elements for sales, leasing, rental, management, or customer service purposes. The easements and rights of the Declarant set forth in this section shall exist at any time in which the Declarant shall own any Units in the Condominium which have not been previously conveyed to other Unit Owners. The reservation of the easements and rights set forth in this section is expressly made applicable to any additional Units that the Declarant may create by converting all or any portion of the Convertible Land or adding any of the Expandable Land, pursuant to the Declarant's reserved authority under Article 6 below, and the Declarant shall have all of the easements and rights for which this section provides with respect to any Condominium Units which may result from the expansion of the Condominium by conversion or addition of all or any portion of the Convertible Land or Expandable Land. In the event the Declarant or any of its duly authorized agents, representatives, or employees shall damage any part of the Common Elements in the exercise of the foregoing rights, the Declarant shall promptly repair any such damage.

Section 4.4. Easement for Support. Each Unit and the Common Elements shall have reciprocal perpetual easements for lateral and subjacent support from every other Unit and the Common Elements.

Section 4.5. Right of the Declarant and the Unit Owners Association to Grant Easements.

(a) Prior to the termination of the Declarant Control Period, the Declarant shall have the right to grant and convey to any Person, or to reserve unto itself, easements and rights of way in, upon, over, under, across and through the Property, the Common Elements, and the Limited Common Elements for the purposes of facilitating the construction, maintenance, repair, replacement and operation of the Condominium and its constituent Units and Common Elements and for the purposes of the installation, maintenance, repair, replacement, removal and inspection of the Utility Lines and Equipment; provided, however, that the Declarant shall not have the right to grant or reserve easements or rights of way through or across any Unit which is not owned by the Declarant. After the termination of the Declarant Control Period, the Unit Owners Association shall have the right to grant and convey to any Person, or to reserve unto itself, easements and rights of way in, upon, over, under, across, and through the Property, the Common Elements, and the Limited Common Elements for the purposes of facilitating the construction, maintenance, repair, replacement and operation of the Condominium and its constituent Units and Common Elements and for the purposes of the installation, maintenance, repair, replacement, removal and inspection of the Utility Lines and Equipment; provided, however, that the Unit Owners Association shall not have the right to grant or reserve easements or rights of way through or across any Unit not owned by the Unit Owners Association.

(b) The Unit Owners Association shall also have the right to grant and convey to any Person or any Unit Owner any other easements and rights affecting the Property, the Common Elements or the Limited Common Elements which the Unit Owners Association shall deem reasonably necessary for the proper, on-going repair, maintenance, replacement or operation of the Condominium or any part thereof or otherwise shall deem reasonably to be in the best interests of the Condominium or the Unit Owners; provided, however, that such easements and rights shall not extend to, or affect, the interior of any Unit.

Section 4.6. Easement for Utility Lines and Equipment Inside Units.

(a) Each Unit shall have perpetual non-exclusive easements and rights of way appurtenant to such Unit in common with all other Units in, upon, over, under, across, and through each Unit and the Common Elements for the installation, use, repair, maintenance, replacement, removal and inspection of all



Utility Lines and Equipment, to the extent such Utility Lines and Equipment actually serve such Unit or are reasonably necessary, as determined by the Unit Owners Association for service to such Unit; provided, however, that such easements and rights of way shall be limited to the locations of all Utility Lines and Equipment as actually exist on the date of recordation of this Declaration in the Clerk's Office or as hereafter may exist as the result of the repair or reconstruction of any of the Units or the Common Elements after any casualty and to such other locations as shall be reasonably necessary, as determined by the Unit Owners Association, for utility service to any Unit and as shall be the least restrictive and the least impairing of the use and occupancy of the other Units and the Common Elements.

(b) The Unit Owners Association shall have perpetual non-exclusive easements and rights of way in common with all Units in, upon, over, under, across, and through each Unit and the Common Elements for the installation, repair, maintenance, replacement, removal and inspection of all Utility Lines and Equipment to the extent such Utility Lines and Equipment actually serve the Common Elements or are reasonably necessary, as determined by the Unit Owners Association, for service to the Common Elements; provided, however, that such easements and rights of way shall be limited to the locations of all Utility Lines and Equipment in the Condominium as actually existing on the date of recordation of this Declaration in the Clerk's Office or as hereafter may exist as the result of the repair or reconstruction of any of the Units or the Common Elements after any casualty and to such other locations as shall be reasonably necessary, as determined by the Unit Owners Association, for utility service to the Common Elements and as shall be the least restrictive and the least impairing of the use and occupancy of any Unit and the remainder of the Common Elements.

(c) The easements and rights of way for the placement, repair, maintenance, removal and replacement of Utility Lines and Equipment for which this section provides may only be exercised by a Unit Owner or the Unit Owners Association after compliance with the notification procedures set forth in Section 4.1 above.

Section 4.7. Easement for Use of Common Elements. Each Unit shall have a perpetual non-exclusive easement appurtenant to the Unit exercisable by the Unit Owner and his family, tenants, licensees and invitees for ingress and egress through all Common Elements and for the use and enjoyment of all Common Elements, subject only to the Bylaws, the Condominium Rules and Regulations, and any other restrictions on such use and

enjoyment lawfully imposed by the Unit Owners Association from time to time. Such perpetual non-exclusive easement appurtenant to a Unit shall be in common with an identical perpetual non-exclusive easement appurtenant to every other Unit.

Section 4.8. General Easement for Ingress and Egress.

(a) Each Unit shall have non-exclusive perpetual easements appurtenant to such Unit for pedestrian ingress and egress upon, over, across, and through such sidewalks, alleys, paths, walks, driveways, passageways and lanes as may, from time to time, exist as part of the Common Elements for pedestrian traffic or as may, from time to time, exist on the Property of any other Person and be subject to easements or rights of way for the benefit of the Common Elements, the Units, the Unit Owners, the Condominium, or the Unit Owners Association.

(b) Each Unit shall have non-exclusive perpetual easements appurtenant to such Unit for vehicular ingress and egress upon, over, across, and through such streets, roads, alleys, and other paved or improved areas as may, from time to time, exist as part of the Common Elements for vehicular traffic and upon, over, across, and through such streets, roads, alleys, and paved, improved or unimproved areas as may, from time to time, exist on the property of any other Person and be subject to easements or rights of way for the benefit of the Common Elements, the Units, the Unit Owners, the Condominium, or the Unit Owners Association.

Section 4.9. Easement to Facilitate Expansion or Contraction. The Declarant hereby reserves for itself an easement in, upon, over, under, across and through the Common Elements to design, construct, repair, maintain, replace and restore improvements on the Property or any portion thereof or in the Convertible Land, the Expandable Land, the Withdrawable Land, or any portion thereof for the purpose of (i) converting all or any portion of the Convertible Land or Expandable Land to create additional Units in the Condominium, (ii) doing all other things reasonably necessary and proper in connection with expanding the Condominium, (iii) doing all other things reasonably necessary and proper in connection with contracting the Condominium.

Section 4.10. Easements Created by Plat or by Recorded Instrument. The Property, the Common Elements, and each Unit shall be subject to all easements and rights of way (a) created, described, delineated or referred to on the Plat as affecting the Property, the Common Elements or any Unit or (b) created, described, delineated or referred to in any written

instrument or plat now or hereafter of record in the Clerk's Office and affecting the Property, the Common Elements or any Unit.

Section 4.11. Easement to Abate Nuisances. Prior to the termination of the Declarant Control Period, the Declarant shall have a non-exclusive easement and right to enter the Common Elements or any Unit to abate any act or failure to act of any Person within the Common Elements or such Unit which the Declarant shall in good faith believe (i) to be unlawful, (ii) to constitute a nuisance, (iii) to constitute a hazard to the health and safety of any Person, or (iv) to endanger the property of any Person (hereinafter any such act or failure to act shall be referred to as a "Threatening Act"). After the termination of the Declarant Control Period, the Unit Owners Association shall have a perpetual non-exclusive easement and right to enter any Unit or the Common Elements to abate any act or failure to act which the Unit Owners Association believes in good faith to be a Threatening Act. For the purpose of this section, the Declarant or the Unit Owners Association, as the case may be, shall be conclusively presumed to be acting in good faith and accordingly shall have no liability to any Person for exercising its rights under this section if the Declarant or the Unit Owners Association, as the case may be, shall act in accordance with the advice of an attorney licensed to practice law in the Commonwealth of Virginia. In the event the Declarant or the Unit Owners Association, as the case may be, shall exercise its rights under this section and enter the Common Elements or any Unit and shall determine that a Threatening Act is occurring, and shall take steps or actions to eliminate such Threatening Act, the Unit Owner who committed or permitted such Threatening Act shall pay to the Declarant or the Unit Owners Association, as the case may be, on demand the total amount of all costs and expenses incurred by the Declarant or the Unit Owners Association, as the case may be, in taking steps or actions to eliminate such Threatening Act. The Declarant and the Unit Owners Association, as the case may be, shall provide to any Unit Owner who is committing or permitting a Threatening Act the notice of proposed entry for which Section 4.1 above provides unless the Declarant or the Unit Owners Association, as the case may be, shall determine in good faith that such notice cannot be given because of an emergency situation or because the Unit Owner who is committing or permitting the Threatening Act will use the notice period to secrete or conceal the Threatening Act. Notwithstanding the foregoing, the Declarant or the Unit Owners Association, as the case may be, shall not alter or demolish any items of construction in remedying or eliminating any Threatening Act unless judicial proceedings shall have been instituted against the Unit Owner

committing or permitting a Threatening Act and such Unit Owner shall have been afforded an opportunity to be heard.

Section 4.12. Easement for Access to Expandable Land. An easement for access to Lot 6, the Expandable Land, is reserved as shown on the plat of Magruder Estates, Section Two, Hampton, Virginia, recorded in Plat Book 9, page 96, over the southeast corner of the Property. At such time as all the Expandable Land has been added to the Condominium, this easement will terminate, but in the event any portions of the Expandable Land are not added to the Condominium, Declarant reserves the right to continue the easement.

Section 4.13. Easements Established by the Condominium Act. In addition to the easements and rights for which this Declaration provides, the Property, the Common Elements, and each Unit shall be subject to each of the easements and rights of the Unit Owners, the Unit Owners Association and the Declarant for which the Condominium Act now provides or may hereafter provide as amended from time to time. Each easement and right set forth in this Declaration, in the Condominium Instruments, and in the Condominium Act shall be deemed to be cumulative of, and complementary to, every other easement and right set forth in this Declaration, the other Condominium Instruments, and the Condominium Act.

Section 4.14. Successors and Assigns. Each easement or right granted to any Person by this Declaration, the other Condominium Instruments, or the Condominium Act shall be deemed and construed to be an easement or right also granted to the personal representatives, heirs, successors and assigns of the Person to whom such easement or right has been granted.

Section 4.15. Use and Enjoyment of Easements. The use, enjoyment and exercise of any easement or right by the Declarant, the Unit Owners Association, or a Unit Owner shall be subject to all of the provisions of this Declaration, as the same may exist from time to time, shall be in a lawful manner, and shall be consistent with the rights of every other Person having a lawful right or privilege to use, enjoy or exercise any such easement or right. Any Person using, enjoying or exercising any easement or right granted or reserved pursuant to this Article shall be obligated to repair immediately any damage to the Property, any Unit or any of the Common Elements resulting from the use, enjoyment, or exercise of such easement or right by any such Person.



ARTICLE 5AMENDMENT AND TERMINATION

Section 5.1. No Amendment or Termination Without Consent of Mortgagees. No amendment of this Declaration may be made without the prior written approval of the required percentage of Mortgagees where such approval is provided for in Section 8.5 of the Bylaws or where such approval is required elsewhere in the Condominium Instruments or by the Condominium Act. No amendment shall be made to any Condominium Instrument nor shall the Condominium be terminated during the Declarant Control Period without the prior written consent of the Declarant and the Mortgagee or Mortgagees of the Units owned by the Declarant. No amendment of the Condominium Instruments shall diminish or impair the rights of Mortgagees under the Condominium Instruments without the prior written consent of all affected Mortgagees or shall diminish or impair the rights of the Declarant under the Condominium Instruments without the prior written consent of the Declarant. This Article and the rights of any Person hereunder shall not be amended except upon the unanimous vote or consent of all Persons with an interest therein, including any Mortgagees, at the time such amendment is proposed. No provision of the Condominium Instruments shall be construed or amended to grant to any Unit Owner or to any other Person any priority over any rights of the Mortgagees set forth in this Declaration, the other Condominium Instruments, and the Condominium Act, including, but not limited to, any rights of the Mortgagees in the case of a distribution of insurance proceeds from a casualty to any portion of the Property or condemnation awards for any taking of any portion of the Property.

Section 5.2. Amendment or Termination by Declarant. Subject to the provisions of Section 5.1 above, if there is no Unit Owner other than the Declarant, then the Condominium Instruments may be amended, or the Condominium terminated, by the unilateral action of the Declarant.

Section 5.3. Amendment or Termination by Unit Owners. Subject to the provisions of Section 5.1 above, and Section 8.5 and Section 11.2 of the Bylaws, if there is any Unit Owner other than the Declarant, amendment of this Declaration or of the Bylaws shall require an affirmative vote of the Unit Owners of Condominium Units to which at least two-thirds (2/3rds) of the votes in the Unit Owners Association appertain. Subject to the provisions of Section 5.1 above, and Section 8.5 and Section 11.2 of the Bylaws, if there is any Unit Owner other than the Declarant, termination of this Condominium shall require an affirmative vote of the Unit Owners of Condominium Units to

which at least four-fifths (4/5ths) of the votes in the Unit Owners Association appertain.

## ARTICLE 6

### OPTION TO EXPAND OR CONTRACT THE CONDOMINIUM

#### Section 6.1. Reservation.

(a) The Declarant hereby reserves unto itself the option and right to create additional Units in the Condominium from time to time by converting all or any portion or portions of the Convertible Land and adding all or any portion or portions of the Expandable Land. The option and right of the Declarant to create additional Units in the Condominium by converting all or any portion or portions of the Convertible Land or adding all or any portion or portions of the Expandable Land may be exercised by the Declarant in its sole discretion, without the consent of any Unit Owners or Mortgagees, on or prior to the fifth anniversary of the date of recordation of this Declaration, by the filing by the Declarant in the Clerk's Office of an amendment or amendments to this Declaration. The Declarant expressly reserves the right to create additional Units in the Condominium by converting one or more portions of the Convertible Land and adding one or more portions of the Expandable Land at different times and in any order that the Declarant in its sole discretion may determine. The portions of the Convertible Land so converted or Expandable Land so added need not be contiguous. Except as expressly provided in this Declaration, there are no other limitations on the Declarant's right to create additional Units in the Condominium by converting all or any portion or portions of the Convertible Land or adding all or any portion or portions of the Expandable Land.

(b) The Declarant hereby reserves unto itself the option and right to contract the Condominium from time to time by withdrawing all or any portion or portions of the Withdrawable Land. The option and right of the Declarant to contract the Condominium by withdrawing all or any portion or portions of the Withdrawable Land may be exercised by the Declarant in its sole discretion, without the consent of any Unit Owners or Mortgagees, on or prior to the seventh anniversary of the date of recordation of this Declaration, by the filing by the Declarant in the Clerk's Office of an amendment to this Declaration. The Declarant expressly reserves the right to contract the Condominium by withdrawing one or more portions of the Withdrawable Land at different times and in any

order that the Declarant in its sole discretion may determine. The portions of the Withdrawable Land that may be withdrawn by the Declarant need not be contiguous. Except as expressly provided in this Declaration, there are no other limitations on the Declarant's right to contract the Condominium by withdrawing all or any portion or portions of the Withdrawable Land.

Section 6.2. Assurances. Except for the Declarant's reserved rights to occupy and use Units in the Condominium for models, management offices, sales offices, or customer service offices, no Units added to the Condominium by the conversion of any portion of the Convertible Land or addition of any portion of the Expandable Land shall be used for other than residential purposes. The Declarant makes no assurances as to the location of future improvements on the Convertible Land and the Expandable Land and the Declarant may locate future improvements on the Convertible Land and the Expandable Land in the Declarant's sole discretion subject only to any applicable laws, ordinances and regulations. At such time as the Convertible Land is fully converted and the Expandable Land fully added, the maximum number of Units on all the Convertible Land and Expandable Land will not exceed 70. The maximum number of Units on the Convertible Land shall be the number of Units listed next to the sections as set forth below:

<u>Convertible Section</u>	<u>Maximum No. of Units</u>
2	4
3	7
4	4
5	4
6	6

The maximum number of Units on the Expandable Land shall be 38 to be added in eight phases as follows:

<u>Expandable Section</u>	<u>Maximum No. of Units</u>
7	4
8	4
9	6
10	6
11	4
12	6
13	4
14	4

The Declarant reserves the right to construct, but shall not be obligated, to construct residential Units on the Convertible

Land or Expandable Land. The Declarant makes no assurances as to what kind of structures or other improvements may be made or erected on the Convertible Land, but all structures and other improvements erected on the Convertible Land and Expandable Land shall be reasonably compatible with the then existing structures and other improvements on the Property in terms of quality of construction, principal materials to be used, and architectural style. Units other than end units may be constructed with garages. The number of Units in each phase and the number of phases may be changed but the maximum number of Units will not increase. The Declarant expressly reserves the right to create Limited Common Elements within the Convertible Land and Expandable Land and expressly reserves the right to designate Common Elements within the Convertible Land which may be subsequently assigned as Limited Common Elements. The Declarant makes no assurances as to type, size, or maximum number of such Common Elements or Limited Common Elements to be created or assigned. If the Declarant does not create additional Units in the Condominium by converting all or any portion of the Convertible Land or adding all or any portion of the Expandable Land and instead elects to contract the Condominium by withdrawing all or any portion of the Withdrawable Land, the Declarant shall also have the right to construct improvements on all or any portion of the Withdrawable Land which is not a part of the Condominium and to own, lease, sell, convey and otherwise use and enjoy such portion of the Withdrawable Land which is not a part of the Condominium without any limitation, restriction or other impairment arising or being inferred from the Condominium Instruments with respect to the Declarant's ownership rights in and to the Withdrawable Land. If the Declarant creates additional Units in the Condominium by converting all or any portion of the Convertible Land or adding all or any portion of the Expandable Land, all improvements to the portion of the Convertible Land so converted or Expandable Land so added shall be substantially completed prior to the recordation of the requisite amendment to the Condominium Instruments or, in the alternative, the Declarant shall have posted the bond required by Section 55-79.58:1 of the Condominium Act.

Section 6.3. Method of Exercise of Option; Effect of Option on Common Element Interest. The Declarant's option to create additional Units on the Convertible Land or the Expandable Land or to contract the Condominium on one or more occasions may be exercised by the recordation of supplements to the Plat and the Plans with an amendment to the Declaration in accordance with the provisions of the Condominium Act. In the case of the creation of additional units on any portion of the Convertible Land or Expandable Land, the amendment to the



Declaration shall reallocate the Common Element Interests of the Units so that each Unit being added to the Condominium shall be allocated an undivided interest in the Common Elements on the basis of the square footage of that Unit as a percentage of the total square footage of all the Units in the Condominium. After each expansion of the Condominium, each Unit shall have an appurtenant Common Element Interest equal to a fraction, the numerator of which shall be the square footage of the Unit and the denominator of which shall be the aggregate square footage of all Units including the Units created by the expansion of the Condominium. Notwithstanding the foregoing, the Declarant shall not amend this Declaration to merge the Condominium with a successor Condominium without obtaining the prior written approval of the Condominium Agencies as required.

#### ARTICLE 7

##### DECLARANT'S RIGHT TO LEASE OR SELL UNITS

The Declarant shall own in fee simple each Condominium Unit which has not been conveyed or otherwise transferred to another Person. The Declarant shall have the right to sell or lease each such Condominium Unit owned by the Declarant in any manner which the Declarant in its sole discretion shall deem appropriate.

#### ARTICLE 8

##### SPECIAL DECLARANT RIGHTS

Section 8.1. Special Declarant Rights. Special Declarant Rights are all powers and rights of the Declarant provided for in the Condominium Act and the Condominium Instruments, and shall include, without limitation, the following rights: (a) the right to construct and complete all of the improvements to the Property indicated on the Plat and the Plans; (b) the right to contract the Condominium by withdrawing all or any portion of the Withdrawable Land; (c) the right to convert all or any portion of the Convertible Land to create additional Units in the Condominium; (d) the right to add all or any portion of the Expandable Land to create additional Units in the Condominium; (e) the right to maintain model Units, sales offices, management offices, and customer service offices in the Condominium and to erect on the Property signs advertising the Condominium; (f) the right to use easements through the Common Elements for the purpose of making improvements within the Condominium or upon the Convertible Land or Expandable Land; (g) the right to

appoint or remove any officer or director of the Unit Owners Association during the Declarant Control Period; and (h) the right to exercise during the Declarant Control Period any power or responsibility otherwise assigned by the Condominium Instruments or by the Condominium Act to the Unit Owners Association or to any of its Officers or to its Board of Directors. The Declarant hereby reserves for itself the right to exercise the Special Declarant Rights and the right to transfer on one or more occasions the Special Declarant Rights to another Person or Persons.

Section 8.2. Transfer of Special Declarant Rights

(a) None of the Special Declarant Rights may be transferred except by a written instrument evidencing the transfer of such Special Declarant Right which is executed by the transferor and transferee and which is recorded in the Clerk's Office.

(b) After the transfer of any Special Declarant Right by the Declarant, the liability of the Declarant will be as follows:

(1) The Declarant will not be relieved of any obligation or liability arising before the transfer and will remain liable for all warranty obligations imposed upon the Declarant by the Condominium Act. Lack of privity will not deprive any Unit Owner of standing to bring an action to enforce any obligation of the Declarant.

(2) If the transferee of any Special Declarant Right is an Affiliate of the Declarant, the Declarant will be jointly and severally liable with the transferee for any obligation or liability of the transferee which relates to the Condominium.

(3) If the Declarant retains any Special Declarant Rights but transfers other Special Declarant Rights to a transferee who is not an Affiliate of the Declarant, the Declarant will be liable for all obligations and liabilities relating to the retained Special Declarant Rights imposed on the Declarant by the Condominium Act or by the Condominium Instruments.

(4) The Declarant shall have no liability for any act or omission, or for any breach of contractual or warranty obligation, arising from the exercise of a Special Declarant Right by a transferee who is not an Affiliate of the Declarant.

(c) Unless otherwise provided in the underlying mortgage or deed of trust, in the event of any Involuntary Sale of any Condominium Unit owned by the Declarant, a Person acquiring title to all the real estate subject to the Involuntary Sale, but only upon his request, shall succeed to all Special Declarant Rights reserved by the Declarant and related to such real estate or shall succeed only to any rights reserved in this Declaration and held by the Declarant to maintain sales offices, management offices, model Units and/or signs. The judgment or instrument conveying title to such real estate to the transferee shall provide for transfer of only the Special Declarant Rights requested by the transferee.

(d) Upon an Involuntary Sale of all Condominium Units and other real estate in the Condominium owned by the Declarant, the Declarant shall cease to have any Special Declarant Rights and the Declarant Control Period shall terminate unless the judgment or instrument conveying title to all such Condominium Units and other real estate to the transferee provides for transfer of all Special Declarant Rights held by the Declarant to the transferee.

(e) The liabilities and obligations of a Person who succeeds to any Special Declarant Rights are as follows:

(1) A transferee of any Special Declarant Right who is an Affiliate of the transferor is subject to all obligations and liabilities imposed on the transferor by the Condominium Act or by the Condominium Instruments.

(2) A transferee of any Special Declarant Right other than a transferee described in subparagraphs (3) or (4) below, who is not an Affiliate of the transferor, is subject to all obligations and liabilities imposed by the Condominium Act or by the Condominium Instruments on the Declarant, which relate to his exercise or non-exercise of such Special Declarant Right, or on his transferor, except for (i) any misrepresentation by any previous transferor; (ii) any warranty obligations, as provided in the Condominium Act, on improvements made by any previous transferor, or made before the Condominium was created; (iii) any breach of any fiduciary obligation by any previous transferor or his appointees to the Board of Directors of the Unit Owners Association or as officers or agents of the Unit Owners Association; or (iv) any liability or obligation imposed on the transferor as a result of the transferor's acts or omissions after the transfer.

(3) Unless the transferee is an Affiliate of the Declarant, a transferee of only a right reserved in the Condominium Instruments to maintain models, sales offices, management offices and/or signs, may not exercise any other Special Declarant Rights and shall not be subject to any liability or obligation of the Declarant, except the obligations and liabilities arising under Article 4 of the Condominium Act as to disposition by that transferee.

(4) A transferee of all Special Declarant Rights held by a transferor who is not an Affiliate of the transferor and who succeeded to those rights in an Involuntary Sale may declare his intention in a written instrument recorded in the Clerk's Office to hold the Special Declarant Rights solely for transfer to another Person. Thereafter, until the transfer of all Special Declarant Rights to any Person acquiring title to any Unit owned by such transferee, or until the recordation in the Clerk's Office of a written instrument permitting exercise of all those rights, such transferee may not exercise any of the Special Declarant Rights other than any right reserved by his transferor to appoint and remove some or all of the Officers and/or Directors of the Unit Owners Association and/or to exercise powers and responsibilities otherwise assigned by the Condominium Instruments and by the Condominium Act to the Unit Owners Association or its Officers or Board of Directors. Any attempted exercise of such Special Declarant Rights by such transferee is void. So long as a transferee may not exercise Special Declarant Rights under this subsection, such transferee is not subject to any liability or obligation of the Declarant or his transferor other than liability to the Unit Owners for such transferee's acts and omissions as provided in the Condominium Act.

(f) Nothing in this Article shall be deemed to subject any transferee of a Special Declarant Right to any claims against the transferor or other obligations of the transferor, other than claims and obligations arising under the Condominium Act or the Condominium Instruments.

#### ARTICLE 9

#### NO OBLIGATIONS

Nothing contained in the Condominium Instruments shall be deemed to impose upon the Declarant or its successors or

assigns any obligation of any nature to build, renovate, provide or complete any improvements to the Property, whether or not such improvements are shown or depicted on the Plat and the Plans, except to the extent provided or required by the Condominium Act.

## ARTICLE 10

### WARRANTY

Section 10.1. Warranty against Structural Defects. The Declarant warrants that each Unit will be free from Structural Defects, as hereinafter defined, for a period of two (2) years from the date on which the Unit is first conveyed by the Declarant to a bona fide purchaser. The Declarant also warrants that as of the date on which a Unit is first conveyed by the Declarant to a bona fide purchaser, the Unit will be fit for habitation and will have been constructed in a workmanlike manner so as to pass without objection in the trade. The Declarant further warrants that each of the Common Elements will be free from Structural Defects for a period of two (2) years from the later of the date of completion of such Common Elements or the date of conveyance of the first Unit; provided, however, that if the Declarant shall create additional Units in the Condominium by converting all or any portion of the Convertible Land or adding all or any portion of the Expandable Land, the Declarant warrants that each of the Common Elements created in the Convertible Land or the Expandable Land will be free from Structural Defects for a period of two (2) years from the later of the date of completion of such Common Element or the date of conveyance of the first Unit in the appropriate section of Convertible Land or Expandable Land. The phrase "Structural Defects" means those defects in components of the Condominium constituting any Unit or Common Element which reduce the stability or safety of the structure below accepted standards or restrict the normal intended use of all or part of the structure and which require repair, renovation, restoration or replacement. The Declarant shall not be responsible for any items of maintenance relating to the Units or the Common Elements. THE DECLARANT MAKES NO OTHER EXPRESS OR IMPLIED WARRANTY OR REPRESENTATION INCLUDING, BUT NOT LIMITED TO, A WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE IN CONNECTION WITH ANY UNIT, THE COMMON ELEMENTS, OR ANY GOODS PROVIDED BY THE DECLARANT AND CONTAINED WITHIN ANY UNIT OR THE COMMON ELEMENTS, INCLUDING, BUT NOT LIMITED TO, STOVES, RANGES, REFRIGERATORS AND DISHWASHERS, EXCEPT AS EXPRESSLY SET FORTH IN THIS DECLARATION. Each Unit Owner and the Unit Owners Association shall be bound by the warranty certificate, executed by



him at the time of conveyance of his Condominium Unit, which limits the statute of limitations for commencing a judicial proceeding for breach of any of the warranties set forth in this Declaration to five (5) years from the date the applicable warranty period began.

Section 10.2. Limitation of Liability. Notwithstanding anything in this section or in the Condominium Instruments to the contrary, the Declarant's sole liability for any Structural Defects in any Unit or the Common Elements shall be to repair promptly any such Structural Defects of which the Declarant has received written notice from the Unit Owner with respect to any such Structural Defects in a Unit covered by such warranty, or from the Unit Owners Association with respect to any portion of the Common Elements covered by such warranty, as the case may be, within the respective time periods set forth above.

## ARTICLE 11

### INDEMNITY

(a) The Unit Owners Association shall indemnify and hold the Declarant harmless against all claims, actions, suits, judgments, losses, costs and expenses of every kind or nature, including, but not limited to, attorney's fees and court costs, suffered or incurred by the Declarant by reason of the actual or alleged non-observance or non-performance by the Unit Owners Association or its Board of Directors or any of its Directors, Officers or agents after the Declarant Control Period of any provision of the Condominium Instruments or of any law, ordinance, rule or regulation now or hereafter promulgated by any governmental agency or authority and applicable to all or any part of the Property, the Condominium, or the use thereof.

(b) The Unit Owners Association shall indemnify and hold the Declarant harmless against all claims, actions, suits, judgments, losses, costs and expenses of every kind or nature, including, but not limited to, attorney's fees and court costs, (except for claims, actions, suits, judgments, losses, costs and expenses resulting solely from a breach of a legal duty of the Declarant, including, but not limited to, any breach by the Declarant of the warranty contained in Article 10 hereof) suffered or incurred by the Declarant and arising out of any actual or alleged transaction, event or occurrence involving the use or occupancy of any Unit or the Common Elements by the Unit Owners Association, by any Unit Owner, by any Person claiming by, through or under any Unit Owner or the Unit Owners Association, by any agent, employee, lessee, licensee, invitee, or

family member of any Unit Owner, or by any agent, employee, lessee, licensee, or invitee of the Unit Owners Association.

## ARTICLE 12

### COMPLIANCE

(a) The Unit Owners Association and all Unit Owners, their present and future agents, employees, lessees, licensees, invitees, and family members, and all other Persons who may in any manner use or occupy the Property or any part thereof, shall be bound by, and must comply strictly with, all applicable laws and regulations, all provisions of the Condominium Instruments and all Condominium Rules and Determinations.

(b) If the Unit Owners Association or any Unit Owner or other Person shall fail or refuse to comply with any applicable law or regulation relating to the Condominium, any provision of the Condominium Instruments, or any of the Condominium Rules and Determinations, then the Declarant, the Unit Owners Association, and each of the Unit Owners shall have standing to bring a suit or action in any court of competent jurisdiction (i) to obtain injunctive relief to enforce compliance with the Condominium Instruments, the Condominium Rules and Regulations, and/or any such applicable laws or regulations and/or (ii) to recover damages arising out of any such failure or refusal to comply with the Condominium Instruments, the Condominium Rules and Regulations and/or any such applicable laws or regulations. If any such suit or action is brought, each party who substantially prevails in any such suit or action shall be entitled to payment on demand from any party to such suit or action who shall not substantially prevail in such suit or action all costs and expenses, including, but not limited to, attorney's fees and court costs, suffered or incurred in such suit or action by such prevailing party and shall be entitled to seek and receive in any such suit or action a joint and several judgment against each such non-prevailing party for all such costs and expenses suffered or incurred in such suit or action by the prevailing party.

## ARTICLE 13

### MISCELLANEOUS PROVISIONS

Section 13.1. Conflicts. The Condominium Instruments are intended to comply with the requirements of the Condominium Act. In the case of any conflict between the Condominium

Instruments and the provisions of the Condominium Act, the provisions of the Condominium Act shall control. The Condominium Instruments shall be construed together and shall be deemed to incorporate one another so that any requirement of the Condominium Act as to the content of any one of the Condominium Instruments shall be deemed satisfied if the deficiency can be cured by reference to any of the other Condominium Instruments.

Section 13.2. Number and Gender. Unless the contrary appears to have been intended, words in the plural number shall include the singular, words in the singular shall include the plural, and words of the male gender shall include the female gender and the neuter gender.

Section 13.3. Captions. The captions to the articles and sections of this Declaration are intended for convenience only and are not deemed to be all inclusive as to the matters contained in such paragraphs or considered in connection with the interpretation or construction of any of the provisions of this Declaration.

Section 13.4. Severability. If any provision of this Declaration shall, to any extent, be invalid or unenforceable, the remainder of this Declaration shall not be affected thereby and shall be valid and enforceable. If the application of any provision of this Declaration to any particular Person or circumstance shall, to any extent be, invalid or unenforceable, the application of such provision of this Declaration to any other Person or circumstance shall not be affected thereby and shall be valid and enforceable. Each term and provision of this Declaration shall be valid and enforceable to the fullest extent permitted by law.

Section 13.5. Assignment. The Declarant may assign any or all of its rights, duties, powers and obligations under the Condominium Instruments to any Person to whom the Declarant shall convey the Property or any or all of the Condominium Units then owned by the Declarant, and such Person shall be a successor declarant for the Condominium with respect to all such rights, duties, powers and obligations so assigned. This Declaration shall inure to the benefit of and be binding upon the Declarant and its successors and assigns. Each reference to the Declarant in the Condominium Instruments shall include the Declarant's successors and assigns.



BOOK 946 PAGE 302

IN WITNESS WHEREOF, the Declarant has executed this Declaration on this 17<sup>m</sup> day of February, 1989.

HAMPTON ROADS HOMES, INC.,  
a Virginia corporation

By [Signature]  
Title: President

STATE OF Virginia  
CITY/COUNTY OF Norfolk, to-wit:

17<sup>m</sup> The foregoing instrument was acknowledged before me this day of February, 1989, by G. Wayne Brown, President of Hampton Roads Homes, Inc., a Virginia corporation.

[Signature]  
Notary Public

My Commission Expires: March 13, 1992

EXHIBIT ASUBMITTED LAND

## Parcel 1 Submitted Land

All that certain lot, piece or parcel of land with the buildings and improvements thereon and the appurtenances thereunto belonging lying, being and situate in the City of Hampton, Virginia, being Parcel No. 1 as shown on the plat of Madison Chase Condominiums Phase One, recorded in the Clerk's Office of the Circuit Court of the City of Hampton, Virginia, in Map Book , Page and being more particularly bounded and described as follows:

Beginning at a point in the northeast corner of Lot-5 as shown on that certain plat entitled "MAGRUDER ESTATES, SECTION TWO, HAMPTON, VIRGINIA", dated May 6, 1988, made by William M. Sours, Surveyor, recorded in the Clerk's Office aforesaid, in Plat Book 9, at Page 96 and from said point of beginning running along the westerly side of Floyd Thompson Boulevard along an arc curve to the left having a radius of 715' an arc distance of 311.45' to a point; thence turning and running N. 63°38'18" W. 67.83' to a point; thence turning and running N. 47°45' W. 65' to a point; thence turning and running N. 32°29'25" E. 170' to a point; thence running N. 39°34'46" E. 110' to a point; thence turning and running S. 66°31'45" E. 154' to the point of beginning.

Subject to an access easement over the southeast corner of Parcel 1, said easement fronting 60' along the westerly line of Floyd Thompson Boulevard and extending in a westerly direction between parallel lines a distance of 63.38'. This easement is for the benefit of those portions of Lot-5 and Lot-6 which have not been added to Madison Chase Condominium or have been withdrawn from Madison Chase Condominium and such easement shall terminate upon the final addition to Madison Chase Condominium of all portions of Lot-5 and Lot-6.

EXHIBIT B

CONVERTIBLE LAND AND WITHDRAWABLE LAND

Parcel 2 Convertible Land and Withdrawable Land

That certain piece or parcel of land designated as No. 2 on the plat of Madison Chase Condominium Phase One, recorded in Plat Book , Page and more particularly described as follows:

Beginning at a point in the southern end of the dividing line between Parcel No. 2 and Parcel No. 1 and from said point of beginning running along the boundary between Parcel No. 1 and Parcel No. 2 N. 32°29'25" E. 170' to a point; thence running N. 39°34'46" E. 35' to a point; thence turning and running N. 83° W. 130' to a point; thence running S. 83°42'17" W. 35.58' to a point; thence turning and running S. 7°30' E. 77' to a point; thence turning and running S. 43°22'37" E. 28.61' to a point; thence turning and running S. 5° E. 72' to a point; thence S. 47°45' E. 20' to the point of beginning aforesaid.

Parcel 3 Convertible and Withdrawable Land

That certain piece or parcel of land designated as No. 3 on the plat of Madison Chase Condominium Phase One, recorded in Plat Book , Page and more particularly described as follows:

Beginning at the easterly end of the dividing line between Parcel No. 3 and Parcel No. 2 as shown on said plat and from said point of beginning running along the dividing line between said parcels N. 83° W. 130' to a point; thence S. 83°42'17" W. 35.58' to a point; thence turning and running N. 7°30' W. 26' to a point; thence N. 65°31'45" W. 65' to a point; thence turning and running N. 23°28'15" E. 103.15' to a point; thence turning and running S. 66°31'45" E. 254.73' to a point; thence turning and running S. 39°34'46" W. 75' to the point of beginning.

EXHIBIT B (cont.)

## Parcel 4 Convertible Land and Withdrawable Land

That certain piece or parcel of land designated as No. 4 on the plat of Madison Chase Condominium Phase One, recorded in Plat Book , Page and more particularly described as follows:

Beginning at a point in the dividing line between Parcel No. 4 and Parcel No. 3 in the southwest corner of Parcel No. 3 and from said point of beginning running S. 65°31'45" E. 105' to a point; thence S. 7°30' E. 61' to a point; thence S. 30°51'35" W. 64.63' to a point; thence N. 85° W. 138' to a point; thence N. 24°28'15" E. 162' to a point; thence S. 65°31'45" E. 40' to the point of beginning.

## Parcel 5 Convertible Land and Withdrawable Land

That certain piece or parcel of land designated as No. 5 on the plat of Madison Chase Condominium Phase One, recorded in Plat Book , Page and more particularly described as follows:

Beginning at a point in the northernmost point of Parcel No. 5 where it adjoins Parcel No. 2 and Parcel No. 4 and from said point of beginning running S. 7°30' E. 42' to a point; thence S. 43°22'37" E. 28.61' to a point; thence S. 5° E. 72' to a point; thence S. 64° W. 103' to a point; thence S. 7° W. 34' to a point; thence turning and running N. 83° W. 60' to a point; thence turning and running N. 16° E. 113' to a point; thence N. 31°52'55" E. 52.43' to a point; thence turning and running S. 85° E. 33' to a point; thence turning and running N 30°51'35" E. 64.63' to the point of beginning.

EXHIBIT B (cont.)

Parcel 6 Convertible Land and Withdrawable Land

That certain piece or parcel of land designated as No. 6 on the plat of Madison Chase Condominium Phase One, recorded in Plat Book , Page and more particularly described as follows:

Beginning at a point in the southern end of the dividing line between Parcel 6 and Parcel 5 as shown on the aforesaid plat and from said point of beginning running along the dividing line N. 16° E. 113' to a point; thence N. 31°52'55" E. 52.43' to a point; thence turning and running N. 85° W. 105 ' to a point; thence turning and running S. 24°28'15" W. 142.57' to a point; thence turning and running S. 65°31'45" E. 65' to a point; thence S. 83° E. 46' to the point of beginning.



EXHIBIT CEXPANDABLE LAND

## Parcel 7 Expandable and Withdrawable Land

That certain piece or parcel of land designated as No. 7 on the plat of Madison Chase Condominium Phase Two, recorded in Plat Book , Page and more particularly described as follows:

Beginning at a point in the northwest corner of Lot 6 as shown on that plat entitled "MAGRUDER ESTATES, SECTION 2, HAMPTON, VIRGINIA," recorded in Plat Book 9, at Page 96 which is also the northeast corner of Parcel No. 7 and from said point of beginning running S. 65°31'45" E. 65' to a point; thence S. 83° E. 74' to a point; thence turning and running S. 28°30' W. 80' to a point; thence S. 13°37'49" W. 66.50' to a point; thence turning and running N. 89° W. 30' to a point; thence turning and running N. 11°55'15" E. 30' to a point; thence turning and running N. 84°30' W. 90' to a point; thence turning and running N. 11°55'15" E. 107.37' to a point; thence N. 24°28'15" E. 30' to the point of beginning.

## Parcel 8 Expandable Land and Withdrawable Land

That certain piece or parcel of land designated as No. 8 on the plat of Madison Chase Condominium Phase Two, recorded in Plat Book , Page and more particularly described as follows:

Beginning at a point in the northern end of the dividing line between Parcel No. 8 and Parcel No. 7 and from said point of beginning running S. 83° E. 32' to a point; thence turning and running S. 7° W. 5' to a point; thence S. 15°1'27" E. 44.26' to a point; thence S. 1° W. 85' to a point; thence turning and running N. 89° W. 95' to a point; thence turning and running N. 13°37'49" E. 66.50' to a point; thence turning and running N. 28°30' E. 80' to the point of beginning.

EXHIBIT C (cont.)

## Parcel 9 Expandable and Withdrawable Land

That certain piece or parcel of land designated as No. 9 on the plat of Madison Chase Condominium Phase Two, recorded in Plat Book , Page and more particularly described as follows:

Beginning at a point in the western end of the dividing line between Parcel 9 and Parcel 7 in the westerly line of Lot-6 and from said point of beginning running S. 84°30' E. 90' to a point; thence turning and running S. 11°55'15" W. 30' to a point; thence turning and running S. 89° E. 30' to a point; thence turning and running S. 1°2'12" E. 56.09' to a point; thence S. 18° W. 102' to a point; thence turning and running N. 74°33' W. 100' to a point; thence turning and running S. 15°27' W. 40' to a point; thence N. 74°33' W. 147.84' to a point; thence turning and running N. 15°27' E. 5.30' to a point; thence turning and running S. 89°47'38" E. 131.58' to a point; thence turning and running N. 11°55'15" E. 163' to the point of beginning.

## Parcel 10 Expandable and Withdrawable Land

That certain piece or parcel of land designated as No. 10 on the plat of Madison Chase Condominium Phase Two, recorded in Plat Book , Page and more particularly described as follows:

Beginning at a point in the southern end of the boundary line between Parcel 10 and Parcel 9 in the southern boundary line of Lot-6 and from said point of beginning running N. 18° E. 68' to a point; thence turning and running S. 61°51'43" E. 26.70' to a point; thence N. 80° E. 130' to a point; thence turning and running S. 11°24'47" E. 7' to a point; thence S. 30° E. 110' to a point; thence turning and running N. 74°33' W. 238.86' to the point of beginning.

EXHIBIT C (cont.)

## Parcel 11 Expandable and Withdrawable Land

That certain piece or parcel of land designated as No. 11 on the plat of Madison Chase Condominium Phase Two, recorded in Plat Book , Page and more particularly described as follows:

Beginning at a point in the westerly end of the dividing line between Parcel 11 and Parcel 10 which is also the easterly line of Parcel 9 and from said point of beginning running N. 18° E. 34' to a point; thence N. 1°02'12" W. 56.09' to a point; thence turning and running S. 89° E. 95' to a point; thence turning and running S. 37° E. 58' to a point; thence S. 11°24'47" E. 74.96' to a point; thence turning and running S. 80° W. 130' to a point; thence N. 61°51'43" W. 26.70' to the point of beginning.

## Parcel 12 Expandable and Withdrawable Land

That certain piece or parcel of land designated as No. 12 on the plat of Madison Chase Condominium Phase Two, recorded in Plat Book , Page and more particularly described as follows:

Beginning at a point in the southeast corner of Parcel 12 which is also the southeast corner of Lot-6 and from said point of beginning running N. 74°33' W. 20' to a point; thence turning and running N. 30° W. 110' to a point; thence N. 11°24'47" W. 74.96' to a point; thence N. 37° W. 58' to a point; thence N. 1° E. 70' to a point; thence turning and running S. 86° E. 48' to a point; thence S. 72°03'45" E. 128.58' to a point in the westerly right of way line of Floyd Thompson Boulevard; thence turning and running in a southerly direction along an arc curve to the left having a radius of 715' a distance of 114.36' to a point; thence S. 8°46'23" W. 137.89' to the point of beginning.

EXHIBIT C (cont.)

Parcel 13 Expandable and Withdrawable Land

That certain piece or parcel of land designated as No. 13 on the plat of Madison Chase Condominium Phase Two, recorded in Plat Book , Page and more particularly described as follows:

Beginning at the westerly end of the dividing line between Parcel 13 and Parcel 12 and from said point of beginning running N. 1° E. 15' to a point; thence N. 15°01'27" W. 44.26' to a point; thence N. 7° E. 39' to a point; thence N. 64° W. 103' to a point; thence S. 47°45" E. 75' to a point; thence turning and running S. 61°15' W. 35' to a point; thence S. 23°29'25" W. 93.78' to a point; thence turning and running N. 72°03'45" W. 27' to a point; thence N. 86° W. 48' to the point of beginning.

Parcel 14 Expandable and Withdrawable Land

That certain piece or parcel of land designated as No. 14 on the plat of Madison Chase Condominium Phase Two, recorded in Plat Book , Page and more particularly described as follows:

Beginning at a point in the northeast corner of Parcel 14 which is also the northeast corner of Lot-6 adjacent to Floyd Thompson Boulevard and from said point of beginning running in a southerly direction along a arc curve to the left having a radius of 715' a distance of 105.13' to a point thence turning and running N. 72°03'45" W. 101.58' to a point; thence turning and running N. 23°29'25" W. 93.78' to a point; thence N. 61°15' E. 3' to a point; thence S. 47°45' E. 10' to a point; thence S. 63°38'18" E. 63.38' to the point of beginning.

Together with an access easement adjacent to the northern line of Parcel 14 which easement is over the southeast corner of Madison Chase Condominiums Phase One, fronting 60' along the westerly side of Floyd Thompson Boulevard and extending back between parallel lines a distance of 63.38'. This easement is to terminate at such time as Parcel 14 is added as additional property to Madison Chase Condominium.

EXHIBIT D

BOOK 946 PAGE 371

Table of Common Element Interests

<u>Initial Quantity</u>	<u>Type</u>	<u>Area (Sq. Ft.)</u>	<u>Initial Percentage of Common Element of Interest</u>	<u>Minimum Percentage of Common Element of Interest (70 Units)</u>
3	A	1183 sq.ft.	13.09%	1.27%
2	B	1223 sq.ft.	13.53%	1.31%
2	C	1521 sq.ft.	16.83%	1.63%*

\*First 2 C units at 1.63%, last 26 C units rounded up .01 percent to 1.64%.

Each unit will have an equal number of votes in the Unit Owners' Association.



DEED 5290 X TAX — 8 TAX —

## MADISON CHASE CONDOMINIUM

AMENDMENT NUMBER ONE TO DECLARATION OF CONDOMINIUM

This Amendment to the Condominium Declaration, dated this 26th day of April, 1989, made by Hampton Roads Homes, Inc., hereinafter called the "Declarant", provides:

WHEREAS, Hampton Roads Homes, Inc. is the Declarant of that certain condominium situated in the City of Hampton, Virginia, known as Madison Chase Condominium, which condominium was created by the recordation in the Clerk's Office of the Circuit Court of the City of Hampton, Virginia, in Deed Book 946, at Page 326, et seq., of a condominium Declaration and exhibits thereto; and

WHEREAS, in said Declaration, the Declarant reserved the right to expand the condominium to include additional real property as described in the Declaration and convert the convertible land to submitted land; and

WHEREAS, Hampton Roads Homes, Inc. remains the Declarant under the said Declaration of Condominium;

NOW, THEREFORE, the undersigned, pursuant to Section 55.79.61 of the Code of Virginia of 1950, as amended, does hereby submit to the condominium regime that certain real property situate in the City of Hampton, Virginia, and more particularly described as follows:

That certain piece or parcel of land designated as No. 2 on the plat of Madison Chase Condominium Phase One, recorded in Plat Book 9, Page 132 and more particularly described as follows:

Beginning at a point in the southern end of the dividing line between Parcel No. 2 and Parcel No. 1 and from said point of beginning running along the boundary between Parcel No. 1 and Parcel No. 2 N. 32°29'25" E. 170' to a point; thence running N. 39°34'46" E. 35' to a point; thence turning and running N. 83° W. 130' to a point; thence

running S. 83°42'17" W. 35.58' to a point; thence turning and running S. 77°30' E. 77' to a point; thence turning and running S. 43°22'37" E. 28.61' to a point; thence turning and running S. 5° E. 72' to a point; thence S. 47°45' E. 20' to a point of beginning aforesaid.

And further, the Declarant does submit herewith for recordation certain condominium plats and plans as provided by law and identified as Exhibit One hereto. The floor plans of unit types A, B, C and CR are the same as shown in the Declaration recorded in Deed Book 946, Pages 372 through 381, both inclusive and pages 386 through 388, both inclusive.

The number of additional units created on the said convertible land is four, with said four units being located in one structure. Each unit consists of such rooms and amenities as are shown and described on the said plats and plans, which plats and plans shall also designate the limited common elements created hereby. Each of the additional four units is intended 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 located on the convertible land described above shall be defined in the same fashion, and consist of the same structural components, as units located on the land originally submitted to the condominium regime. Similarly, the general and limited common elements and areas on the said convertible land shall be defined in a manner identical to that of general and limited common elements and areas existing on the land originally submitted to the condominium regime.

Henceforth, each of the eleven units within the regime shall have as an appurtenance thereto an undivided interest in the common elements as set forth on Exhibit 2 attached

hereto and each unit shall bear an equal portion of all lawful assessments and expenses. Each unit shall be entitled to an equal vote in the Unit Owner's Association.

All units located on the convertible land shall be subject in all respect to the provisions of the condominium Declaration, By-Laws and Rules and Regulations as amended from time to time.

The additional four units shall be identified by the numbers 90, 92, 94, and 96, respectively. Except to the extent amended or modified herein, the provisions of the original Declaration and By-Laws and Amendments thereto are confirmed and shall remain in effect and are hereby incorporated by reference and shall apply to and bind the additional units created by this instrument which units shall be entitled to all rights and privileges granted by the Declaration and By-Laws and be subject to the same due dates and obligations as units created by the original Declaration and amendments thereto prior to this Amendment.

Nothing herein shall be construed as limiting the right of the Declarant to create additional units on other convertible lands or additional lands as provided in the Declaration.

IN WITNESS WHEREOF, Hampton Roads Homes, Inc. has caused this instrument to be executed in its name pursuant to due authority.

HAMPTON ROADS HOMES, INC.

By G. Wayne Brown  
President

STATE OF VIRGINIA

CITY OF NORFOLK, to-wit:

The foregoing instrument was acknowledged before me this  
27<sup>th</sup> day of April, 1989, by G. Wayne Brown, President of  
Hampton Roads Homes, Inc.

Jeanette L. Abenathy  
Notary Public

My Commission Expires: 8/5/90

## Exhibit 2

TABLE OF COMMON ELEMENT INTERESTS

<u>Phase I &amp; II Quantity</u>	<u>Type</u>	<u>Area (Sq. Ft.)</u>	<u>Percentage of Common Common Elements Interest with Eleven Units</u>	<u>Minimum Percentage of Common Element Interest</u>  (70 Units)
4	A	1183 sq.ft.	8.17%	1.27%
3	B	1223 sq.ft.	8.44%	1.31%
4	C	1521 sq.ft.	10.50%	1.63%*

\*First 2 C units at 1.63%, last 26 C units rounded up .01 percent to 1.64%.

Each unit will have an equal number of votes in the Unit Owners' Association.



~~11051~~ - TAX -

## MADISON CHASE CONDOMINIUM

AMENDMENT NUMBER TWO TO DECLARATION OF CONDOMINIUM

This Amendment to the Condominium Declaration, dated this 30th day of August, 1989, made by Hampton Roads Homes, Inc., hereinafter called the "Declarant", provides:

WHEREAS, Hampton Roads Homes, Inc., is the Declarant of that certain condominium situated in the City of HAMPTON, Virginia, known as Madison Chase Condominium, which condominium was created by the recordation in the Clerk's Office of the Circuit Court of the City of Hampton, Virginia, in Deed Book 946, at Page 326, et seq., of a condominium Declaration and exhibits thereto and amended by Amendment Number One dated April 26, 1988 and recorded in the Clerk's Office aforesaid in Deed Book 954, page 100; and

WHEREAS, in said Declaration, the Declarant reserved the right to expand the condominium to include additional real property as described in the Declaration and convert the convertible land to submitted land; and

WHEREAS, Hampton Roads Homes, Inc. remains the Declarant under the said Declaration of Condominium;

NOW, THEREFORE, the undersigned, pursuant to Section 55.79.61 of the Code of Virginia of 1950, as amended, does hereby submit to the condominium regime that certain real property situate in the City of Hampton, Virginia, and more particularly described as follows:

That certain piece or parcel of land designated as No. 3 on the plat of Madison Chase Condominium Phase One, recorded in Plat Book 9, Page 132 and more particularly described as follows:

Beginning at the easterly end of the dividing line between Parcel No. 3 and Parcel No. 2 as shown on said plat and from said point of beginning running along the dividing line between said parcel N. 83° W. 130' to a point; thence S. 83°42'17" W. 35.58' to a point; thence turning and running N. 7°30' W. 26' to a point; thence N. 65°31'45" W. 65' to

a point; thence turning and running N. 23°28'15" E. 103.15' to a point; thence turning and running S. 66°31'45" E. 254.73' to a point; thence turning and running S. 39°34'46" W. 75' to the point of beginning.

And further, the Declarant does submit herewith for recordation certain condominium plats and plans as provided by law and identified as Exhibit One hereto. The floor plans of unit types A, B, C and CR are the same as shown in the Declaration recorded in Deed Book 946, Pages 372 through 381, both inclusive and pages 386 through 388, both inclusive and the floor plans for B type units with garages, known as BG and BGR units are attached hereto. Plat recorded in Map Book 9, page 162.

The number of additional units created on the said convertible land is seven, with said seven units being located in one structure. Each unit consists of such rooms and amenities as are shown and described on the said plats and plans, which plats and plans shall also designate the limited common elements created hereby. Each of the additional seven units is intended 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 located on the convertible land described above shall be defined in the same fashion, and consist of the same structural components, as units located on the land originally submitted to the condominium regime as expanded. Similarly, the general and limited common elements and areas on the said convertible land shall be defined in a manner identical to that of general and limited common elements and areas existing on the land originally submitted to the condominium regime as expanded.

Henceforth, each of the eighteen units within the regime shall have as an appurtenance thereto an undivided interest

in the common elements as set forth on Exhibit 2 attached hereto and each unit shall bear an equal portion of all lawful assessments and expenses. Each unit shall be entitled to an equal vote in the Unit Owner's Association.


All units located on the convertible land shall be subject in all respect to the provisions of the condominium Declaration, By-Laws and Rules and Regulations as amended from time to time.

The additional seven units shall be identified by the numbers 91, 93, 95, 97, 99, 101 and 103, respectively. Except to the extent amended or modified herein, the provisions of the original Declaration and By-Laws and Amendments thereto are confirmed and shall remain in effect and are hereby incorporated by reference and shall apply to and bind the additional units created by this instrument, which units shall be entitled to all rights and privileges granted by the Declaration and By-Laws and be subject to the same due dates and obligations as units created by the original Declaration and amendments thereto prior to this Amendment.

Nothing herein shall be construed as limiting the right of the Declarant to create additional units on other convertible lands or additional lands as provided in the Declaration.

IN WITNESS WHEREOF, Hampton Roads Homes, Inc. has caused this instrument to be executed in its name pursuant to due authority.

HAMPTON ROADS HOMES, INC.

By   
G. Wayne Brown  
President

STATE OF VIRGINIA

CITY OF NORFOLK, to-wit:

The foregoing instrument was acknowledged before me this

31<sup>st</sup> day of August, 1989, by G. Wayne Brown, President of  
Hampton Roads Homes, Inc.

Ronald P. Brown  
Notary Public

My commission expires: March 13, 1992

## MADISON CHASE CONDOMINIUM

AMENDMENT NUMBER THREE TO DECLARATION OF CONDOMINIUM

This Amendment to the Condominium Declaration, dated this 26th day of September, 1989, made by Hampton Roads Homes, Inc., hereinafter called the "Declarant", provides:

WHEREAS, Hampton Roads Homes, Inc., is the Declarant of that certain condominium situated in the City of HAMPTON, Virginia, known as Madison Chase Condominium, which condominium was created by the recordation in the Clerk's Office of the Circuit Court of the City of Hampton, Virginia, in Deed Book 946, at Page 326, et seq., of a condominium Declaration and exhibits thereto and amended by Amendment Number One dated April 26, 1988 recorded in the Clerk's Office aforesaid in Deed Book 954, page 100 and Amendment Number Two dated August 30, 1989, and recorded in Deed Book 964, page 1024; and

WHEREAS, in said Declaration, the Declarant reserved the right to expand the condominium to include additional real property as described in the Declaration and convert the convertible land to submitted land; and

WHEREAS, Hampton Roads Homes, Inc. remains the Declarant under the said Declaration of Condominium;

NOW, THEREFORE, the undersigned, pursuant to Section 55.79.61 of the Code of Virginia of 1950, as amended, does hereby submit to the condominium regime that certain real property situate in the City of Hampton, Virginia, and more particularly described as follows:

That certain piece or parcel of land designated as No. 4 on the plat of Madison Chase Condominium Phase One, recorded in Plat Book 9, Page 132 and more particularly described as follows:

Beginning at a point in the dividing line between Parcel No. 4 and Parcel No. 3 in the southwest corner of Parcel No. 3 and from said point of beginning running S. 65°31'45" E. 105' to a point; thence S. 7°30' E. 61' to a point; thence S. 30°51'35" W. 64.63' to a point; thence N. 85° W. 138' to a point; thence N. 24°28'15" E. 162' to a point;



thence S. 65°31'45" E. 40' to the point of beginning.

And further, the Declarant does submit herewith for recordation certain condominium plats and plans as provided by law and identified as Exhibit One hereto. The floor plans of unit types C and CR are the same as shown in the Declaration recorded in Deed Book 946, Pages 372 through 381, both inclusive and pages 386 through 388, both inclusive and the floor plans for B type units with garages, known as BG and BGR units are recorded with Amendment Number Two in Deed Book 964, page 1025.

The number of additional units created on the said convertible land is four, with said four units being located in one structure. Each unit consists of such rooms and amenities as are shown and described on the said plats and plans, which plats and plans shall also designate the limited common elements created hereby. Each of the additional four units is intended 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 located on the convertible land described above shall be defined in the same fashion, and consist of the same structural components, as units located on the land originally submitted to the condominium regime as expanded. Similarly, the general and limited common elements and areas on the said convertible land shall be defined in a manner identical to that of general and limited common elements and areas existing on the land originally submitted to the condominium regime as expanded.

Henceforth, each of the twenty-two units within the regime shall have as an appurtenance thereto an undivided

interest in the common elements as set forth on Exhibit 2 attached hereto and each unit shall bear an equal portion of all lawful assessments and expenses. Each unit shall be entitled to an equal vote in the Unit Owners' Association.

All units located on the convertible land shall be subject in all respect to the provisions of the condominium Declaration, By-Laws and Rules and Regulations as amended from time to time.

The additional four units shall be identified by the numbers 81, 83, 85 and 87, respectively. Except to the extent amended or modified herein, the provisions of the original Declaration and By-Laws and Amendments thereto are confirmed and shall remain in effect and are hereby incorporated by reference and shall apply to and bind the additional units created by this instrument, which units shall be entitled to all rights and privileges granted by the Declaration and By-Laws and be subject to the same duties and obligations as units created by the original Declaration and amendments thereto prior to this Amendment.

Nothing herein shall be construed as limiting the right of the Declarant to create additional units on other convertible lands or additional lands as provided in the Declaration.


IN WITNESS WHEREOF, Hampton Roads Homes, Inc. has caused this instrument to be executed in its name pursuant to due authority.

HAMPTON ROADS HOMES, INC.

By   
G. Wayne Brown  
President

STATE OF VIRGINIA  
CITY OF NORFOLK, to-wit:

The foregoing instrument was acknowledged before me this 30th day of September, 1989 by G. Wayne Brown, President of Hampton Roads, Inc.

  
Notary Public

My commission expires: March 13, 1992

DEED 14336 S TAX — C TAX —

## MADISON CHASE CONDOMINIUM

AMENDMENT NUMBER FOUR TO DECLARATION OF CONDOMINIUM

This Amendment to the Condominium Declaration, dated this 1st day of November, 1989, made by Hampton Roads Homes, Inc., hereinafter called the "Declarant", provides:

WHEREAS, Hampton Roads Homes, Inc., is the Declarant of that certain condominium situated in the City of HAMPTON, Virginia, known as Madison Chase Condominium, which condominium was created by the recordation in the Clerk's Office of the Circuit Court of the City of Hampton, Virginia, in Deed Book 946, at Page 326, et seq., of a condominium Declaration and exhibits thereto and amended by Amendment Number One dated April 26, 1988 recorded in the Clerk's Office aforesaid in Deed Book 954, page 100; Amendment Number Two dated August 30, 1989, and recorded in Deed Book 964, page 1024; and Amendment Number three dated September 26, 1989 and recorded in Deed Book 967, page 771; and

WHEREAS, in said Declaration, the Declarant reserved the right to expand the condominium to include additional real property as described in the Declaration and convert the convertible land to submitted land; and

WHEREAS, Hampton Roads Homes, Inc. remains the Declarant under the said Declaration of Condominium;

NOW, THEREFORE, the undersigned, pursuant to Section 55.79.61 of the Code of Virginia of 1950, as amended, does

hereby submit to the condominium regime that certain real property situate in the City of Hampton, Virginia, and more particularly described as follows:

That certain piece or parcel of land designated as No. 5 on the plat of Madison Chase Condominium Phase One, recorded in Plat Book 9, Page 132 and more particularly described as follows:

Beginning at a point in the northernmost point of Parcel No. 5 where it adjoins Parcel No. 2 and Parcel No. 4 and from said point of beginning running S. 7° 30' E. 42' to a point; thence S. 43° 22' 37" E. 28.61' to a point; thence S. 5° E. 72' to a point; thence S. 64° W. 103' to a point; thence S. 7° W. 34' to a point; thence turning and running N. 83° W. 60' to a point; thence turning and running N. 16° E. 113' to a point; thence N. 31° 52' 55" E. 52.43' to a point; thence turning and running S. 85° E. 33' to a point; thence turning and running N. 30° 51' 35" E. 64.63' to the point of beginning.

And further, the Declarant does submit herewith for recordation certain condominium plats and plans as provided by law and identified as Exhibit 1 hereto. The floor plans of unit types A, B and C are the same as shown in the Declaration recorded in Deed Book 946, Pages 372 through 381, both inclusive and pages 386 through 388, both inclusive, except that the C unit and CR unit have been modified as shown on the plans attached hereto as a part of Exhibit 1.

The number of additional units created on the said convertible land is four, with said four units being located in one structure. Each unit consists of such rooms and amenities as are shown and described on the said plats and plans, which plats and plans shall also designate the limited common elements

created hereby. Each of the additional four units is intended 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 located on the convertible land described above shall be defined in the same fashion, and consist of the same structural components, as units located on the land originally submitted to the condominium regime as expanded. Similarly, the general and limited common elements and areas on the said convertible land shall be defined in a manner identical to that of general and limited common elements and areas existing on the land originally submitted to the condominium regime as expanded.

Henceforth, each of the four units within the regime shall have as an appurtenance thereto an undivided interest in the common elements as set forth on Exhibit 2 attached hereto and each unit shall bear an equal portion of all lawful assessments and expenses. Each unit shall be entitled to an equal vote in the Unit Owners' Association.

All units located on the convertible land shall be subject in all respect to the provisions of the condominium Declaration, By-Laws and Rules and Regulations as amended from time to time.

The additional four units shall be identified by the numbers 72, 74, 76, and 78, respectively. Except to the extent amended or modified herein, the provisions of the original Declaration and By-Laws and Amendments thereto are confirmed and shall remain in effect and are hereby incorporated by reference and shall apply to and bind the additional units created by this instrument, which units shall be entitled to all rights and privileges granted by the Declaration and By-Laws and be subject to the same duties and obligations as units created by the original Declaration and amendments thereto prior to this Amendment.

Nothing herein shall be construed as limiting the right of the Declarant to create additional units on other convertible lands or additional lands as provided in the Declaration.

IN WITNESS WHEREOF, Hampton Roads Homes, Inc. has caused this instrument to be executed in its name pursuant to due authority.

HAMPTON ROADS HOMES, INC.

By   
G. Wayne Brown  
President

STATE OF VIRGINIA  
CITY OF NORFOLK, to-wit:

The foregoing instrument was acknowledged before me this 8th day of November, 1989 by G. Wayne Brown, President of Hampton Roads, Inc.

  
Notary Public

My commission expires: 3/13/92



3/10 3 TAX 6 TAX

## MADISON CHASE CONDOMINIUM

AMENDMENT NUMBER FIVE TO DECLARATION OF CONDOMINIUM

This Amendment to the Condominium Declaration, dated this 1st day of March, 1990, made by Hampton Roads Homes, Inc., hereinafter called the "Declarant", provides:

WHEREAS, Hampton Roads Homes, Inc., is the Declarant of that certain condominium situated in the City of HAMPTON, Virginia, known as Madison Chase Condominium, which condominium was created by the recordation in the Clerk's Office of the Circuit Court of the City of Hampton, Virginia, in Deed Book 946, at Page 326, et seq., of a condominium Declaration and exhibits thereto; amended by Amendment Number One dated April 26, 1988 recorded in the Clerk's Office aforesaid in Deed Book 954, page 100; Amendment Number Two dated August 30, 1989, and recorded in Deed Book 964, page 1024; Amendment Number Three dated September 26, 1989 recorded in Deed Book 967, page 771; and Amendment Number Four dated November 1, 1989, recorded in Deed Book 969, page 520; and

WHEREAS, in said Declaration, the Declarant reserved the right to expand the condominium to include additional real property as described in the Declaration by submitting expandable parcels to be submitted land; and

WHEREAS, Hampton Roads Homes, Inc. remains the Declarant under the said Declaration of Condominium;

NOW, THEREFORE, the undersigned, pursuant to Section 55-79.61 of the Code of Virginia of 1950, as amended, does hereby submit to the condominium regime that certain real property situate in the City of Hampton, Virginia, and more particularly described as follows:

That certain piece or parcel of land designated as No. 6 on the plat of Madison Chase Condominium Phase One, recorded in Plat Book 9, Page 132 and more particularly described as follows:

Beginning at a point in the southern end of the dividing line between Parcel No. 6 and Parcel No. 5 as shown on the aforesaid plat and from said point of beginning running along the dividing line N. 31°52'55" E. 52.43' to a point; thence turning and running N. 85° W. 105' to

a point; thence turning and running S. 24°28'15" W. 142.57' to a point; thence turning and running S. 65°31'45" E. 65' to a point; thence S. 83° E. 46' to the point of beginning.

And further, the Declarant does submit herewith for recordation certain condominium plats and plans as provided by law and identified as Exhibit One hereto. The floor plans of unit types A, B and C are the same as shown in the Declaration recorded in Deed Book 946, Pages 372 through 381, both inclusive and pages 386 through 388, both inclusive and the floor plans for B type units with garages, known as BG and BGR, also known as type unit B(alt), are recorded with Amendment Number Two in Deed Book 964, page 1024 and shown in Deed Book 964, pages 1028 and 1029. Unit types BG and BGR are B unit types with a garage as a limited common element.

The number of additional units created on the said convertible land is six, with said six units being located in one structure. Each unit consists of such rooms and amenities as are shown and described on the said plats and plans, which plats and plans shall also designate the limited common elements created hereby. Each of the additional six units is intended 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 located on the expandable land described above shall be defined in the same fashion, and consist of the same structural components, as units located on the land originally submitted to the condominium regime as expanded. Similarly, the general and limited common elements and areas on the said expandable land shall be defined in a manner identical to that of general and limited common elements and areas existing on the land originally submitted to the condominium regime as expanded.

Henceforth, each of the thirty-two units within the regime shall have as an appurtenance thereto an undivided interest in the common elements as set forth on Exhibit 2 attached hereto and each unit shall bear an equal portion of all lawful assessments and expenses. Each unit shall be entitled to an equal vote in the Unit

Owners' Association. Amendment Number Four incorrectly referred to four units in the regime although the regime actually contained twenty-six units after the recordation of Amendment Number Four.

All units located on the convertible land shall be subject in all respect to the provisions of the condominium Declaration, By-Laws and Rules and Regulations as amended from time to time.

The additional six units shall be identified by the numbers 65, 67, 69, 71, 73 and 75, respectively. Except to the extent amended or modified herein, the provisions of the original Declaration and By-Laws and prior Amendments thereto are confirmed and shall remain in effect and are hereby incorporated by reference and shall apply to and bind the additional units created by this instrument, which units shall be entitled to all rights and privileges granted by the Declaration and By-Laws and be subject to the same duties and obligations as units created by the original Declaration and amendments thereto prior to this Amendment.

Nothing herein shall be construed as limiting the right of the Declarant to create additional units on other expandable lands or additional lands as provided in the Declaration.

IN WITNESS WHEREOF, Hampton Roads Homes, Inc. has caused this instrument to be executed in its name pursuant to due authority.

HAMPTON ROADS HOMES, INC.

By   
G. Wayne Brown  
President

STATE OF VIRGINIA  
CITY OF NORFOLK, to-wit:

The foregoing instrument was acknowledged before me this 3<sup>rd</sup> day of March, 1990 by G. Wayne Brown, President of Hampton Roads, Inc.

  
Notary Public

My commission expires: March 13, 1992

10616  
11772  
MADISON CHASE CONDOMINIUM

AMENDMENT NUMBER SIX TO DECLARATION OF CONDOMINIUM

Corrected  
This Amendment to the Condominium Declaration, dated this 1st day of August, 1990, made by Hampton Roads Homes, Inc., hereinafter called the "Declarant", provides:

WHEREAS, Hampton Roads Homes, Inc., is the Declarant of that certain condominium situated in the City of HAMPTON, Virginia, known as Madison Chase Condominium, which condominium was created by the recordation in the Clerk's Office of the Circuit Court of the City of Hampton, Virginia, in Deed Book 946, at Page 326, et seq., of a condominium Declaration and exhibits thereto; amended by Amendment Number One dated April 26, 1988 recorded in the Clerk's Office aforesaid in Deed Book 954, page 100; Amendment Number Two dated August 30, 1989, and recorded in Deed Book 964, page 1024; Amendment Number Three dated September 26, 1989 recorded in Deed Book 967, page 771; Amendment Number Four dated November 1, 1989, recorded in Deed Book 969, page 520; and Amendment Number Five dated March 1, 1990, recorded in Deed Book 976, page 691; and

WHEREAS, in said Declaration, the Declarant reserved the right to expand the condominium to include additional real property as described in the Declaration by submitting expandable parcels to be submitted land; and

WHEREAS, the improvements on Parcel No. 8 have been completed prior to the improvements on Parcel No. 7; and

WHEREAS, Hampton Roads Homes, Inc. remains the Declarant under the said Declaration of Condominium;

NOW, THEREFORE, the undersigned, pursuant to Section 55.79.61 of the Code of Virginia of 1950, as amended, does hereby submit to the condominium regime that certain real property situate in the City of Hampton, Virginia, and more particularly described as follows:

That certain piece or parcel of land designated as No. 8 on the plat of Madison Chase Condominium Phase Two, recorded in Plat Book 9, Page 133 and more particularly described as follows:

Beginning at a point in the northern end of the dividing line between Parcel No. 8 and Parcel No. 7 and from said point of beginning running S. 83° E. 32' to a point; thence turning and running S. 7° W. 5' to a point; thence S. 15°1'27" E. 44.26' to a point; thence S. 1° W. 85' to a point; thence turning and running N. 89° W. 95' to a point; thence turning and running N. 13°37'49" E. 66.50' to a point; thence turning and running N. 28°30' E. 80' to the point of beginning.

Together with an easement for ingress and egress over that portion of Parcel No. 7 not yet submitted on which is located a continuation of 25' Madison Chase as shown on Exhibit One. This easement shall automatically terminate upon submittal of Parcel No. 7 at which time the roadway will become part of the general common elements of the condominium.

And further, the Declarant does submit herewith for recordation certain condominium plats and plans as provided by law and identified as Exhibit One hereto. The floor plans of unit types B and C are the same as shown in the Declaration recorded in Deed Book 946, Pages 372 through 381, both inclusive and pages 386 through 388, both inclusive and the floor plans for B type units with garages, known as BG and BGR, also known as type unit B(alt), are recorded with Amendment Number Two in Deed Book 964, page 1024 and shown in Deed Book 964, pages 1028 and 1029. Unit types BG and BGR are B unit types with a garage as a limited common element.

The number of additional units created on the said convertible land is four, with said four units being located in one structure. Each unit consists of such rooms and amenities as are shown and described on the said plats and plans, which plats and plans shall also designate the limited common elements created hereby. Each of the additional four units is intended 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 located on the expandable land described above shall be defined in the same fashion, and consist of the same structural components, as units located on the land originally submitted to the condominium regime as expanded. Similarly, the general and limited common elements and areas on the said expandable land shall be defined in a manner identical to that of general and limited common elements and areas existing on the land originally submitted

to the condominium regime as expanded.

Henceforth, each of the thirty-six units within the regime shall have as an appurtenance thereto an undivided interest in the common elements as set forth on Exhibit 2 attached hereto and each unit shall bear an equal portion of all lawful assessments and expenses. Each unit shall be entitled to an equal vote in the Unit Owners' Association.

All units located on the convertible land shall be subject in all respect to the provisions of the condominium Declaration, By-Laws and Rules and Regulations as amended from time to time.

The additional four units shall be identified by the numbers 54, 56, 58 and 60, respectively. Except to the extent amended or modified herein, the provisions of the original Declaration and By-Laws and Amendments thereto are confirmed and shall remain in effect and are hereby incorporated by reference and shall apply to and bind the additional units created by this instrument, which units shall be entitled to all rights and privileges granted by the Declaration and By-Laws and be subject to the same duties and obligations as units created by the original Declaration and amendments thereto prior to this Amendment.

Nothing herein shall be construed as limiting the right of the Declarant to create additional units on other convertible lands or additional lands as provided in the Declaration.

IN WITNESS WHEREOF, Hampton Roads Homes, Inc. has caused this instrument to be executed in its name pursuant to due authority.

HAMPTON ROADS HOMES, INC.

By   
G. Wayne Brown  
President

STATE OF VIRGINIA  
CITY OF NORFOLK, to-wit:

The foregoing instrument was acknowledged before me this 7th day of August, 1990 by G. Wayne Brown, President of Hampton Roads Homes, Inc.

  
Notary Public

My commission expires:  
30 NOV. 1994



AMENDMENT NUMBER SEVEN TO DECLARATION OF CONDOMINIUM

WHEREAS, Hampton Roads Homes, Inc., is the Declarant

WHEREAS, in said Declaration, the Declarant reserved the right to expand the condominium to include additional real property as described in the Declaration by submitting expandable parcels to the submitted land; and

NOW, THEREFORE, the undersigned, pursuant to Section 55.79.61 of the Code of Virginia of 1950, as amended, does hereby submit to the condominium regime that certain real property situate in the City of Hampton, Virginia, and more particularly described as follows:

Beginning at a point in the northwest corner of Lot-6 as shown on that plat entitled "MAGRUDER ESTATES, SECTION 2, HAMPTON, VIRGINIA," recorded in Plat Book 9, at Page 96, which is also the northwest corner of Parcel No. 7 and from said point of beginning running S. 65°31'45" E.

65' to a point; thence S. 83° E. 74' to a point; thence turning and S. 28°30' W. 80' to a point; thence S. 13°37'49" W. 66.50' to a point; thence turning and running N. 89° W. 30' to a point; thence turning and running N. 11°55'15" E. 30' to a point; thence turning and running N. 84°30' W. 90' to a point; thence turning and running N. 11°55'15" E. 107.37' to a point; thence N. 24°28'15" E. 30' to the point of beginning.

And further, the Declarant does submit herewith for recordation certain condominium plats and plans as provided by law and identified as Exhibit One hereto. The floor plans of unit types A and C are the same as shown in the Declaration recorded in Deed Book 946, Pages 381 through 388, both inclusive and pages 386 through 388, both inclusive.

Plot in Plat Book 10 Page 40  
The number of additional units created on the said expandable land is four, with said four units being located in one structure. Each unit consists of such rooms and amenities as are shown and described on the said plats and plans, which plats and plans shall also designate the limited common elements created hereby. Each of the additional four units is intended 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 located on the expandable land described above shall be defined in the same fashion, and consist of the same structural components, as units located on the land originally submitted to the condominium regime as expanded. Similarly, the general and limited common elements and areas on the said expandable land shall be defined in a manner identical to that of general and limited common elements and areas existing on the land originally submitted to the condominium regime as expanded.

Henceforth, each of the forty units within the regime shall have as an appurtenance thereto an undivided interest in the common elements as set forth on Exhibit 2 attached hereto and each unit shall bear an equal portion of all lawful assessments and expenses. Each unit shall be entitled to an equal vote in the Unit Owners' Association.

All units located on the expandable land shall be subject in all respect to the provisions of the condominium Declaration, By-Laws and Rules and Regulations as amended from time to time.

The additional four units shall be identified by the numbers 55, 57, 59 and 61, respectively. Except to the extent amended or modified herein, the provisions of the original Declaration and By-Laws and prior Amendments thereto are confirmed and shall remain in effect and are hereby incorporated by reference and shall apply to and bind the additional units created by this instrument, which units shall be entitled to all rights and privileges granted by the Declaration and By-Laws and be subject to the same duties and obligations as units created by the original Declaration and amendments thereto prior to this Amendment.

Nothing herein shall be construed as limiting the right of the Declarant to create additional units on other expandable lands as provided in the Declaration.

IN WITNESS WHEREOF, Hampton Roads Homes, Inc. has caused this instrument to be executed in its name pursuant to due authority.

HAMPTON ROADS HOMES, INC.

By   
G. Wayne Brown  
President

STATE OF VIRGINIA  
CITY OF NORFOLK, to-wit:

The foregoing instrument was acknowledged before me this 30<sup>th</sup> day of ~~September~~ <sup>April</sup>, 198~~9~~<sup>9</sup> by G. Wayne Brown, President of Hampton Roads Homes, Inc. 90

  
Notary Public

My commission expires: March 13, 1992

MADISON CHASE CONDOMINIUM

AMENDMENT NUMBER EIGHT TO DECLARATION OF CONDOMINIUM

This Amendment to the Condominium Declaration, dated this 1st day of November, 1990, made by Hampton Roads Homes, Inc., hereinafter called the "Declarant", provides:

WHEREAS, Hampton Roads Homes, Inc., is the Declarant of that certain condominium situated in the City of HAMPTON, Virginia, known as Madison Chase Condominium, which condominium was created by the recordation in the Clerk's Office of the Circuit Court of the City of Hampton, Virginia, in Deed Book 946, at Page 326, et seq., of a condominium Declaration and exhibits thereto; amended by Amendment Number One dated April 26, 1988 recorded in the Clerk's Office aforesaid in Deed Book 954, page 100; Amendment Number Two dated August 30, 1989, and recorded in Deed Book 964, page 1024; Amendment Number Three dated September 26, 1989 recorded in Deed Book 967, page 771; Amendment Number Four dated November 1, 1989, recorded in Deed Book 969, page 520; Amendment Number Five dated March 1, 1990, recorded in Deed Book 976, page 691; Amendment Number Six dated August 1, 1990, recorded in Deed Book 987, page 93; and Amendment Number Seven dated August 21, 1989, recorded in Deed Book 988, page 1069; and

WHEREAS, in said Declaration, the Declarant reserved the right to expand the condominium to include additional real property as described in the Declaration by submitting expandable parcels to be submitted land; and

WHEREAS, Hampton Roads Homes, Inc. remains the Declarant under the said Declaration of Condominium;

NOW, THEREFORE, the undersigned, pursuant to Section 55-79.61 of the Code of Virginia of 1950, as amended, does hereby submit to the condominium regime that certain real property situate in the City of Hampton, Virginia, and more particularly described as follows:

That certain piece or parcel of land designated as No. 9 on the plat of Madison Chase Condominium Phase Two, recorded in Plat Book 9, Page 133 and more particularly described as follows:

Beginning at a point in the northern end of the dividing

line between Parcel No. 9 and Parcel No. 7 in the westerly line of Lot -6 and from said point of beginning running S. 84°30' E. 90' to a point; thence turning and running S. 11°55'15" W. 30' to a point; thence turning and running S. 89° E. 30' to a point; thence turning and running S. 1°2'12" E. 56.09' to a point; thence S. 18° W. 102' to a point; thence turning and running N. 74°33' W. 100' to a point; thence turning and running S. 15°27' W. 40' to a point; thence N. 74°33' W. 147.84' to a point; thence turning and running N. 15°27' E. 5.30' to a point; thence turning and running S. 89°47'38" E. 131.58' to a point; thence turning and running N. 11°55'15" E. 163' to the point of beginning.

And further, the Declarant does submit herewith for recordation certain condominium plats and plans as provided by law and identified as Exhibit One hereto. The floor plans of unit types A, B and C are the same as shown in the Declaration recorded in Deed Book 946, Pages 381 through 388, both inclusive and pages 386 through 388, both inclusive and the floor plans for B type units with garages, known as BG and BGR, also known as type unit B(alt), are recorded with Amendment Number Two in Deed Book 964, page 1024 and shown in Deed Book 964, pages 1028 and 1029. Unit types BG and BGR are B unit types with a garage as a limited common element.

The number of additional units created on the said convertible land is six, with said six units being located in one structure. Each unit consists of such rooms and amenities as are shown and described on the said plats and plans, which plats and plans shall also designate the limited common elements created hereby. Unsold units do not now have decks attached as a limited common element but Declarant resumes the right to construct decks on units which will be limited common elements and will be shown on an amended Plat of Parcel 9. Each of the additional six units is intended 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 located on the expandable land described above shall be defined in the same fashion, and consist of the same structural components, as units located on the land originally submitted to the condominium regime as expanded. Similarly, the general and

limited common elements and areas on the said expandable land shall be defined in a manner identical to that of general and limited common elements and areas existing on the land originally submitted to the condominium regime as expanded.

Henceforth, each of the forty-six units within the regime shall have as an appurtenance thereto an undivided interest in the common elements as set forth on Exhibit 2 attached hereto and each unit shall bear an equal portion of all lawful assessments and expenses. Each unit shall be entitled to an equal vote in the Unit Owners' Association.


All units located on the convertible land shall be subject in all respect to the provisions of the condominium Declaration, By-Laws and Rules and Regulations as amended from time to time.

The additional six units shall be identified by the numbers 41, 43, 45, 47, 49 and 51, respectively. Except to the extent amended or modified herein, the provisions of the original Declaration and By-Laws and Amendments thereto are confirmed and shall remain in effect and are hereby incorporated by reference and shall apply to and bind the additional units created by this instrument, which units shall be entitled to all rights and privileges granted by the Declaration and By-Laws and be subject to the same duties and obligations as units created by the original Declaration and amendments thereto prior to this Amendment.

Nothing herein shall be construed as limiting the right of the Declarant to create additional units on other convertible lands or additional lands as provided in the Declaration.

IN WITNESS WHEREOF, Hampton Roads Homes, Inc. has caused this instrument to be executed in its name pursuant to due authority.

HAMPTON ROADS HOMES, INC.

By   
G. Wayne Brown  
President



STATE OF VIRGINIA  
CITY OF NORFOLK, to-wit:

The foregoing instrument was acknowledged before me this 26<sup>th</sup>  
day of November, 1990 by G. Wayne Brown, President of Hampton  
Roads, Inc.

Ronald P. Linn  
Notary Public

My commission expires: March 13, 1992