

**BY-LAWS OF
THE CHESAPEAKE CONDOMINIUM OWNERS ASSOCIATION**

The name of the organization shall be **THE CHESAPEAKE CONDOMINIUM OWNERS ASSOCIATION**.

ARTICLE I

OBJECT

(PLAN OF APARTMENT OWNERSHIP)

1. The purpose for which this nonprofit corporation is formed is to govern the condominium property situated in the County of Bexar, State of Texas, which property is described on the attached Exhibit "A," which by this reference is made a part hereof, and which property has been submitted to the provisions of the Condominium Act of the State of Texas.
2. All present or future owners, tenants, future tenants, or any other person that might use the facilities of the project in any manner, are subject to the regulations set forth in these By-Laws. The mere acquisition or rental of any of the condominium units [hereinafter referred to as "Condominium unit(s)" or "unit(s)"] of the project or the mere act of occupancy of any of said units will signify that these By-Laws are accepted, ratified and will be complied with.

ARTICLE II

MEMBERSHIP, VOTING, MAJORITY OF OWNERS, QUORUM, PROXIES

1. **Membership.** Any person on becoming an owner of a condominium unit shall automatically become a member of this Association and shall be subject to these By-Laws. Such membership shall terminate without any formal Association action whenever such person ceases to own a condominium unit, but such termination shall not relieve or release any such former owner from any liability or obligation incurred under or in any way connected with THE CHESAPEAKE CONDOMINIUM OWNERS

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ASSOCIATION during the period of such ownership and membership in this Association, or impair any rights or remedies which the Board of Managers of the Association or others may have against such former owner and member arising out of or in any way connected with such ownership and membership, and the covenants and obligations incident thereto. No certificates of stock shall be issued by the Association, but the Board of Managers, may, if it so elects, issue one membership card to the owner(s) of a condominium unit. Such membership card shall be surrendered to the Secretary whenever ownership of the condominium unit designated thereon shall terminate.

2. **Voting.** Voting shall be based upon the undivided percentage interest of each unit owner in the general common elements. An owner of an undivided interest in and to a condominium unit shall be entitled to a vote equal to his percentage ownership interest in such unit. Cumulative voting is prohibited.
3. **Majority of Unit Owners.** As used in these By-Laws, the term "majority of unit owners" shall mean those owners of fifty-one per cent (51%) or more of the aggregate interest of the undivided ownership of the general common elements.
4. **Quorum.** Except as otherwise provided in these By-Laws, the presence in person or by proxy of that number of Unit Owners entitled to cast thirty-three per cent (33%) of the votes of the Association shall constitute a quorum. Except as otherwise provided in the Declaration or these

By-Laws, when a quorum of owners is present at any meeting, a majority vote of the owners present, either in person or by proxy, shall be sufficient to either defeat or approve any proposed action.

5. **Proxies.** Votes may be cast in person or by proxy. Proxies may be filed with the Secretary before the appointed time of each meeting, provided each proxy must be a unit owner. No unit owner may represent more than five (5) other unit owners by proxy.

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ARTICLE III ADMINISTRATION

1. **Association Responsibilities.** The owners of the units will constitute the Association of Unit Owners, hereinafter referred to as "Association," who will have the responsibility of administering the project through a Board of Managers.

2. **Place of Meetings.** Meetings of the Association shall be held at such place as the Board of Managers may determine.

3. **Annual Meetings.** The first annual meeting of the Association shall be held within ninety (90) days after the expiration of the Declarant Control Period as that term is defined in the Declaration. Thereafter, the annual meeting of the Association shall be held on the second Monday of December of each succeeding year or another date thereafter established by the Board of Managers. At such meetings there shall be elected by ballot of the owners a Board of Managers in accordance with the requirements of Paragraph 5 of Article IV of these By-Laws. The owners may also transact such other business of the Association as may properly come before them.

4. **Special Meetings.** It shall be the duty of the President to call a special meeting of the owners as directed by resolution of the Board of Managers or upon a petition signed by a majority of the owners and having been presented to the Secretary. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice unless by consent of two-thirds (2/3) of the owners present, either in person or by proxy.

5. **Notice of Meetings.** It shall be the duty of the Secretary to mail a notice of each annual or special meetings stating the purpose thereof as well as the time and place where it is to be held to each owner of record, at least five (5) but not more than twenty (20) days prior to such meetings. The mailing of a notice in the manner provided in this paragraph shall be considered notice served.

6. **Adjourned Meeting.** If any meeting of owners cannot be organized because a quorum has not attended, the owners who are present, either in person or by proxy, may adjourn the meeting from time to

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time until a quorum is obtained.

7. **Order of Business.** The order of business at all meetings of the owners of units shall be as follows:

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1. (a) Roll call and certifying proxies.
2. (b) Proof of notice of meeting or waiver of notice.
3. (c) Reading of minutes of preceding meeting.

4. (d) Reports of officers.
5. (e) Reports of committees.
6. (f) Election of managers.
7. (g) Unfinished business.
8. (h) New business.

ARTICLE IV BOARD OF MANAGERS

1. **Number and Qualification.** The affairs of this Association shall be governed by a Board of Managers composed of five (5) persons. The following persons shall act in such capacity and shall manage the affairs of the Association until their successors are elected, in accordance with the provisions of the Declaration and these Bylaws, to-wit:

Name

Ms. Karol Combs

Mr. John C. White

Mr. Douglas L. Fuhrmann Mr. Robert Munger

Mr. Earl Jones

Address

4335 N.W. Loop 410, Suite 201 San Antonio, Texas 78229

4335 N.W. Loop 410, Suite 201 San Antonio, Texas 78229

1000 Cheever

San Antonio, Texas 78217

1100 N.W. Loop 410

San Antonio, Texas 78213

1100 N.W. Loop 410

San Antonio, Texas 78213

3. **Powers and Duties.** The Board of Managers shall have the powers and duties necessary for the -4-

administration of the affairs of the Association and for the operation and maintenance of a first class residential condominium project. The Board of Managers may do all such acts and things as are not by these By-Laws, the Articles of Incorporation or by the Condominium Declaration for THE CHESAPEAKE CONDOMINIUMS directed to be exercised and done by the owners.

4. **Other Powers and Duties.** The Board of Managers shall be empowered and shall have the duties as follows:

(a) To administer and enforce the covenants, conditions, restrictions, uses, limitations, obligations, and all other provisions as set forth in the Condominium Declaration submitting the property to the provisions of the Condominium Ownership Act of the State of Texas.

(b) To establish, make and enforce compliance with such reasonable house rules as may be necessary for the operation, use and occupancy of this condominium project with the right to amend same from time to time. A copy of such rules and regulations shall be delivered, mailed or made available to each member promptly upon the adoption thereof.

(c) To keep in good order, *condition* and repair all of the general and limited common elements and all items of personal property used in the enjoyment of the entire premises; and to establish mandatory working capital reserves equal to a minimum of twenty per cent (20%) of the annual assessments received by the Association.

(d) To insure and keep insured all of the insurable general common elements of the property in an amount equal to their maximum replacement value as provided in the Declaration, and to act as the Trustee for the Owners in all *insurance* and *condemnation* matters. Further, to obtain and maintain comprehensive liability insurance covering the entire premises in accordance with the Declaration, and to insure and keep insured all of the fixtures, equipment and personal property acquired by the Association for the benefit of the Association and the owners of the condominium units and their mortgagees. The limits and coverage shall be reviewed at intervals of not less than three (3) years and adjusted, if necessary, to provide such coverage and

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protection as the Association may deem prudent. So long as the Federal National Mortgage Association (FNMA), Federal Home Loan Mortgage Corporation (FHLMC), Governmental National Mortgage Association (GNMA) or Veterans Administration (VA) is first lien mortgagee of a condominium unit in the project owns a unit therein, or is a guarantor or insurer of a first lien mortgagee, the Association shall maintain in effect at least such casualty, flood and liability insurance and a fidelity bond, meeting standards established by FNMA, FHLMC, GNMA and VA for planned developments, as published in the FNMA, FHLMC and GNMA "Conventional Home Mortgage Selling Contract Supplement," "Servicer's Guide," or other similar document, except to the extent such requirements shall have been waived in writing by FNMA, FHLMC, GNMA, or VA, such fidelity bond specifically protecting directors and officers of the Association and any employees thereof. Workmen's compensation insurance shall at all times be carried to the extent required to comply with any applicable law with respect to the employees, if any, of the Association.

(e) To fix, determine, levy and collect the monthly prorated assessments to be paid by each of the owners toward the gross expenses of the entire premises and by majority vote of the Board to adjust, decrease or increase the amount of the monthly assessments. To levy and collect special assessments whenever, in the opinion of the Board, it is necessary to do so in order to meet increased operating or maintenance expenses or costs, or additional capital expenses, or because of emergencies. All monthly or other assessments shall be in itemized statement form and shall set forth the detail of the various expenses for which the assessments are being made. (f) To collect delinquent assessments by suit or otherwise and to enjoin or seek damages from an owner as is provided in the Declaration and these By-Laws.

7. (g) To protect and defend the entire premises from loss and damage by suit or otherwise.

8. (h) To borrow funds in order to pay for any expenditure or outlay required pursuant to the

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authority granted by the provisions of the recorded declaration, the Articles of Incorporation and these By-Laws, and to execute all such instruments evidencing such indebtedness as this Board of Managers may deem necessary. Such indebtedness shall be the several obligation of all of the owners in the same proportion as their interest in the general common elements.

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

10. (j) To establish a bank account for the common treasury and for all separate funds which are

required or may be deemed advisable by the Board of Managers.

(k) To keep and maintain full and accurate books and records showing all of the receipts, expenses or disbursements (and vouchers therefore) and to permit examination thereof at any reasonable time by each of the owners and their Mortgagees; and to cause a complete audit of the books and accounts by a competent certified public accountant, once each year.

(l) To prepare and deliver annually to each owner a statement showing all receipts, expenses or disbursements since the last such statement.

13. (m) To meet at least once **each** quarter.

14. (n) To designate the personnel necessary for the maintenance and operation of the general and

limited common elements.

(o) To prepare annual budgets from which assessments for future periods are determined.

(p) To grant permits, licenses, and easements over the Common Elements for utilities, ingress/ egress or other purposes reasonably necessary or useful for the proper maintenance or operation of the Project.

(q) To make reasonably available to Owners and their First Mortgagees (including guarantors and insurers of First Mortgagees) during normal business hours and upon request, current copies of the Declaration, the By-laws, Rules and Regulations of the Project and books, records and financial

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(r) In general, to carry on the administration of this Association and to do all of those things, necessary and reasonable, in order to carry out the communal aspect of condominium ownership.

4 Delegation of Powers - Managing Agent. Notwithstanding anything contained herein to the contrary, the Board of Managers may delegate any of its powers, duties or functions to a Managing Agent provided that any such delegation shall be revocable upon at least ninety (90) days' notice by the Board of Managers. The members of the Board of Managers shall not be liable for any omission or improper exercise by the Managing Agent of any such duty, power or function so delegated by written instrument executed by a majority of the Board of Managers. The Managing Agent, if any, shall be employed by the Association at a compensation to be established by the Board based upon the services, duties, and functions to be performed by the Managing Agent, and shall be in accordance with all applicable provisions of the Declaration.

5. Election and Term of Office At the first annual meeting of the Association, the owners shall elect two (2) members of the Board of Managers for a term of one (1) year; two (2) members of the Board of Managers for a term of two (2) years; and one (1) member of the Board of Managers for a term of three (3) years. At each **annual meeting** thereafter, the Association shall elect such members of the Board of Managers for an appropriate term as vacancies occur by resignation or expiration of any Manager's term of office.

The five (5) persons acting as the initial Managers shall hold office until their successors have been duly elected and hold their first meeting.

6. Vacancies. Vacancies on the Board of Managers caused by any reason other than the removal of a Manager by a vote of the Association shall be filled by the President, and each person so elected shall be a Manager until a successor is elected at the next annual meeting of the Association.

7. **Removal of Managers.** At any regular or special meeting duly called, any one or more of the Managers may be removed with or without cause by a majority of the owners, and a successor may

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then and there be elected to fill the vacancies thus created. Any Manager whose removal has been proposed by the owners shall be given an opportunity to be heard at the meeting.

8. **Organizational Meeting.** The first meeting of a newly elected Board of Managers shall be held within ten (10) days of election at such place as shall be fixed by the Managers at the meeting at which such notice shall be necessary to the newly elected Managers in order legally to constitute such meeting, providing a majority of the whole Board shall be present.

9. **Nomination.** Nomination for election to the Board of Managers shall be made by a nominating committee which shall consist of a chairman who shall be a member of the Board and two or more owners who shall have been appointed by the Board of Managers prior to each annual meeting to serve from the close of each annual meeting until the close of the next annual meeting, and such appointment shall be announced at each annual meeting. The nominating committee shall make as many nominations for election to the Board as it shall in its discretion determine, but not less than the number of vacancies to be filled. Nominations may also be made from the floor at the annual meeting.

10. **Regular Meetings.** Regular meetings of the Board of Managers may be held at such time and place as shall be determined from time to time by a majority of the Managers, but at least four (4) such meetings shall be held during each fiscal year. Notice of regular meetings of the Board of Managers shall be given to each Manager, personally or by mail, telephone or telegraph, at least three (3) days prior to the day named for such meeting.

11. **Special Meetings.** Special meetings of the Board of Managers may be called by the President on three (3) days' notice to each Manager, given personally, or by mail, telephone or telegraph, which notice shall state the time, place (as hereinabove provided) and purpose of the meeting. Special meetings of the Board of Managers shall be called by the President or Secretary in like manner and on like notice on the written request of at least two (2) Managers.

12. **Waiver of Notice.** Before or at any meeting of the Board of Managers, any Manager may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of

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such notice. Attendance by a Manager at any meeting of the Board shall be a waiver of notice by him of the time and place thereof. If all the Managers are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

13. **Board of Managers' Quorum.** At all meetings of the Board of Managers, a majority of the Managers shall constitute a quorum for the transaction of business and the acts of the majority of the Managers present at a meeting at which a quorum is present shall be the acts of the Board of Managers. If at any meeting of the Board of Managers there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

14. **Fidelity Bonds.** The Board of Managers shall require that all officers and employees of the Association handling or responsible for Association funds shall furnish adequate fidelity bonds. The premiums on such bonds shall be paid by the Association.

15. **Compensation.** No member of the Board of Managers shall receive any compensation for acting as such.

16. **Actions Without a Meeting.** Notwithstanding any other provision of these By-Laws, any action required or permitted to be taken at a meeting of the Board of Managers may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the members of the Board of Managers, as the case may be. Such *consent* shall have the same force and effect as a unanimous vote at a meeting.

17. Notwithstanding any provision herein to the contrary, and in accordance with the Condominium Declaration for The Chesapeake Condominium Owners Association, Duke-Stone, Inc., the Declarant, a Texas corporation, shall retain control over management of the affairs of the Association during the "Declarant Control Period," as therein defined. This retention of control shall be for the benefit of the Unit Owners and any First Mortgagees of record and for the purpose

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of ensuring both a complete and orderly buildout and a timely sellout of the Project Units. This control shall last no longer than (1) May 10, 1985; (2) that date that Declarant has conveyed seventy-five per cent (75%) of the Units; or (3) when, in the sole opinion of the Declarant, the Project is viable, self-supporting and operational; whichever event first occurs.

ARTICLE V OFFICERS

1. **Designation.** The officers of the Association shall be a president, a vice president, a secretary and a treasurer, all of whom shall be elected by the Board of Managers. Any person may hold two or more offices except the President; and any Vice President shall not also be a Secretary or Assistant Secretary.

2. **Election of Officers.** The officers of the Association shall be elected annually by the Board of Managers at the organizational meeting of each new Board and shall hold office at the pleasure of the Board.

3. **Removal of Officers.** Upon any affirmative vote of a majority of the Board of Managers, any officer may be removed, either with or without cause, and his successor elected at any regular meeting of the Board of Managers or at any special meeting of the Board called for such purpose.

4. **President.** The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and of the Board of Managers. He shall have all of the general powers and duties which are usually vested in the office of the president of an association, including but not limited to the power to appoint committees from among the owners from time to time as he may in his discretion decide is appropriate to assist in the conduct of the affairs of the Association. The President shall sign, with the Secretary or an Assistant Secretary, certificates of membership, any deeds, mortgages, bonds, contracts, or other instruments which the Board of Managers has authorized him to execute, except in cases where the signing and execution thereof has been expressly delegated by the Board of Managers to some other officer or agent of the Association, or shall be required by law to be otherwise signed

or executed. The President shall not have the power to bind the Association to any employment agreement on behalf of

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the Association unless such employment agreement has been expressly approved and authorized in advance by Resolution of the Board of Managers. In the event that any such employment agreement provides for the Association employing any person who at the time of such employment or at any time during such employment is an officer of the Association, then no provision of such contract purporting to amplify the authority of such officer beyond the authority set forth in these By-Laws shall be valid or effective unless these By-Laws are amended in a manner consistent with such employment agreement; and the mere signing of such an employment agreement on behalf of the Association and its approval at a meeting of the Board of Managers or the Association shall not constitute an amendment of these By-Laws. In the event any such employment agreement (whether or not these By-Laws be amended incident thereto) limits or qualifies the authority of any such officer in a manner inconsistent with these By-Laws or imposes on such officer duties not provided for under these By-Laws, then the provisions of such employment agreement limiting or qualifying such authority and imposing such duties shall be valid and effective, notwithstanding any inconsistency between the provisions of the employment agreement and the provisions of the By-Laws.

5. **Vice President.** The Vice President shall have all the powers and authority to perform all the functions and duties of the President, in the absence of the President, or his inability for any reason to exercise such powers and functions or perform such duties, and also perform any duties he is directed to perform by the President or the Board of Managers.

6. **Secretary.** The Secretary shall: (i) keep all the minutes of all meetings of the Board of Managers and the minutes of all meetings of the Association in books provided for that purpose; (ii) see that all notices are duly given in accordance with the provisions of these By-Laws or as required by law; (iii) be custodian of the Board's and Association's records and books and of the seal of the Association, and see to it that the seal of the Association is affixed to all certificates of membership prior to the issuance thereof, and to all documents (the execution on behalf of the Association under its seal is duly authorized in accordance with these By-Laws); (iv) keep a register of the post office address of each owner; (v) sign with the President all certificates of membership, the issuance of which shall be approved by the Board of

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Managers; and (vi) in general, perform all the duties incident to the office of Secretary as may be assigned to him by the President or by the Board of Managers.

The Secretary shall compile and keep up to date at the principal office of the Association a complete list of members and their last known addresses as shown on the records of the Association. Such list shall also show opposite each member's name the number or other appropriate designation of the apartment unit owned by such members and parking space, if any, assigned for use in connection with such apartment unit. Such list shall be open to inspection by members and other persons lawfully entitled to inspect the same at reasonable times during regular business hours. The address of each member shown in such list shall be the address to which all notices shall be sent.

7. **Treasurer.** The Treasurer shall have responsibility for Association funds and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. He shall be responsible for the deposit of all moneys and other valuable effects in the name, and to the credit, of the Association in such depositories as may from time to time be designated by the Board of Managers, and shall perform all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him by the President or Board of Directors.

8. **Additional Officers.** Officers in addition to the Vice President, Secretary and Treasurer may be appointed by the Board of Managers and shall hold the offices for such terms and shall have such authority to exercise such powers and perform such duties as shall be determined from time to time by the Board by Resolution not inconsistent with these By-Laws. The Assistant Secretaries, as thereunto authorized by the Board of Managers, may sign, with the President, certificates of membership, the issue of which shall have been authorized by a Resolution of the Board of Managers. The Assistant Treasurers shall respectively, if required by the President or Board of Managers, give bonds for the faithful discharge of their duties in such sums and with such sureties as the President or Board of Managers shall determine. The Assistant Treasurers and Assistant Secretaries, in general, shall perform such duties as shall be assigned to them by

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the Treasurer or the Secretary, respectively, or by the President or by the Board of Managers.

9. **Vacancies.** A vacancy in any office because of the death, resignation, removal, disqualification, or otherwise, of the officer previously filling such office, may be filled by the Board of Managers for the unexpired portion of the term.

ARTICLE VI INDEMNIFICATION OF OFFICERS AND MANAGERS

The Association shall indemnify every manager or officer, his heirs, executors and administrators, against all loss, costs and expense, including counsel fees, reasonably incurred by him in connection with any action, suit or proceeding to which he may be made a party by reason of his being or having been a manager or officer of the Association, except as to matters as to which he shall be finally adjudged in such action, suit or proceeding to be liable for gross negligence or willful misconduct, bad faith or reckless disregard of the duties involved in the conduct of his office. In the event of a settlement, indemnification shall be provided only in connection with such matters covered by the settlement as to which the Association is advised by counsel that the person to be indemnified has not been guilty of gross negligence, bad faith or willful misconduct in the performance of his duty as such manager or officer in relation to the matter involved.

All liability, loss, damage, costs and expense incurred or suffered by the Association by reason or arising out of or in connection with the foregoing indemnification provisions shall be treated and handled by the Association as common expenses; provided, however, that nothing in this Article VI contained shall be deemed to obligate the Association to indemnify any member or owner of a condominium unit who is or has been a manager or officer of the association with respect to any duties or obligations assumed or liabilities incurred by him under and by virtue of the Condominium Declaration for THE CHESAPEAKE CONDOMINIUMS as a member of the Association or owner of a condominium unit covered thereby.

The rights of indemnification herein provided may be insured against by policies maintained by the Association; shall be severable; shall not affect any other rights to which any Manager or officer may now or hereafter be entitled; shall continue as to a person who has ceased to be such Manager or officer; and shall inure to the benefit of the heirs, executors and administrators of such a person. Nothing contained herein shall affect any rights to indemnification to which Association personnel other than members of the Board of Managers and officers may be entitled by contract, or otherwise, under law.

Expenses in connection with the preparation and presentation of a defense to any claim, action, suit or proceeding of the character described in this Article VI may be advanced by the Association prior to final disposition thereof upon receipt of an undertaking by or on behalf of the member of the Board of Managers, or officer, secured by a surety bond or other suitable insurance issued by a company authorized to conduct such business in the State of Texas, to repay such amount if it is ultimately determined that he is not entitled to indemnification under this Article.

ARTICLE VII OBLIGATIONS OF THE OWNERS

1. **Assessments.** All owners shall be obligated to pay the monthly assessments imposed by the Association to meet the common expenses. The assessments shall be made pro rata according to undivided interest in and to the general common elements and shall be due monthly in advance. A member shall be deemed to be in good standing and entitled to vote at any annual or special meeting of members, within the meaning of these By-Laws, if, and only if, he shall have fully paid all assessments made or levied against him and the condominium unit owned by him. A late fee of Ten and No/100 Dollars (\$10.00) shall be imposed in each instance that a monthly assessment is not paid by the tenth (10th) day of the month for which it is attributable. In addition, a fee of Fifteen and No/100 Dollars (\$15.00) shall be imposed for any insufficient check received by the Association. Such fees are intended as administrative and processing fees and not as penalties.

2. **Maintenance and Repair.**

(a) Every owner must perform promptly, at his own expense, all maintenance and repair work within his own residence unit, which if omitted would affect the project in its entirety or in part belonging to other owners.

(b) All the repairs of internal installations of the unit such as water, light, gas, power, sewage, telephone, air conditioners, sanitary installations, doors, windows, glass, screens, electrical fixtures, floor and wall coverings and all other accessories, amenities, equipment and fixtures belonging to the unit area shall be at the owner's expense.

(c) An owner shall be obligated to reimburse the Association promptly upon receipt of its statement for any expenditures incurred by it in repairing or replacing any general or limited common element damaged by his negligence or by the negligence of his tenants or agents.

3. **Mechanic's Lien.** Each owner agrees to indemnify and to hold each of the other owners harmless from any and all claims of mechanic's lien filed against other condominium units and the appurtenant general common elements for labor, materials, services or other products incorporated in the owner's apartment unit. In the event suit for foreclosure is commenced, then

within ten (10) days thereafter, such owner shall be required to deposit with the Association cash or negotiable securities equal to double the amount of such claim, plus interest at the rate of ten per cent (10%) for one year, together with a sum equal to ten per cent (10%) of the amount of such claim, but not less than One Hundred Fifty and No/100 Dollars (\$150.00), which latter sum may be used by the Association for any costs and expenses incurred, including attorney's fees. Except as is otherwise provided, such sum or securities shall be held by the Association pending final adjudication or settlement of the litigation. Disbursement of such funds or proceeds shall be made to insure payment of or on account of such final judgment or settlement. Any deficiency, including attorney's fees, shall be paid forthwith by the subject owner, and his failure to so pay shall entitle the Association to make such payment; and the amount thereof shall be a debt of the owner and a lien against his condominium unit which may be foreclosed as is provided in the Declaration. Such owner

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shall be liable to the Association for payment of interest at the rate of ten per cent (10%) on all such sums paid by the Association until the date of repayment by such owner.

4. **General.**

(a) Each owner shall comply strictly with the provisions of the Condominium Declaration for THE CHESAPEAKE CONDOMINIUMS, the Articles of Incorporation and these By-Laws, and amendments and supplements thereto.

(b) Each owner shall always endeavor to observe and promote the cooperative purposes for which THE CHESAPEAKE CONDOMINIUMS were established.

5. **Use of Units - Internal Changes.**

1. (a) All units shall be utilized for residential purposes only.

2. (b) An owner shall not make structural modifications or alterations to his unit or installations

located therein or to the limited common elements without previously notifying the Association in writing through the Managing Agent; or, if no Managing Agent is employed, then through the President of the Association. The Association shall have the obligation to answer within thirty (30) days after such notice, and failure to do so within the stipulated time shall mean that there is no objection to the proposed modification or alteration. Notwithstanding the foregoing, in the event the Association has then established an Architectural Committee, such aforesaid written notice, together with proposed plans and specifications detailing the modification or alteration so requested must be also be sent to such Committee, and such Committee shall be required to review such plans and specifications and to respond to same within such thirty (30) day period. Failure to so respond shall be deemed as approval by such Committee.

6. **Use of General Common Elements and Limited Common Elements.** Each owner may use

the general common elements and the limited common elements in accordance with the purpose for which they were intended without hindering or encroaching upon the lawful rights of the other owners.

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7. Right of Entry.

(a) An owner shall grant the right of entry to the Board of Managers or to any other person authorized by the Board of Managers in case of any emergency originating in or threatening his unit, whether the owner is present at the time or not.

(b) An owner shall permit other owners, or their representatives, when so required, to enter his unit for the purpose of performing installations, alterations or repairs to the mechanical or electrical services, provided that requests for entry are made in advance and that such entry is at a time convenient to the owner. In case of an emergency, such right of entry shall be immediate.

8. Rules and Regulations.

(a) All owners shall promptly and completely comply with each of the rules and regulations herein contained or hereafter properly adopted for the utilization of any recreational facilities afforded, in order that all owners and their guests shall achieve maximum utilization of such facilities consistent with the rights of each of the other owners thereto.

(b) Nothing shall be done in any residential unit, nor shall same be occupied or used for any purpose, nor shall any commodity, product or personal property be kept therein or thereon, which shall cause such improvements to be uninsurable against loss by fire or the perils included in an extended coverage endorsement under the rules of the State of Texas Insurance Commission or which might cause or warrant any policy or policies covering said premises to be cancelled or suspended by the issuing company.

(c) Owners and occupants of units shall at all times exercise extreme care to avoid making or permitting to be made loud or objectionable noises, and in using or playing or permitting to be used or played musical instruments, radios, phonographs, television sets, amplifiers and any other instruments or devices in such manner as may disturb or tend to disturb owners, tenants, or other occupants of condominium units of THE CHESAPEAKE CONDOMINIUMS. No unit shall be used or occupied in such manner as to obstruct or

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interfere with the enjoyment of occupants or other residents of adjoining units, nor shall any nuisance, or immoral or illegal activity be committed or permitted to occur in or on any unit or upon any part of the common elements of THE CHESAPEAKE CONDOMINIUMS.

(d) The general common elements are intended for use for the purpose of affording vehicular and pedestrian movement within the condominium; providing access to the units; for recreational use by the owners and occupants of units (in those proportions thereof adapted therefore); and all thereof for the beautification of the condominiums and for providing privacy for the residents thereof through landscaping and such other means as shall be deemed appropriate. No part of the general common elements shall be obstructed so as to interfere with its use for the purposes hereinabove recited, nor shall any part of the general common elements be used for general storage purposes after the completion of the construction of the units by developer, except maintenance and storage rooms, nor anything done thereon in any manner which shall increase the rate for hazard and liability insurance covering said area and improvements situated thereon. No more than two (2) small dogs, cats, or other usual small household pets (each such pet weighing twenty (20) pounds or less as its adult weight) may be kept in any unit, provided always that the keeping of such household pet shall be governed by reasonable rules therefore promulgated by the Board of Managers. Except as hereinabove stated, no animal, livestock, birds

or poultry shall be brought within the Project or kept in or around any unit thereof. Notwithstanding the foregoing, no pet may be kept on the property which results in an annoyance or is obnoxious to other Owners. No resident may permit his or her pet to enter any portion of the general common elements except for the "Pet Walking Area" designated from time to time by the Board of Managers or Managing Agent; and all pets must be on a leash and accompanied by the resident "master" thereof at all times.

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(e) No resident of the Project shall post any advertisements, signs, or posters, of any kind in or on the project except as authorized by the Association. (In no event may any such sign be larger than 18 inches by 24 inches, nor may same be located in any area other than in the front window of the residential unit.)

(f) Parking of automobiles shall be only in the spaces designated as parking for each unit. No unattended vehicle shall at any time be left in the alleyways or streets in such manner as to impede the passage of traffic or to impair property access to parking areas. No storage of any objects shall be permitted in the parking area and the same shall at all times be kept free of unreasonable accumulation of debris or rubbish of any kind. Assigned parking spaces and guest parking areas may not be used by owners for parking or storing boats, mobile homes, trailers, recreational vehicles or camping units; and the Board may ensure the proper use of said areas in such manner as it deems necessary. Guest parking areas may not be used for parking of any personal vehicles owned by an owner unless said owner has only one assigned parking space, and owns two automobiles.

(g) Each owner shall keep clean and in good condition and repair the doors, windows, inside and outside (inclusive of any glass and screens) and interior of his condominium unit and shall not permit garments, rugs, laundry or other unsightly items to extend from or be placed outside of his condominium unit, including but not limited to, over windows or the balcony or patio. No aluminum foil or similar reflective material shall be used or placed over doors or windows of any condominium unit. All draperies or curtains shall be fully lined with an off-white, almond or white fabric of sufficient thickness to provide exterior harmony with surrounding condominium units.

(h) It is prohibited to dust rugs or other materials from the windows, or to clean rugs by beating on the exterior part of the condominium units, or to throw any dust, trash or garbage out of any of the windows of any of the units.

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(i) It is prohibited to throw garbage or trash outside the disposal areas provided for such purposes.

(j) No owner, resident or lessee shall install wiring for electrical or telephone installation, radio and television antennae, cable t.v. discs or other devices, machines or air conditioning units, or any other devices whatsoever on the exterior of the project or that protrude through the walls or out of the windows or on the roof of the project, unless previously approved by the Association in writing.

(k) No owner or their occupant of any condominium unit shall make any alteration, modification or improvement, nor add any awnings, patio covers or other devices to the common elements of the condominium or remove or remove or add to any planting, landscaping, structure, furnishings

or other equipment or object there from except with the written consent of the Association and the Architectural Committee (in the event the Association has then established or appointed such Committee). No unsightly objects which may reasonably be considered to give annoyance to neighbors of ordinary sensibilities shall be placed or allowed to remain on any patio or balcony of a condominium unit. The Board of Managers shall have the sole and exclusive discretion to determine what constitutes an unsightly object.

(l) Reasonable and customary regulations for the use of the swimming pool, tennis courts, jogging trail and other recreation areas will be promulgated hereafter and publicly posted at such places. Owners and all occupants of units shall at all times comply with such regulations. (m) No drilling, digging, quarrying or mining operation of any sort shall be permitted *on* the Property.

(n) Motorcycles, motorbikes, trail bikes, motor scooters or other similar vehicles shall not be operated within the Property except for the purpose of transportation directly from a parking area to a point outside the Property, or from a point outside the Property directly to a parking

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space, and the usage of such vehicles must otherwise comply with the provisions of the Condominium Declaration.

(o) No more than two (2) adults may reside in or otherwise occupy a one-bedroom unit; no more than three (3) adults may reside in or otherwise occupy a two-bedroom unit.

(p) Without limiting any other rule making authority under the Declaration or these By-Laws, the Board of Managers is specifically authorized, in its sole discretion, to promulgate and enact rules and regulations limiting the number of persons who may become residents in or occupants of an apartment, provided that at no time shall there be more than two permanent residents per bedroom within a condominium unit.

9. **No Children.** In view of the fact that The Chesapeake Condominiums represent an “adult living” community, no children shall be permitted to reside in a residential unit. Notwithstanding the foregoing, any owner who parents or otherwise becomes responsible for the care of a child (or children) after purchasing his or her unit, may continue to reside in such unit with such child (or children) until such time as such child (or children) becomes 3 years old, whereupon such child (or children) shall no longer be permitted to reside in such unit. Any child living or otherwise occupying a unit for any consecutive thirty (30) period of time shall be presumed to be “residing” in such unit.

10. **Destruction or Obsolescence.** Each owner shall, upon request therefore, execute a power of attorney in favor of the Association, irrevocably appointing the Association his attorney-in-fact to deal with such owners’ condominium unit upon its destruction, obsolescence or condemnation, as is provided in the Condominium Declaration for THE CHESAPEAKE CONDOMINIUMS.

ARTICLE VIII

AMENDMENTS TO PLAN OF APARTMENT OWNERSHIP

1. **By-Laws.** These By-Laws may be amended by the Association at a duly constituted meeting for such purpose, and no amendment shall take effect unless approved by owners representing at least seventy

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per cent (70%) of the aggregate interest of the undivided ownership of the general common elements.

ARTICLE IX MORTGAGES

1. **Notice to Association.** An owner who mortgages his unit shall notify the Association through the Managing Agent, if any, or the President of the Board of Managers, giving the name and address of his mortgagee. The Association shall maintain such information in a book entitled "Mortgagees of Condominium Units."

2. **Notice of Unpaid Assessments.** The Association shall, at the request of a mortgagee of a unit, promptly report any unpaid assessments due from the owner of such unit.

ARTICLE X COMPLIANCE

These By-Laws and the Condominium Declaration for THE CHESAPEAKE CONDOMINIUMS are set forth to comply with requirements of the Texas Condominium Act. If any of these By-Laws or the Condominium Declaration conflict with the provisions of said statute, it is hereby agreed and accepted that the provisions of the statute will apply and govern.

ARTICLE XI NONPROFIT ASSOCIATION

This Association is not organized for profit. No member, member of the Board of Managers or person from whom the Association may receive any property or funds shall receive or shall be lawfully entitled to receive any pecuniary profit from the operation thereof, and in no event shall part of the funds or assets of the Association be paid as salary or compensation to, or distributed to, or inure to the benefit of any member of the Board of Managers; provided, however, always (1) that

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reasonable compensation may be paid to any member while acting as an agent or employee of the Association for services rendered in effecting one or more of the purposes of the Association, and (2) that any member of the Board of Managers may, from time to time, be reimbursed for his actual and reasonable expenses incurred in connection with the administration of the affairs of the Association.

ARTICLE XII REGISTERED OFFICE

The Registered office, and the principal office for the transaction of business of this Association shall be P.O. Box 29927, San Antonio, Texas 78229 (4335 N.W. Loop 410, Suite 201, San Antonio, Texas 78229), and the Registered Agent shall be R. Jerry Stone, Jr. at the same address.

ARTICLE XIII

TRANSACTIONS WITH MEMBERS, MANAGERS AND OFFICERS

The Association may enter into contracts or transact business with one or more of its Managers, officers, or members, or with any firm of which one or more of its managers, officers or members are members, or with any corporation, association, company, organization or entity in which one or more of its Managers, officers or members are directors, officers, trustees, shareholders, beneficiaries or are otherwise interested, and in the absence of fraud, such contract or transaction shall not be invalidated or anywise affected by the fact that such Managers, officers or members having such adverse interest may have been necessary to obligate the Association upon such contract or transaction.

ARTICLE XIV EXECUTION OF DOCUMENTS

The persons who shall be authorized to execute any and all contracts, documents, instruments of conveyance or encumbrances, including promissory notes, shall be the President or any Vice - 24

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President and the Secretary or any Assistant Secretary of the Association.

ARTICLE XV

ABATEMENT AND ENJOINMENT OF VIOLATIONS BY OWNERS

The violation of any rule or regulation promulgated by the Board of Managers, or the breach of any By- Law, or the breach of any provision of the Declaration, shall give the Board of Managers or the Managing Agent, the right, in addition to any other rights set forth therein to enjoin, abate, or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach; but no summary proceedings may be utilized through nonjudicial means to alter or demolish any improvements situated in any Unit of the Project.

ARTICLE XVI NOTICES

All notices to members of the Association shall be given by delivering the same to each owner in person or by depositing the notices *in* the U.S. mail, postage prepaid, addressed to each owner at the address last given by each owner to the Secretary of the Association or as provided *in* the Declaration. If an owner shall fail to give an address to the Secretary for mailing of such notices, all such notices shall be sent to the condominium unit of such owner and all owners shall be deemed to have been given notice of the meetings upon the proper mailing of the notices to such addresses irrespective of the actual receipt of the notices by the owners.

ARTICLE XVII SEVERALTY

The invalidity of any provision or provisions of these By-Laws shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder of these By-Laws, and in such event, all of the other provisions of these By-Laws shall continue in full force and effect as if such invalid provision had never been included herein.

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IN WITNESS WHEREOF, the undersigned have hereunto set their hands and seals at San Antonio, Texas on this the _____ day of _____, 1982.

THE CHESAPEAKE CONDOMINIUM OWNERS ASSOCIATION

—
By: KAROL COMBS

By: JOHN C. WHITE

By: DOUGLAS L. FUHRMANN

By: ROBERT MUNGER

By: EARL JONES

Initial Board of Managers

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EXHIBIT "A"

TO

BY-LAWS OF

THE CHESAPEAKE CONDOMINIUM OWNERS ASSOCIATION

Property Description

Lot 1, Block 2, New City Block 17150, situated in San Antonio, Bexar County, Texas, as more particularly described by plat recorded in Volume 9200, Page 114, Deed and Plat Records, Bexar County, Texas.

EXHIBIT "A" TO BY-LAWS

**CONDOMINIUM DECLARATION FOR
THE CHESAPEAKE CONDOMINIUMS**
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CONDOMINIUM DECLARATION FOR
THE CHESAPEAKE CONDOMINIUMS
THE STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF BEXAR §

THAT, WHEREAS, DUKE-STONE, INC., hereinafter sometimes called “Declarant,” is the owner of certain real property and the improvements thereon situated in the County of Bexar, State of Texas, which property is more particularly described on the attached Exhibit “ A ” which, by this reference, is made a part hereof; and

WHEREAS, Duke-Stone, Inc., is or has caused to be constructed on said property eighteen (18) buildings which will contain an aggregate of one hundred twenty-two (122) individual apartment-type units, together with other improvements, structures and facilities and appurtenances, which project shall be known as THE CHESAPEAKE CONDOMINIUMS; and

WHEREAS, Duke-Stone, Inc. desires to establish a Condominium Regime under the Condominium Act of The State of Texas; and

WHEREAS, Duke-Stone, Inc. does hereby establish a plan for the individual ownership in fee simple of estates consisting of the area of space contained in each of the apartment units in the said improvements and the co-ownership by the individual and separate owners thereof, as tenants in common, of all of the remaining property which is hereinafter defined and referred to as the general common elements;

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NOW, THEREFORE, Duke-Stone, Inc. does hereby submit the real property described on the attached Exhibit “A” and all improvements thereon, to the provisions of the Condominium Act of The State of Texas and this Condominium Regime, and does hereby publish and declare that the following terms, covenants, conditions, easements, restrictions, uses, limitations and obligations shall be deemed to run with the land, shall be a burden and a benefit to Duke-Stone, Inc., its successors and assigns, and any person acquiring or owning an interest in the real property and improvements, their grantees, successors, heirs, executors, administrators, devisees and assigns.

1. **DEFINITIONS.** Unless the context shall expressly provide otherwise:

(a) **“Association”** shall mean THE CHESAPEAKE CONDOMINIUM OWNERS ASSOCIATION, a Texas nonprofit corporation, the members of which shall be the owners of the condominium units within the Condominium Regime during the period of their respective ownerships, and the successors and assigns of such owners. The term “Association” shall have the same meaning as the term “Council of Co-owners” in the Texas Condominium Act.

(b) **“Apartment” or “Apartment Unit,”** hereinafter sometimes referred to as “residence unit” or “residential unit,” shall mean an enclosed space within a building, the boundaries of which shall be the interior surfaces of the perimeter walls, floors and ceilings. Each residence unit is numbered as shown on the Map which is attached hereto as Exhibit “B.” It is intended that the term “residence unit,” as used in this Declaration, shall have the same meaning as the term “apartment” as used in the Texas Condominium Act. Included in each residence unit, without limitation, shall be any furnishing materials applied or affixed to the interior surfaces of the common, exterior or interior walls, floors or ceilings (such as, but without limitation, paint,

wallpaper, vinyl wall or floor covering, carpet and tile), and all utility pipes, lines, systems, wires, fixtures, fireplaces (if any) or appliances servicing only that residential unit

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(whether or not within the boundaries of that residential unit). The boundaries of each residential unit shall be the interior surface of the perimeter windows and doors. Interior trim around windows and doors shall be a part of each residence unit and shall not be a part of the common elements.

(c) **“Building” or “Buildings”** shall mean and refer to the one or more of the principal structures presently erected or to be erected on the land.

(d) **“By-Laws”** shall mean the By-Laws of THE CHESAPEAKE CONDOMINIUMS OWNERS ASSOCIATION (attached as Exhibit “E”).

(e) **“Condominium Unit”** shall mean one individual residence unit together with the interest in the general common elements appurtenant to such unit.

(f) **“Owner”** shall mean a person, firm, corporation, partnership, association or other legal entity, or any combination thereof, who owns one or more condominium units.

(g) **“General Common Elements” or “Common Elements”** shall mean and include the land and all buildings and other improvements thereon except the residence units as defined herein, and shall include without limiting the generality of the foregoing:

(1) The foundations, supporting columns, girders, beams, slabs, supports, common dividing walls between two or more residence units or between residence units and Common Elements;

(2) The foundations, columns, girders, beams, slabs, supports, main and common walls and roofs;

(3) The grounds (yards, gardens, landscaped areas), clubrooms, managerial offices, mail distribution area, unassigned parking areas, fences, unassigned storage areas, streets, service drives, walks, service easements, swimming pool, tennis courts, jogging trail, recreation areas, and areas used for storage of maintenance and janitorial equipment and

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materials, if any;

(4) The installations consisting of the equipment and materials making up central services such as power, light, gas, water, waste collection, sprinkler system, master antenna, and the like which are servicing more than one specific residential unit;

(5) All other structures, facilities and equipment located on the property necessary or convenient to its existence, maintenance and safety, or normally in common use;

(6) All repairs, replacements and additions to any of the foregoing.

(h) **“Land”** shall mean the real property more particularly described in Exhibit “A” attached hereto and made a part hereof for all purposes.

(i) **“Limited Common Elements”** shall mean a part of the General Common Elements reserved for the exclusive use of the Owner of a Condominium Unit. Assigned parking spaces, patios, balconies, and storage areas indicated on Map as appurtenant Limited Elements to a specific Residence Unit only shall be deemed Limited Common Elements.

(j) **“Entire Premises” or “Property” or “Condominium Regime” or “Project”** shall mean and include the Land, the Buildings, all improvements and structures thereon, and all rights, easements and appurtenances belonging thereto.

(k) **“Common Expenses”** shall mean and include:

(1) All sums lawfully assessed against the General Common Elements by the Board of Managers;

(2) Expenses of administration and management, maintenance, repair or replacement of the General Common Elements;

3. (3) Expenses agreed upon as Common Expenses by the Owners; and

4. (4) Expenses declared Common Expenses by provisions of this Declaration and the By-Laws.

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(l) **“Map”, “Survey Map” or “Plans”** shall mean and include the Engineering Survey of the Land locating thereon the Buildings and other improvements, the Floor Plans and any other drawing or diagrammatic plan depicting a part of or all of the improvements of the Project and are those instruments attached hereto as Exhibits “B” and “D” which are incorporated herein by reference (Developer has shown the elevations of the improvements in tabular form on Exhibit “C” attached hereto).

(m) **“Assessments” or “Common Expense Charge”** shall mean the Assessments made and levied against each Owner and his Condominium Unit for the Common Expenses incurred in the management and operation of the condominiums and the Condominium Regime; and for repair, maintenance, and operation of the General Common Elements (including reserves for replacements), in accordance with the provisions of this Declaration and the By-Laws of the Association.

(n) **“Common Expense Fund”** shall mean the accumulated Common Expense Charges collected or received by and due and payable to the Association for use in the administration and operation of the condominium; the maintenance, repair, additions, alterations or reconstruction of all or any portion of the General Common Elements.

(o) **“Special Assessments”** shall mean any Assessment over and above the Common Expense Charge necessary for the preservation, management and administration of the condominium.

(p) **“Managing Agent”** shall mean an individual or entity to whom the Board of Managers has delegated all or a part of its powers and duties in accordance with the terms of Article 14 hereof.

(q) **“Texas Condominium Act”** shall mean Article 1301a of the Texas Revised Civil Statutes, as amended, originally enacted in 1963, which permits the creation of Condominium

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Regimes and provides the basic rules for their operation.

(r) **“Developer” or “Declarant”** shall mean DUKE-STONE, INC., and its successors or assigns, provided such successors or assigns are designated in writing by Duke-Stone, Inc. as assigns of the rights of Developer or Declarant hereunder.

(s) **“Mortgage” or “Deed of Trust”** shall mean a pledge of a security interest in a Condominium Unit given to a creditor as security for repayment of a loan made to the Condominium Unit Owner.

(t) **“Mortgagee”** shall mean the beneficiary of any lien or mortgage covering a Condominium Unit.

(u) **“First Mortgage”** shall mean the beneficiary of any first lien mortgage or deed of trust covering a Condominium Unit, together with any insurer and/or guarantor of such first lien mortgage (if applicable).

(v) **“Board” or “Board of Managers”** shall mean the Board of Directors of THE CHESAPEAKE CONDOMINIUM OWNERS ASSOCIATION.

(w) **“Percentage Ownership of the Common Elements” or “Percentage Interest”** shall mean the percentage or undivided interest of the Common Elements (General and Limited) owned by each Owner. A Schedule of the Percentage Ownership Interest for each Unit is attached hereto as Exhibit “C.”

(x) **“Construction Period”** means that period of time during which Declarant is developing the Entire Premises and selling the Condominium Units, which time period shall extend from the date hereof until such time as the Declarant transfers title to all of the Condominium Units.

(y) **“Declarant Control Period”** means that period of time during which Declarant shall retain control over the Association, as more particularly set forth in Article 14, Paragraph B

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hereof.

2. **CONDOMINIUM MAP.** The Map shall be filed for record simultaneously with the recording of this Declaration as a part hereof, and prior to the first conveyance of any Condominium Unit. Such Map shall consist of and set forth (1) the legal description of the surface of the Land; (2) the linear measurements and location with reference to the exterior boundaries of the Land, of the Buildings, and all other improvements built or to be built on said Land by Declarant; and (3) Floor Plans of the Building built or to be built thereon showing the location, the Building designation, the residential unit designation and the linear dimensions of each residential unit, and the Limited Common Elements.

3. **DIVISION OF PROPERTY INTO CONDOMINIUM UNITS.** The real property is divided into the following separate fee simple estates:

(a) One hundred twenty-two (122) fee simple estates consisting of one hundred twenty-two (122) separately designated residence units, each such Unit identified by its own individual Unit number and by Building number or designation on the Map, the Apartments or Residence Units in each Building being described as follows :

Building A: Containing eight (8) residential units numbered as Units 101 – 108, the size, dimensions, location and boundaries of each being detailed on Exhibit “D,” attached hereto.

Building B: Containing eight (8) residential units numbered as Units 201 – 208, the size, dimensions, location and boundaries of each being detailed on Exhibit “D,” attached hereto.

Building C: Containing six (6) residential units numbered as Units 301 – 306, the size, dimensions, location and boundaries of each being detailed on Exhibit “D,” attached hereto.

Building D: Containing eight (8) residential units numbered as Units 401– 408, the size, dimensions, location and boundaries of each being detailed on Exhibit “D,” attached hereto.

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Building E: Containing four (4) residential units numbered as Units 501– 504, the size, dimensions, location and boundaries of each being detailed on Exhibit “D,” attached hereto.

Building F: Containing ten (10) residential units numbered as Units 601– 610, the size, dimensions, location and boundaries of each being detailed on Exhibit “D,” attached hereto.

Building G: Containing four (4) residential units numbered as Units 701 – 704, the size, dimensions, location and boundaries of each being detailed on Exhibit “D,” attached hereto.

Building H: Containing eight (8) residential units numbered as Units 801 – 808, the size, dimensions, location and boundaries of each being detailed on Exhibit “D,” attached hereto.

Building J: Containing four (4) residential units numbered as Units 901 – 904, the size, dimensions, location and boundaries of each being detailed on Exhibit “D,” attached hereto.

Building K: Containing four (4) residential units numbered as Units 1001 – 1004, the size, dimensions, location and boundaries of each being detailed on Exhibit “D,” attached hereto.

Building L: Containing ten (10) residential units numbered as Units 1101 – 1110, the size, dimensions, location and boundaries of each being detailed on Exhibit “D,” attached hereto.

Building M: Containing four (4) residential units numbered as Units 1201 – 1204, dimensions, location and boundaries of each being detailed on Exhibit “D,” attached hereto.

Building N: Containing four (4) residential units numbered as Units 1301 – 1304, dimensions, location and boundaries of each being detailed on Exhibit “D,” attached hereto.

Building P: Containing ten (10) residential units numbered as Units 1401 – 1410, the size, dimensions, location and boundaries of each being detailed on Exhibit “D,” attached hereto.

Building Q: Containing eight (8) residential units numbered as Units 1501 – 1508, the size, dimensions, location and boundaries of each being detailed on Exhibit “D,” attached hereto.

Building R: Containing eight (8) residential units numbered as Units 1161 – 1608, the size, dimensions, location and boundaries of each being detailed on Exhibit “D,” attached hereto.

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Building S: Containing ten (10) residential units numbered as Units 1701 – 1710, the size, dimensions, location and boundaries of each being detailed on Exhibit “D,” attached hereto.

Building T: Containing four (4) residential units numbered as Units 1801 – 1804, dimensions, location and boundaries of each being detailed on Exhibit “D,” attached hereto.

(b) The remaining portion of the Entire Premises referred to as the General Common Elements shall be held in common by the Owners, each such interest being an undivided interest in the General Common Elements, the percentage of each such undivided interest being set forth in the Schedule attached as Exhibit “C.”

4. **COMMON ELEMENTS.** A portion of the General Common Elements is set aside and reserved for the exclusive use of individual Owners, such areas being the Limited Common Elements. The Limited Common Elements reserved for the exclusive use of the individual Owners are the assigned parking spaces, storage areas, balconies and patios, which are shown on the Map. Such spaces are allocated and assigned by Duke-Stone, Inc. to the respective Condominium Units as indicated on Exhibit “D” attached hereto: the patio, if any, assigned to each residential unit being designated by the Building letter and Unit number preceded by the prefix “P”; and in the like manner, the parking spaces, if any assigned to each residential unit being designated by the Building letter and Unit number preceded by the prefix “CP”; the

balcony assigned to a residential unit being designated by the Building letter and Unit number preceded by the prefix "D"; and the storage area, if any, assigned to a residential unit being designated by the Building letter and Unit number preceded by the prefix "S." Such Limited Common Elements shall be used in connection with the particular residence unit, to the exclusion of the use thereof by the other Owners except by invitation. A portion of the General Common Elements is intended as a recreation area and is improved with a swimming pool, tennis courts, jogging trail, sprinkler system, master television antenna system, and other facilities. Reasonable

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regulations governing the use of said facilities by Owners and by their guests and invitees shall be promulgated by Duke-Stone, Inc. and by the Board of Managers. Such regulations shall be permanently posted at the swimming pool and/or elsewhere in said recreational area, and all Owners shall be furnished with a copy thereof upon written request. Each Owner shall be required to strictly comply with said Rules and Regulations, and shall be responsible to the Board of Managers for the compliance therewith by members of his or her family, relatives, guests or invitees.

5. **INSEPARABILITY OF A CONDOMINIUM UNIT.** Each Apartment and the undivided percentage interest in and to the General Common Elements appurtenant thereto (as set out in the Schedule of Percentage Ownership of Common Elements attached hereto as Exhibit "C"), **shall** be inseparable and may be conveyed, leased or encumbered only as a Condominium Unit.

6. **DESCRIPTION OF CONDOMINIUM UNIT.** Every Deed, Lease, Mortgage, Trust Deed or other instrument may legally describe a Condominium Unit by its identifying apartment or residence unit number and Building symbol or designation as shown on the Map, followed by the words "THE CHESAPEAKE CONDOMINIUMS," and by a reference to this recorded Declaration and Map. Every such description shall be deemed good and sufficient for all purposes to convey, transfer, encumber or otherwise affect the General Common Elements.

7. **SEPARATE ASSESSMENT AND TAXATION.** Duke-Stone, Inc. shall give written notice to the appropriate Tax Assessors of the creation of condominium ownership of this Property, as is provided by law, so that each residence unit and its undivided percentage interest in the General Common Elements shall be deemed a separate parcel and subject to separate Assessment and taxation.

8. **OWNERSHIP-TITLE.** A Condominium Unit may be held and owned by more than one 10
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person as joint tenants or as tenants in common, or in any real property tenancy relationship recognized under the laws of the State of Texas.

9. **NONPARTITIONABILITY OF COMMON ELEMENTS.** The General Common Elements shall be owned in common by all of the Owners of the residence units and shall remain undivided, and no Owner **shall** bring any action for partition or division of the General Common Elements other than as specifically provided for hereinafter in Article 23 entitled "Judicial Partition." " Nothing contained herein shall be construed as a limitation of the right of partition of a Condominium Unit between the Owners thereof, but such partition **shall** not affect any other Condominium Unit.

10. **OCCUPANCY.** Each Owner shall be entitled to exclusive ownership and possession of his residence unit. Each Owner may use the General Common Elements in accordance with the purpose for which they are intended without hindering or encroaching upon the lawful rights of

the other Owners. Nothing **shall** be altered or constructed on or removed from the Common Elements, except upon written consent of the Board of Managers.

11. USE.

(a) **Residential Use Only.** Each residence unit shall be used only for residential purposes. For purposes of this provision, a residential unit shall be deemed to be used for residential purposes when it is occupied and used by the Owner only as and for a single-family residential dwelling for the Owner, his family, his social guests, or his tenant. No residential unit shall be used for any commercial, business or profession purposes (a keeping of personal business or professional records of accounts or for the handling of personal business or professional telephone calls or correspondence shall not be deemed to be a violation of this provision but regular consultation with clients at a residential unit is prohibited).

(1) No noxious or offensive activity of any source shall be permitted, nor 11

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shall anything be done in any residential unit or in any Common Elements, which shall be or may become an annoyance or a nuisance to the other Owners. No loud noises or noxious odors shall be permitted on the Property, and the Board shall have the right to determine in accordance with the By-Laws if any such noise, odor or activity constitutes a nuisance. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes), noisy or smoky vehicles, large power equipment or large power tools, unlicensed off-road motor vehicles or other items which may unreasonably interfere with television or radio reception of any Unit Owner in the Project shall be located, used or placed on any portion of the Project or exposed to the view of other Unit Owners without the prior written approval of the Board of Managers.

(2) Notwithstanding another provision of this Article, the Developer may make such temporary use of the Common Elements and residential units as is reasonably necessary to facilitate and complete the improvement of the Land, the construction of the Buildings, the operation of Developer's sales efforts and the showing of the unsold Units. The provisions of this Article shall not prohibit the use by the Board of Managers of all Common Elements in the reasonable manner necessary in connection with the operation and maintenance of the Condominium Regime.

(3) Nothing shall be done or kept in or on any residential unit, balcony, storage space, parking space, or other Common Element which would increase the rate of insurance on the condominium or any other residential unit over that applicable to the residential buildings or which would result in uninsurability of the Condominium Regime or any part hereof, or the cancellation, suspension, modification or reduction of insurance in, on, or covering the Project or any part thereof. If, by reason of the occupancy or use of any residential unit by any Owner, the rate of insurance on all or any portion of the Project shall be increased, such

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Owner shall be personally liable to the Association for such increased costs thereby, and such sum shall be payable to the Association at the same time and in the same manner as provided for the payment of the Common Area Expenses.

(4) No Owner shall install, attach, or hang or allow to be installed, attached or hung, any equipment or wiring or electrical installations, television or radio transmitting or receiving

antennas, air conditioning unit, or any other equipment or wiring in or across any portion of the Common Elements, protruding from any balcony or through any wall, floor, ceiling, window or door which is a Common Element, except as approved in writing by the Board of Managers. All radios, televisions, electrical equipment or appliances of any kind or nature and the wiring therefore installed or used in a residential unit shall fully comply with all rules regulations, or requirements of all State and local public authorities having jurisdiction.

(5) No trailers, mobile homes, boats, oversized recreational vehicles, or campers, are to be permitted on or in the Common Elements. An Owner shall not use, nor shall he permit his family, guests or invitees to use parking spaces of other Owners, and shall in no event park Owner's vehicles in unassigned spaces unless such Owner's designated assigned space(s) is then occupied. No vehicle shall be left standing in parking spaces in a nonoperative condition nor shall there be any repairs (including oil changes) or dismantling done to vehicles in a parking space or elsewhere in the Common Elements. All vehicles situated in the Common Elements must have both a valid and current safety inspection sticker and current license situated thereon. No washing of any vehicles shall be permitted in the Common Elements unless the Board of Managers specifically designates a washing area therein. No motorcycles, motorbikes, trail bikes, motor scooters or other similar vehicles shall be permitted in the Common Elements except in assigned parking spaces; and, in no event, may such vehicles be driven, or otherwise operated, within the Common Elements in a manner whereby a nuisance or annoyance to other

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owners would result; except, however, such vehicles may be operated so as to provide direct ingress and egress to and from such parking space and surrounding thoroughfares. Such vehicles described in this Paragraph shall not be parked or stored in any Limited Common Element where they would be readily visible from another unit or from the Common Elements.

(6) Each Owner shall promptly and fully comply with any and all applicable laws, rules, ordinances, statutes, regulations or requirements of any governmental agency or authority with respect to the use and occupancy of his residential unit and with the provisions hereof, and the By-Laws and Rules and Regulations promulgated hereunder.

(b) **Decoration, Maintenance and Repairs of Residential Units.** Any Owner may decorate and redecorate his residential unit and may make any nonstructural improvements or alterations within his residential unit (but not to Common Elements); and shall have the right to paint, repaint, tile, wax, paper or otherwise furnish or decorate any interior surfaces of walls, partitions, ceilings and floors within the residential unit.

12. **EASEMENTS AND ENCROACHMENTS.** If any portion of the General Common Elements encroaches upon a residence unit or units, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. If any portion of an adjoining residence unit or units encroaches upon the General Common Elements, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. For title or other purposes, such encroachment(s) and easement(s) shall not be considered or determined to be encumbrances whether upon the General Common Elements or upon the residence units.

13. **TERMINATION OF MECHANIC'S OR MATERIALMEN'S LIENS AND**

INDEMNIFICATION. Subsequent to the completion of the improvements described on the Map, no labor performed or materials furnished and incorporated in a residence unit with the
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consent or at the request of the Owner thereof, or his agent or his contractor or subcontractor, shall be the basis for filing of a lien against the General Common Elements owned by such other Owners. Each Owner shall indemnify and hold harmless each of the other Owners from and against all liability arising from the claim of any lien against the residence unit of any other Owner or against the General Common Elements for construction performed, or for labor, materials, services or other products incorporated in the Owner's residence unit at such Owner's request.

14. MANAGEMENT AND ADMINISTRATION.

(a) **By-Laws.** The administration of the Condominium Regime shall be governed by the By-Laws of The Chesapeake Condominium Owners Association, a nonprofit corporation, referred to herein as the "Association." An Owner of a Condominium Unit, upon becoming an Owner, shall be a Member of the Association and shall remain a Member for the period of his ownership. The Association shall be managed by a Board of Managers, duly appointed or elected, pursuant to the terms and conditions of the By-Laws. In addition, the Association may enter into Management Agreements from time to time upon the terms and conditions established in the By-Laws; provided, said Management Agreement is consistent with any requirements or limitations set forth in this Declaration.

(b) **Declarant Control.** Paragraph (a) hereof notwithstanding, and for the benefit and protection of the Unit Owners and any First Mortgagees of record and for the sole purpose of ensuring a complete and orderly buildout as well as a timely sellout of the Condominium Project, the Declarant will retain control of and over the Association for a maximum period not to extend beyond (1) May 10, 1985; (2) upon that date that Declarant has conveyed seventy-five per cent (75%) of the Units; or (3) that date when in the sole opinion of the Declarant the Project becomes viable, self-supporting and operational; whichever event occurs first. It is expressly understood
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that Declarant shall not use said control for any advantage over the Unit Owners by way of retention of any residual rights or interests in the Association or through the creation of any Management Agreement with a term longer than one (1) year without majority Association approval upon relinquishment of Declarant control. It is further understood that any contracts, agreements or leases entered into prior to transfer of control by Declarant shall be subject to termination by the Association without cause or penalty upon not more than ninety (90) days' written notice to the other party. At the end of the Declarant Control Period, the Declarant, through the Board of Managers, shall promptly call the first annual meeting of the Association, and such meeting shall in any event be held within ninety (90) days thereafter. At this meeting, the Declarant shall formally transfer control of the Association, and in connection therewith, shall furnish to the Association an accounting of all assessments, fees and reserve funds available for the operation of the Condominium Project, along with all books, records and accounts necessary to its continued operation. The Declarant shall also execute and deliver to the

Association a bill of sale transferring all items of personal property located on the Condominium Project, which were furnished by the Developer and intended for the common use and enjoyment of the Owners and occupants of the Condominium Project.

(c) **Temporary Managing Agent.** During the period of administration of this Condominium Regime by Declarant, the Declarant may employ or designate a temporary Manager or Managing Agent who shall have and possess all of the rights, powers, authority, functions and duties as may be specified in a Management Agreement or as may be delegated by Declarant to such Manager. The Declarant may pay such temporary Manager or Managing Agent such compensation as it may deem reasonable for the services to be rendered, which compensation shall constitute a part of the Common Expenses of this Condominium Regime and shall be paid out of the Association's budget.

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(d) **Specific Power to Restrict Use and Enjoyment.** Every Owner and the Declarant shall have a beneficial interest of use and enjoyment in the Common Elements, subject to the following limitations, restrictions and provisions:

(1) The right of the Association to publish Rules and Regulations governing use of the Common Elements and the improvements and facilities located thereon, and to establish and enforce penalties for infractions thereof.

(2) The right of the Association to borrow money and mortgage the Common Elements and improvements for the purpose of improving the Common Elements and facilities and in aid thereof to mortgage said property; providing, however, that the rights of any holder of such a mortgage shall be subordinate to the rights of the Owners hereunder; and in no event shall any holder of such a mortgage have the right to terminate the Condominium Regime established by this Declaration.

(3) The right and duty of the Association to suspend the voting rights and the right to the use of the recreational facilities by an Owner for any period during which any assessment against the Owner's Condominium Unit remains unpaid.

(4) The right of Declarant, or the Association after the Declarant Control Period, to dedicate or transfer all or any part of the Common Elements for utility easements, permits or licenses to any public agency, authority or utility for such purposes, and subject to the conditions of such agency, authority or utility. Such permits, licenses and easements must be for purposes reasonably necessary or useful for the proper maintenance of operation of the Project.

(5) The right of the Association to adopt, implement and maintain a private security system for the Project consistent with applicable laws.

(6) Regulations governing traffic within the Common Elements, and to establish sanctions for any violation or violations of such Rules and Regulations (In no event, however,

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shall there be any restriction upon any Unit Owner's right of ingress and egress to his or her Unit).

(7) The right of the Association to regulate noise within the Project, including, without limitation, the right of the Association to require mufflers on engines and to prohibit the use of devices producing excessive noise.

(8) The right of the Association to control the visual attractiveness of the Project, including, without limitation, the right to require Owners to eliminate objects, which are visible from the Common Elements and which, in the Association's judgment, detract from the visual attractiveness of the Project.

(e) Membership, Voting, Quorum, Proxies.

(1) **Membership.** Any person on becoming an Owner of a Condominium Unit shall automatically become a Member of the Association. Such membership shall terminate without any formal Association action whenever such person ceases to own a Condominium Unit, but such termination shall not relieve or release any such former Owner from any liability or obligation incurred under or in any way connected with The Chesapeake Condominiums during the period of such ownership and membership of the Association, or impair any rights or remedies which the Board of Managers of the Association or others may have against such former Owner and Member arising out of or in any way connected with such ownership and membership and the covenants and obligations incident thereto. No certificates of stock shall be issued by the Association, but the Board of Managers may, if it so elects, issue one (1) membership card to the Owner(s) of a Condominium Unit. Such membership card shall be surrendered to the Secretary of the Association whenever ownership of the Condominium Unit designated thereon shall terminate.

(2) **Voting.** Unit ownership shall entitle the Owner(s) to cast one (1) vote per Unit 18
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in the affairs of the Association, which vote shall be weighted to equal the Percentage Interest ownership of the Unit Owner in the Common Elements. The combined weighted votes calculated in accordance with Exhibit "C" shall equal one hundred per cent (100%).

(3) **Quorum.** That number of Unit Owners entitled to cast thirty-three per cent (33%) of the votes of the Association shall constitute a quorum.

(4) **Proxies.** Votes may be cast in person or by proxy. Proxies may be filed with the Secretary before the appointed time of each meeting, and the use of proxies shall be further limited in the manner set forth in the By-Laws.

(f) Insurance.

(1) The Association shall obtain and maintain at all times insurance of the type and kind provided hereinafter, including such other risks of a similar or dissimilar nature as are or shall hereafter customarily be covered with respect to any Condominium Buildings, fixtures, equipment and personal property, similar in construction, design and use, issued by responsible insurance companies authorized to do business in The State of Texas. The insurance shall be carried in blanket policy form naming the Association and all Mortgagees as the insured. In addition, each policy or policies shall identify the interest of each Condominium Unit Owner and shall provide for a standard, noncontributory mortgage clause in favor of each First Mortgagee. Further, the policy shall insure against loss or damage by fire, vandalism, malicious mischief or such other hazards as are covered under standard extended coverage provisions for the full insurable replacement cost of the Common Elements and the Units, and against such other

hazards and for such amounts as the Board may deem advisable. Each Owner irrevocably designates the Owners Association as Attorney-in-Fact to administer and distribute such proceeds as is elsewhere provided in this Declaration. Such insurance policy shall also provide that it cannot be cancelled by either the insured or the insurance company until after thirty (30) 19

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days' prior written notice to each First Mortgagee. The Board of Managers shall, upon request of any First Mortgagee, promptly furnish a certified copy of each blanket policy and a separate certificate identifying the interest of the Mortgagor.

(2) The Association shall keep a comprehensive policy or policies of public liability insurance covering the Common Elements of the Project and such policy or policies shall include a "Severability of Interest Endorsement" or equivalent coverage which will preclude the insurer from denying the claim of a Unit Owner because of negligent acts by the Association, its Board of Managers or a Unit Owner. Such policy or policies shall be in amounts of not less than One Hundred Thousand and No/100 Dollars (\$100,000.00) per person, Three Hundred Thousand and No/100 Dollars (\$300,000.00) per accident and Fifty Thousand and No/100 Dollars (\$50,000.00) property damage, plus an umbrella policy for not less than One Million Dollars and No/100 Dollars (\$1,000,000.00) for all claims for personal injury, including death, and/or property damage arising out of a single occurrence; and the policy shall include water damage liability,

(3) The Association shall keep a policy or policies of (i) liability insurance insuring the Board of Managers, officers and employees of the Association against any claims, losses, liabilities, damages or causes of action-arising out of, or in connection with, or resulting from any act done or omission to act by any such person or entities; (ii) workmen's compensation as required under the laws of The State of Texas; and (iii) such other insurance as deemed reasonable and necessary in order to protect the Project, the Unit Owners and the Association.

(4) The Association shall be responsible for obtaining insurance upon the Units, including all fixtures, installations or additions thereto contained within the unfinished interior surfaces of the perimeter walls, floors and ceilings of such Unit, as initially installed, or 20

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replacements thereof. The Association shall not be responsible for procurement or maintenance of any insurance covering the liability of any Unit Owner not caused by or connected with the Association's operation or maintenance of the Project. Each Unit Owner may obtain additional insurance at his own expense for his own benefit. Insurance coverage on the furnishings and other items of personal property belonging to a Unit Owner and casualty and public liability insurance coverage within each Unit are specifically made the responsibility of each Unit Owner, and each Unit Owner must furnish a copy of his insurance policy to the Association promptly upon demand.

(5) Any insurance obtained by the Association or a Unit Owner shall contain appropriate provisions whereby the insurer waives its right of subrogation as to any claims against the Unit Owners, Association or their respective servants, agents or guests.

15. **RIGHT OF ENTRY.** The Owners shall have the irrevocable right to be exercised by the

Board of Managers of the Association to have access to each residential unit from time to time as may be necessary for the following purposes:

1. (a) The making of repairs therein;
2. (b) Performing necessary maintenance or repairs to the Common Elements for which the Association is responsible;
- (c) Abate any nuisance or dangers, unauthorized, prohibited or unlawful activity conducted or maintained in such residential unit;
4. (d) Protecting the property rights and welfare of the other Owners; and
5. (e) Enforcing the provisions of this Declaration of Condominium and the By-Laws or Rules and Regulations promulgated hereunder.

Except in the event of emergency, such right of entry shall be exercised, only in the presence of the Owner or other occupant of the residential unit, which is entered. In all events,

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such right of entry shall be exercised in such a manner as to avoid any unreasonable or unnecessary interference with the position, use or enjoyment of the resident unit by the Owner or occupant thereof; and shall, whenever possible, be preceded by reasonable notice to the Owner or occupant thereof. In the event that any damage is caused to the property of any Owner in connection with the exercise of any such right of entry, such damage shall be repaired at the expense of the Association and the Board is hereby authorized to expend Common Expense Funds therefore.

16. OWNER'S RESPONSIBILITY FOR MAINTENANCE OF UNIT. An Owner shall maintain and keep in repair the interior of his own residence unit, including the fixtures, amenities and other appurtenances therein located. All fixtures and equipment, including the heating and air conditioning system installed within the residence units, commencing at a point where the utility lines, pipes, wires, conduits or systems (which for brevity are hereafter referred to as "utilities") enter the residence unit, shall be maintained and kept in repair by the Owner thereof. Without limitation on the generality of the foregoing, an Owner shall maintain and keep in good repair (and replace, if so required) the air conditioning compressor, hot water heater unit, fans, ductwork, heating unit and cooling coils utilized in and for his unit; as well as all other fixtures situated within or installed into the Limited Common Elements appurtenant to such Unit; and an Owner shall be obliged to promptly repair and replace any broken or cracked windows, window screens, doors or glass therein that might be so broken or cracked. Notwithstanding anything to the contrary contained in this Article 16, an Owner, when exercising his right and responsibility of repair, maintenance, replacement or remodeling, as herein defined, shall never alter in any manner whatsoever the exterior appearance of his Unit nor make any structural additions, alterations, changes or additions to a Unit or to the Limited Common Elements

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(including the painting, refinishing, or refurbishing thereof) without the prior written consent of the Association or its Architectural Committee which the Association hereby reserves the right to establish and/or appoint.

An Owner shall not be deemed to own the undecorated and/or unfinished surfaces of the perimeter walls, floors and ceilings surrounding his residence unit, nor shall such Owner be deemed to own the utilities running through his residence unit which are utilized for, or serve more than one residence unit, except as a tenant in common with the other Owners. An Owner, however, shall be deemed to own and shall maintain the inner decorated and/or finished surfaces of the perimeter and interior walls, floors and ceilings, doors, windows and other such elements consisting of paint, wallpaper and other such finishing materials.

The patios, storage areas, balconies, parking spaces and other Limited Common Areas shall be maintained in their present condition by the Association unless the Owner of the Unit to which same are attributable is otherwise obligated to maintain such Limited Common Elements under other provisions hereof. If any Owner shall make any modifications or changes thereto, then any additional expenses for the maintenance and repair thereof shall be the responsibility of the Owner having use of the altered Limited Common Element. The General Common Elements shall be maintained by the Association.

17. INTERFERENCE WITH STRUCTURAL SOUNDNESS OF BUILDING. An Owner shall do no act nor any work in or to any residential unit, balcony, patio, parking areas, storage space or Common Element, that will impair the structural soundness or integrity of the Building or other improvements of the Project; impair any easement or hereditament or otherwise adversely affect the Buildings or Common Elements. No Owner shall in any way alter, modify, add to, or otherwise perform any work whatever upon any of the Common Elements, without the prior written consent of the Board of Managers.

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18. DIMENSIONS. It is expressly agreed, and each and every purchaser of a residence unit, his heirs, executors, administrators, assigns, successors and grantees hereby agree, that the square footage, size, and dimensions of each residence unit as set out and shown in this Declaration (as set out in Exhibits "B," "C" and "D" hereto), are approximate and are shown for descriptive purposes only, and that Duke-Stone, Inc. does not warrant, represent, or guarantee that any residence unit actually contains the area, square footage, or dimensions shown by the plat thereof. Each purchaser and Owner of a residence unit or interest therein, has or will have had full opportunity and is under a duty to inspect and examine the apartment purchased by him prior to his purchase thereof, and by acceptance of the Deed to his unit, agrees that the residence unit is purchased as actually and physically existing. Each purchaser of a residence unit, by acceptance of a Deed to his unit shall be deemed to have waived any claim or demand which he may have against Duke-Stone, Inc. or any other person whomsoever, on account of any difference, shortage, or discrepancy between the resident unit as actually and physically existing and as it is shown on the respective plat thereof which is attached as an exhibit hereto. It is specifically agreed that in interpreting Deeds, Mortgages, Deeds of Trust, and other instruments for any purpose whatsoever or in connection with any matter, the existing physical boundaries of the residence unit or of any residence unit reconstructed in substantial accordance with the original Plans thereof shall be conclusively presumed to be the boundaries, regardless of settling, arising or lateral movement of the Building and regardless of variances between the boundaries shown on the plat and those of the Building.

19. COMPLIANCE WITH PROVISIONS OF DECLARATION AND BY-LAWS. Each owner shall strictly comply with the provisions of this Declaration, the By-Laws and the decisions and resolutions of the Association adopted pursuant thereto as the same may be lawfully amended from time to time. Failure to comply with any of the same shall be grounds for

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an action to recover sums due for damages or injunctive relief or both, maintainable by an aggrieved Owner or the Managing Agent or Board of Managers on behalf of the Owners or, in a proper case, by an aggrieved Owner against another Owner or against the Association.

20. MAINTENANCE ASSESSMENTS.

(a) **Assessments for Common Expenses.** All Owners shall be obligated to pay the estimated Assessments imposed by the Association to meet the Common Expenses. Assessments for the estimated Common Expenses shall be due monthly in advance on or before the first (1st) day of each month. Failure to pay by the tenth (10th) day of each month shall require the imposition and assessment of a late charge of Ten and No/100 Dollars (\$10.00), which said sum shall defray administrative expenses of the Association attributable to late payments. Contribution for monthly Assessments shall be prorated if the ownership of a Condominium Unit commences on a day other than the first (1st) day of a month.

(b) **Purpose of Assessments.** The Assessments levied by the Association shall be used Exclusively for the purposes of promoting the health, safety, welfare and recreation of the Owners of Units in the Project, and in particular, for the improvement, maintenance and preservation of the Project, the services and the facilities devoted to said purposes that are related to the use and enjoyment of both the Common Elements and the Units situated within the Project. Such uses may include, but are not limited to, the cost to the Association of the following: all insurance, repair, replacement and maintenance of the Common Elements; fire, extended coverage, vandalism, malicious mischief and liability insurance for the Condominium Units; management costs, taxes, legal and accounting fees as may from time to time be authorized by the Association, construction of other facilities; maintenance of easements upon, constituting a part of, appurtenant to or for the benefit of the Project; mowing grass, caring for the grounds and landscaping; caring for the swimming pool and equipment, other recreational

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areas, management office, and mailroom; roofs and exterior surfaces of all Buildings; garbage pickup, pest control; driveway maintenance; outdoor lighting; security service for the Project; water and sewer service furnished to the Property by or through the Association; discharge of any liens on the Common Elements; and other charges required by this Condominium Declaration, or other charges that the Association is authorized to incur. In addition, the Association shall establish a reserve for repair, maintenance and other charges as specified herein, such reserve to be created and established out of the Assessments payable hereunder.

(c) **Determination of Assessments.** The Assessments shall be determined by the Board of Managers based upon the cash requirements necessary to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the Common Elements. This determination may include, among other items, taxes, governmental

assessments, landscaping and grounds care, Common Element lighting, repairs and renovation, garbage collections, wages, water charges, legal and accounting fees, management costs and fees, expenses and liabilities incurred by the Association under or by reason of this Declaration, expenses incurred in the operation and maintenance of recreation and administrative facilities, payment of any deficit remaining from a previous period and the creation of a reserve contingency fund. The omission or failure of the Board to fix the Assessment for any month shall not be deemed a waiver, modification or a release of the Owners from the obligation to pay.

(d) Basis of Assessment and Maximum Monthly Assessment.

- (1) The monthly Assessments shall be made according to each Owner's Percentage Interest in and to the Common Elements provided in Exhibit "C" attached hereto.
- (2) As of January 1 of the year immediately following the conveyance of the first Condominium Unit to an Owner other than the Declarant, the Association may set the monthly Assessment for the next succeeding twelve (12) month period at an amount which shall not

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exceed one hundred twenty per cent (120%) of the monthly Assessment allowed for January of the preceding year. If the Board determines at any time during the calendar year that a greater increase of the monthly Assessment is required to adequately perform the duties and responsibilities of the Association and pay all expenses thereof, then the Board may call a special meeting of the Owners. By the assent of a two-thirds (2/3rds) vote of the quorum of Owners present at such meeting, in person or by proxy, the monthly Assessment may be set at whatever level such Owners approve. The new Assessment shall become the basis for future annual increases using the one hundred twenty per cent (120%) formula as above outlined.

- (3) The Board of Managers shall have authority to lower the monthly Assessment if it deems feasible.

(e) Special Assessments for Improvements. In addition to the annual Assessments authorized above, at any time the Association may levy in any calendar year a special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of improvements upon the Common Elements, including the necessary fixtures and personal property related thereto; provided, that any such Assessment shall be approved by a two-thirds (2/3) vote of the quorum of Owners voting in person or by proxy at a meeting duly called for this purpose. The Declarant will be treated as all other Unit Owners for purposes of special Assessments.

(f) Commencement of Assessments. The monthly Assessments provided for herein shall commence upon that date that the first Unit is conveyed by Declarant to an Owner and shall be due on the first (1st) day of each and every month thereafter. The Assessments shall be prorated if the ownership of a Unit commences on a day other than the first (1st) day of the month. The Board shall fix the amount of the monthly Assessments against each Unit at least thirty (30) days prior to January 1 of each year; provided, however, that the Board shall have a

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right to adjust the monthly assessments, as long as any such adjustment does not exceed the maximum permitted hereunder, with thirty (30) days' written notice given to each Owner.

Written notice of the monthly Assessment adjustment shall be sent to every Owner subject thereto. The due date shall be established by the Board, and unless otherwise provided or unless otherwise agreed by the Association, the Board shall collect the Assessments monthly in accordance with Paragraph (a) hereof. Notwithstanding the foregoing, the Declarant shall not be required to pay any such Assessments whatsoever until the expiration of the Declarant Control Period. During the Declarant Control Period, any expenses of operation which exceed the regular monthly Assessments received from the Owners shall be the binding responsibility and obligation of the Declarant. Thereafter, upon expiration of the Declarant Control Period, the Declarant shall pay regular and special Assessments attributable to each Condominium Unit owned by the Declarant.

(g) **No Exemption.** No Owner may exempt himself from liability for his contribution towards the Common Expenses by waiver of the use or enjoyment of any of the General or Limited Common Elements or by abandonment of his Unit.

(h) **Lien for Assessments.**

(1) All sums assessed but unpaid by a Unit Owner for his share of Common Expenses chargeable to his respective Condominium Unit, including interest thereon at ten per cent (10%) per annum, shall constitute a lien on such Unit superior to all other liens and encumbrances, except only for:

(i) All taxes and Special Assessments levied by governmental and taxing authorities; and

(ii) All liens securing sums due or to become due under any duly recorded deed or deed of trust.

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(2) To evidence such lien the Association may, but shall not be required to, prepare written notice setting forth the amount of such unpaid indebtedness, the name of the Owner of the Condominium Unit and a description of the Condominium Unit. Such notice shall be signed by one (1) of the Board of Managers and may be recorded in the Office of the County Clerk of Bexar County, Texas. Such lien for the Common Expenses shall attach from the date of the failure of payment of the Assessment. Such lien may be enforced by foreclosure of the defaulting Owner's Condominium Unit by the Association. Any such foreclosure sale is to be conducted in accordance with the provisions applicable to the exercise of powers of sale in mortgages and deeds of trust, as set forth in Article 3810 of the Revised Civil Statutes of The State of Texas, or in any manner permitted by law. Each Owner, by accepting a deed to his Unit, expressly grants to the Association a power of sale, as set forth in said Article 3810, in connection with the Assessment lien. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceedings, the costs and expenses for filing the notice or claim of lien and all reasonable attorney's fees. The Owner shall also be required to pay to the Association a reasonable rental for the Condominium Unit during the period of foreclosure, and the Association shall be entitled to a receiver to collect same. The Association shall have the power to bid in the Condominium Unit at foreclosure sale and to acquire and hold, lease, mortgage and convey same.

(3) The amount of the Common Expenses assessed against each Condominium Unit shall also be a debt of the Owner thereof at the time the Assessment is made. Suit to recover a money

judgment for unpaid Common Expenses shall be maintainable without foreclosing or waiving the lien securing same.

(4) In addition, to the extent permitted by law, Declarant reserves and assigns to the Association, without recourse, a vendor's lien against each Unit to secure payment of an

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Assessment or Special Assessment which is levied, pursuant to the terms hereof. Said liens may be enforced by appropriate judicial proceedings and the expenses incurred in connection therewith, including, but not limited to, interest, costs and reasonable attorney's fees, shall be included in the lien amount to the extent permitted by law and chargeable to the Owner in default. Such liens listed in (h)(1)(i) of this Article 20.

(5) Any encumbrancer holding a lien on a Condominium Unit may pay any unpaid Common Expense payable with respect to such Unit; and upon such payment, such encumbrancer shall have a lien on such Unit for the amount paid of the same rank as the lien of his encumbrance.

(i) **Subordination of the Lien to Mortgages.** The lien of the Assessments provided for herein, together with late charges, interest and fines, shall be subordinate to the lien of any recorded mortgage or mortgages granted or created by the Owner of any Condominium Unit to secure the payment of monies advanced and used for the purpose of purchasing and/or improving such Unit. Sale or transfer of any Unit shall not affect the Assessment lien; provided, however, that the sale or transfer of any Condominium Unit, pursuant to a foreclosure, a deed in lieu of foreclosure, assignment in lieu of foreclosure under such purchase money or improvement mortgages or deeds of trust shall extinguish the lien of such Assessments as to payments thereof coming due prior to such sale or transfer, except for claims for its pro rata share of such Assessments resulting from a reallocation among all Units, which reallocation, if necessary, will require a readjustment of the Common Assessment as provided in Paragraph (d)(2) of this Article 20. No sale or transfer shall relieve such Condominium Unit, or the Owners thereof, from liability for any Assessments thereafter becoming due or from the lien thereof.

(j) **Statement of Assessments.** Upon the written request of any Owner or any encumbrancer or prospective encumbrancer of a Condominium Unit, the Association, by its

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Board of Managers, shall issue a written statement setting forth the unpaid Assessments, if any, with respect to the subject Unit, the amount of the current monthly Assessments, the date of such Assessment and the due date, credit for advance payments or for prepaid items, including, but not limited to, insurance premiums, which shall be conclusive upon the Association in favor of all persons who rely thereon in good faith.

Unless such request for a statement of indebtedness shall be complied with within ten (10) days, all unpaid Assessments which become due prior to the date of making of such request shall be subordinate to the lien of the person requesting such statement.

The Purchaser, Donee or other transferee of a Unit, by deed or other writing (herein called "Grantee"), shall be jointly and severally liable with the transferor of such Unit (herein called "Grantor") for all unpaid Assessments against the latter for his proportionate share of the Common Expenses up to the time of the grant or conveyance, without prejudice to the Grantee's

right to recover from Grantor the amounts paid by the Grantee; but such transferee shall be personally liable only if he expressly assumes such liability. The Grantee shall be entitled to a statement from the Board of Managers setting forth the amount of the unpaid Assessments, if any, with respect to the subject Unit, the amount of the current monthly Assessment and the date such Assessment becomes due, as well as any credit for advanced payments or for prepaid items, including, but not limited to, insurance premiums. This statement shall be conclusive upon the Association. Unless such request for a statement of indebtedness shall be complied with within ten (10) days of such request, such Grantee shall not be liable for, nor shall the Unit conveyed be subject to a lien for any unpaid Assessments against the subject Condominium Unit accruing prior to such ten (10) day period.

21. **UTILITIES.** Each Owner shall pay for his own utilities which are separately metered and billed to each Unit by the respective utility companies. Utility expenses which are not

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separately billed or metered shall be a part of the Common Expenses and each Unit Owner shall pay his pro rata share thereof as in the case of other Common Expenses.

22. **DAMAGE OR DESTRUCTION BY FIRE OR OTHER CASUALTY OR OBSOLESCENCE OF THE CONDOMINIUM.**

(a) **Association as Attorney-in-Fact.** This Declaration hereby makes mandatory the irrevocable appointment of an attorney-in-fact to deal with the Property upon its destruction or obsolescence. Title to each Condominium Unit is declared and expressly made, subject to the terms and conditions hereof, and acceptance by any grantee of a Deed from Duke-Stone, Inc. or from any Owner shall constitute appointment of the attorney-in-fact herein provided. All of the Owners irrevocably constitute and appoint THE CHESAPEAKE CONDOMINIUM OWNERS ASSOCIATION, their true and lawful attorney in their name, place and stead, for the purpose of dealing with the Property upon its destruction, obsolescence or condemnation as is hereafter provided. As attorney-in-fact, the Association, by its President and Secretary, shall have full and complete authorization, right and power to make, execute and deliver any Contract, Deed or any other instrument with respect to the interest of a Condominium Unit Owner which are necessary and appropriate to exercise the powers herein granted. Repair and reconstruction of the improvement(s) as used in the succeeding subparagraphs means restoring the improvement(s) to substantially the same condition in which it existed prior to the damage, with each Unit and the General and Limited Common Elements having the same vertical and horizontal boundaries as before. The proceeds of any insurance collected shall be made available to the Association for the purpose of repair, restoration or replacements unless the Owners and First Mortgagees agree not to rebuild in accordance with the provisions set forth hereinafter.

(b) **Fire or Other Casualty.**

(1) In the event of damage or destruction due to fire or other disaster, the

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insurance proceeds, if sufficient to reconstruct the improvement(s), shall be applied by the Association, as attorney-in-fact, to such reconstruction, and the improvement(s) shall be promptly repaired and reconstructed.

(2) If the insurance proceeds are insufficient to repair and reconstruct the improvement(s) and if such damage is not more than sixty-six and two-thirds per cent (66 2/3%) of all of the Buildings, not including land, such damage or destruction shall be promptly repaired and reconstructed by the Association, as attorney-in-fact, using the proceeds of insurance and the proceeds of an Assessment to be made against all of the Owners and their Condominium Units. Such Deficiency Assessments shall be a Common Expense made pro rata according to each Owner's Percentage Interest in and to the General Common Elements and shall be due and payable within thirty (30) days after written notice thereof. The Association shall have the authority to cause the repair or reconstruction of the improvements using all of the insurance proceeds for such purpose notwithstanding the failure of an Owner to pay the Assessment. The Assessment provided for herein shall be a debt of each Owner and a lien on his Condominium Unit and may be enforced and collected as is provided in Article 20. The lien provided for herein shall be subordinate to any recorded first lien mortgage, as provided in Paragraph (i) of Article 20. In addition thereto, the Association, as attorney-in-fact, shall have the absolute right and power to sell the Condominium Unit of any Owner refusing or failing to pay such Deficiency Assessment within the time provided; and if not so paid, the Association shall cause to be recorded a notice that the Condominium Unit of the delinquent Owner shall be sold by the Association. The proceeds derived from the sale of such Condominium Unit shall be used and disbursed by the Association, as attorney-in-fact, in the following order:

1. (i) For payment of the balance of the lien of any First Mortgage;
2. (ii) For payment of taxes and Special Assessment Liens in favor of The

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State of Texas and any political subdivision, special improvement district or other taxing or assessing authority;

(iii) For payment of unpaid Common Expenses and Special Assessments;

(iv) For payment of junior liens and encumbrances in order of and to the extent of their priority; and

(v) The balance remaining, if any, shall be paid to the Condominium Unit Owner.

(3) If more than sixty-six and two-thirds per cent (66-2/3%) of all of the Buildings, not including Land, are destroyed or damaged, and if the Owners representing an aggregate Ownership Interest of one hundred per cent (100%) of the Common Elements of the condominium do not voluntarily, within one hundred (100) days thereafter, make provisions for reconstruction, which plan must have the unanimous approval or consent of every First Mortgagee, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association's president and secretary, the entire remaining Premises shall be sold by the Association, as attorney-in-fact, for all of the Owners, free and clear of the provisions contained in this Declaration, the Map and the By-Laws. The insurance settlement proceeds shall be collected by the Association, and such proceeds shall be divided by the Association according to each Unit Owner's Interest (as such interests appear on the policy or policies), and such divided proceeds shall be paid into separate accounts in a number equal to the number of resident units in the Regime, each such account representing one of the Condominium Units. Each such

amount shall be in the name of the Association and shall be further identified by the number of the residence unit and the name of the Owner. There shall be added to each such account the apportioned amount of the proceeds derived from the sale of the Entire Property. Such apportionment shall be based upon each Condominium Unit Owner's

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interest in the General Common Elements. The total funds of each account shall be used and disbursed without contribution from one account to another by the Association, as attorney-in-fact, for the same purposes and in the same order as is provided in subparagraph (b)(2)(i) through (v) of this Article 22. Any decision to terminate the condominium status, as herein provided, must have the approval of First Mortgagees holding mortgages on Units which have at least fifty-one per cent (51%) of the votes of the Association.

(4) If the Owners representing an aggregate Ownership Interest of one hundred per cent (100%) of the Common Elements of the Condominium Units adopt a plan for reconstruction, which plan has the unanimous approval of all First Mortgagees, then all of the Owners shall be bound by the terms and other provisions of such plan. Any Assessment made in connection with such plan shall be a Common Expense and made pro rata according to each Owner's Interest in the General Common Elements and shall be due and payable as provided by the terms of such plan but not sooner than thirty (30) days after written notice thereof. The Association shall have the authority to cause the repair or restoration of the improvements using all of the insurance proceeds for such purpose notwithstanding the failure of an Owner to pay the Assessment. The Assessment provided for herein shall be a debt of each Owner and a lien on this Condominium Unit and may be enforced and collected as is provided in Article 20, but shall be subordinate to any prior recorded first mortgage. In addition thereto, the Association, as attorney-in-fact, shall have the absolute right and power to sell the Condominium Unit of any Owner refusing or failing to pay such Assessment within the time provided; and if not so paid, the Association shall cause to be recorded a notice that the Condominium Unit of the delinquent Owner shall be sold by the Association. The proceeds derived from sale of such Condominium Unit shall be used and disbursed by the Association, as attorney-in-fact, for the same purposes and in the same order as is provided in subparagraph (b) (2)(i) through (v) of this Article 22.

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(c) Obsolescence.

(1) The Owners representing an aggregate Ownership Interest of sixty-six and two-thirds per cent (66 2/3%) or more of the Common Elements of the condominium may agree that the General Common Elements of the Property are obsolete and that the same should be renewed or reconstructed. In such instance, the expense thereof shall be payable by all of the Owners as Common Expenses; provided, however, that any Owner not agreeing to such renewal or reconstruction may give written notice to the Association that such Unit shall be purchased by the Association for the fair market value thereof. If such Owner and the Association can agree on the fair market value thereof, then such sale shall be consummated within thirty (30) days thereafter. If the parties are unable to agree, the date when either party notifies the other that he or it is unable to agree with the other shall be the "commencement date" from which all periods

of time mentioned herein shall be measured. Within ten (10) days following the commencement date, each party shall nominate in writing (and give notice of such nomination to the other party) an appraiser who shall be a member of the San Antonio Board of Realtors. If either party fails to make such a nomination, the appraiser nominated shall (within five [5] days after default by the other party) appoint and associate with another appraiser (to be selected from the San Antonio Board of Realtors). If the two appraisers designated by the parties (or selected pursuant thereto in the event of a default of one party) are unable to agree, they shall appoint another appraiser (to be selected from the San Antonio Board of Realtors) to be umpire between them, if they can agree on such person. If they are unable to agree upon such umpire, then each appraiser previously appointed shall nominate two (2) persons (each of whom shall be a member of the San Antonio Board of Realtors) and from the names of the four persons so nominated, shall be drawn by lot by any judge of any court of record in Texas, and the name so drawn shall be such umpire. The nominations from whom the umpire is to be drawn by lot shall be submitted within 36

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ten (10) days after the failure of the two appraisers to agree, which in any event shall not be later than twenty (2) days following the appointment of the second appraiser. The decision of the appraisers as to the fair market value, or in the case of their disagreement, the decision of the umpire, shall be final and binding. The expenses and fees of such appraisers shall be borne equally by the Association and the Owners. The sale shall be consummated within fifteen (15) days thereafter, and the Association, as attorney-in-fact, shall disburse such proceeds as is provided in subparagraph (b)(2)(i) through (v) of this Article 22.

(2) The Owners representing an aggregate Ownership Interest of one hundred per cent (100%) of the Common Elements of the condominium with the unanimous consent of all First Mortgagees, may agree that the condominium project, including the General Common Elements of the Property, are obsolete and that the same should be sold. In such instance, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association's president and secretary, the Entire Premises shall be sold by the Association, as attorney-in-fact, for all of the Owners, free and clear of the provisions contained in this Declaration, the Map and the By-Laws. The sales proceeds shall be apportioned between the Owners on the basis of each Owner's Interest in the General Common Elements, and such apportioned proceeds shall be paid into separate accounts equalling the number of resident units in the Regime, each such account representing one Condominium Unit. Each such account shall be in the name of the Association, and shall be further identified by the number of the Condominium Unit and the name of the Owner. From each separate account, the Association, as attorney-in-fact, shall use and disburse the total amount (of each) of such funds without contribution from one fund to another for the same purposes and in the same order as is provided in subparagraph (b)(2)(i) through (v) of this Article 22.

(d) **Limitations on Restoration.** Any restoration, reconstruction or repair of the 37

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Project shall be performed substantially in accordance with this Declaration and the original Plans and specifications, unless such action is approved by the First Mortgagees holding the mortgages on Units which have at least fifty-one per cent (51%) of the votes of the Association.

23. **JUDICIAL PARTITION.** There shall be no judicial partition of the Common Elements, nor shall Declarant or any person acquiring any interest in the Project or any part thereof seek any such judicial partition until the happening of the conditions set forth in Article 22 hereof in the case of damage or destruction or unless the Property has been removed from the provisions of the Texas Condominium Act; provided, however, that if any Condominium Unit shall be owned by two (2) or more co-tenants, as tenants in common or as joint tenants, nothing herein contained shall be deemed to prevent a judicial partition between such co-tenants, but such partition shall not affect any other Condominium Unit.

24. **CONDEMNATION.**

(a) If all or any part of the Property is taken or threatened to be taken by eminent domain or by power in the nature of eminent domain (whether permanent or temporary), the Association, as attorney-in-fact, and each Owner shall be entitled to participate in proceedings incident thereto at their respective expense. The Association shall give timely written notice of the existence of such proceedings to all Owners and to all First Mortgagees known to the Association to have an interest in any Condominium Unit. The expense of participation in such proceedings by the Association shall be borne by the Common Fund. The Association, as attorney-in-fact, is specifically authorized to obtain and pay for such assistance from attorneys, appraisers, architects, engineers, expert witnesses and other persons as the Association in its discretion deems necessary or advisable to aid or advise it in matters relating to such proceedings. All damages or awards for any such taking shall be deposited with the Association, as attorney-in-fact, and such damages or awards shall be applied as provided herein. In the event

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that an action in eminent domain is brought to condemn a portion of the Common Elements (together with or apart from any Condominium Unit), the Association, as attorney-in-fact for each Owner, in addition to the general powers set out herein, shall have the sole authority to determine whether to defend or resist any such proceeding, to make any settlement with respect thereto, or to convey such Property to the condemning authority in lieu of such condemnation proceeding.

(b) With respect to any such taking, all damages and awards shall be determined for the taking of the individual Units and for the taking of the Common Elements and for each Owner's interest therein. After the damages or awards for such taking are determined, such damages or awards shall be paid to the account of each Owner (or each First Mortgagee as its interest may appear) for the loss of the individual Unit plus an amount in proportion to his percentage or fractional ownership interest in the Common Elements to be applied or paid as set forth in Paragraphs (b) (2)(i) through (v) of Article 22 hereof, unless restoration takes place as herein provided. The Association, if it deems advisable, may call a meeting of the Owners, at which meeting the Owners, by a majority vote, shall decide whether to replace or restore, as far as possible, the Common Elements so taken or damaged. In the event it is determined that such Common Elements should be replaced or restored by obtaining other land or building additional structures, this Declaration and the Map attached hereto shall be duly amended by instrument executed by the Association, as attorney-in-fact, on behalf of the Own. In the event that such eminent domain proceedings results in the taking of or damage to one (1) or more, but less than

sixty-six and two-thirds per cent (66 2/3%) of the total number of Condominium Units, then the damages and awards for such taking shall be determined for each Condominium Unit and the following shall apply:

(1) The Association shall determine which of the Condominium Units damaged 39

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by such taking may be made tenantable for the purposes set forth in this Declaration, taking into account the nature of this Condominium Project and the reduced size of the Condominium Unit so damaged.

(2) The Association shall determine whether it is reasonably practicable to operate the remaining Condominium Units of the Project, including those damaged Units which may be made tenantable, as a Condominium in the manner provided in this Declaration.

(3) In the event the Association determines that it is not reasonably practicable to operate the undamaged Condominium Units and the damaged Units which can be made tenantable, then the Condominium Project shall be deemed to be regrouped and merged into a single estate owned jointly in undivided interest by all Owners, as tenants in common, in the proportionate ownership interest previously owned by each Owner in the Common Elements. Any decision to terminate the condominium status of the Project must have the approval of First Mortgagees holding the mortgages on Units which have at least fifty-one per cent (51%) of the votes in the Association.

(4) In the event the Association determines it will be reasonably practicable to operate the undamaged Condominium Units and the damaged Units which can be made tenantable as a Condominium Unit, then the damages and awards made with respect to each Unit which has been determined to be capable of being made tenantable shall be applied to repair and to reconstruct such Condominium Unit so that it is made tenantable. The restoration shall be performed in accordance with this Declaration and the original Plans and specifications, unless other action is approved by holders of mortgages on the remaining Units which have at least fifty-one per cent (51%) of the votes in the Association. If the cost of such work exceeds the amount of the award, the additional funds required shall be assessed against those Condominium Units which are tenantable. With respect to those Units which may not be tenantable, the award 40

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made shall be paid as set forth in Paragraphs (b)(2)(i) through (v) of Article 22 hereof; and the remaining portion of such Units, if any, shall become part of the Common Elements. Upon the payment of such award for the account of such Owner as provided herein, such Condominium Unit shall no longer be a part of the Condominium Project, and the proportionate ownership interest in the Common Elements appurtenant to each remaining Condominium Unit which shall continue as part of the Condominium Project shall be equitably adjusted to distribute the ownership of the undivided interest in the Common Elements among the reduced number of Owners based upon the square footage of the individual remaining Units in proportion to the total square footage of all the remaining Units. If sixty-six and two-thirds per cent (66 2/3%) or more of the Condominium Units are taken or damaged by such taking, all damages and awards shall be paid to the accounts of the Owners of Units or their First Mortgagees (as their interests may appear), as provided herein; and this Condominium Regime shall terminate upon such payment. Upon such termination, the Condominium Units and Common Elements shall be

deemed to be regrouped and merged into a single estate owned in undivided interest by all Owners as tenants in common in the proportionate ownership interest previously owned by each Owner in the Common Elements. The Owners representing an aggregate ownership interest of sixty-six and two-thirds per cent (66 2/3%) of the Common Elements and holders of first mortgages on Units which have at least fifty-one per cent (51%) of the votes on Units subject to first mortgages may agree that the Property should be sold. In such instance, the Association shall record a notice setting forth such fact or facts, and upon the recording of such notice by the Association's authorized officers, the entire Premises shall be sold by the Association, as attorney-in-fact, for all of the Owners, free and clear of the provisions contained in the Declaration, the Plat and the By-Laws. The sales proceeds shall be apportioned between the Owners and First Mortgagees as their interests may appear on the basis of each Owner's

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proportionate ownership interest in the regrouped estate. Any damages, awards, or sales proceeds provided in this paragraph to be paid to or for the account of any Owner by the Association shall be applied as set forth in Paragraphs (b)(2)(i) through (v) of Article 22 hereof.

25. PROTECTION OF MORTGAGEE.

(a) **Notice to Association.** An Owner who mortgages his Unit shall notify the Association, giving the name and address of his Mortgagee. Each Mortgagee shall be permitted to notify the Association of the fact that such Mortgagee holds a deed of trust or mortgage on a Condominium Unit. The Board shall maintain such information in a book entitled "Mortgagees of Condominium Units."

(b) **Notice of Default; Lapse in Insurance.** The Association shall notify a First Mortgagee in writing, upon written request of such Mortgagee, identifying the name and address of the Mortgagee and the Unit number of any default by the Mortgagor in the performance of such Mortgagor's obligations, as set forth in this Declaration, which is not cured within sixty (60) days. The Association, upon written request, shall notify a First Mortgagee of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

(c) **Examination of Books.** The Association shall permit First Mortgagees to examine the books and records and financial statements of the Association during normal business hours upon request and shall provide, upon request, current copies of the Declaration, By-Laws and Rules and Regulations of the Association.

(d) **Reserve Fund.** The Association shall establish adequate reserve funds for replacement of Common Element components and fund the same by regular monthly payments rather than by extraordinary Special Assessments. In addition, there shall be established a working capital fund for the initial operation of the Condominium Project equal to at least two

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(2) months' estimated Common Assessments charge for each Unit, said deposit to be collected at closing of each Unit sale. The contribution to the working capital for each unsold Unit shall be paid to the Association by Declarant within sixty (60) days after the conveyance of the first Unit by Declarant. However, the Declarant shall have a right of reimbursement from the working

capital fund for amounts contributed by the Declarant with respect to an unsold Condominium, which reimbursement may be made to the Declarant at the time of closing of the sale of such Condominium to a third party. Upon the expiration of the Declarant Control Period, the working capital fund shall contain an amount equal to at least two (2) months' estimated regular Assessments for each Condominium Unit.

(e) **Annual Audits.** The Association shall furnish each First Mortgagee an annual audited financial statement of the Association within ninety (90) days following the end of each fiscal year of the Association, and shall furnish its most recent financial statement at any time to a requesting First Mortgagee within thirty (30) days from the date of such request, all at no expense to such First Mortgagee.

(f) **Notice of Meetings.** The Association shall furnish each First Mortgagee upon request of such Mortgagee, prior written notice of all meetings of the Association and permit the designation of a representative of such Mortgagee to attend such meetings, one such request to be deemed to be a request for prior written notice of all subsequent meetings of the Association.

(g) **Notice of Damage of Destruction.** The Association shall furnish the First Mortgagees timely written notice of any substantial damage or partial destruction of any Unit on which the First Mortgagee holds the mortgage if such loss exceeds One Thousand and No/100 Dollars (\$1,000.00), and of any part of the Common Elements if such loss exceeds Ten Thousand and No/100 Dollars (\$10,000.00).

(h) **Management Agreements.** Any Management Agreement and/or Service Contract 43
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and/or Lease entered into by the Association affecting the Project will be terminable by the Association without cause and without payment of a termination fee upon ninety (90) days' or less written notice, and the term of any such Management Agreement will not exceed the period of three (3) years, renewable by agreement of the parties to such Agreement for successive one (1) year periods. In the event of the termination of such Management Agreement, as provided herein, the Association shall enter into a new Management Agreement with a new Managing Agent prior to the effective date of the termination of the old Management Agreement. Any decision to establish self-management by the Owners Association shall require the prior consent of Owners of Units to which at least sixty-seven percent (67%) of the votes are allocated and the approval of first mortgage holders holding mortgages on Units which have at least fifty-one percent (51%) of the votes of the Association.

(i) **Taxes, Assessments and Charges.** All taxes, assessments and charges which may become liens prior to the First Mortgage under local law shall relate only to the individual Condominium Units and not to the Condominium Project as a whole.

26. **TAXES.** Ad valorem taxes, Assessments and other charges of the City, County, State, or other political entities, or any special district thereof, shall be separately assessed, and each Condominium Unit Owner shall pay, at his own personal expense, all Tax Assessments against his residence unit. Such taxes are not part of the Common Expenses. However, taxes on personal property owned by the Association as part of the Common Elements shall be paid by the Association as a Common Expense.

27. **LIMITATION OF RESTRICTIONS ON DUKE-STONE, INC.** Duke-Stone, Inc. is undertaking the construction and development of the Condominium Project. The completion of

that work and the sale, rental and other disposal of Condominium Units is essential to the establishment and welfare of the Property as a residential community. In order that said work

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may be completed and said Property be established as a fully occupied residential community as rapidly as possible, nothing in this Declaration shall be understood or construed to:

- (a) Prevent Duke-Stone, Inc., its contractors or subcontractors, from doing on the Project or any Condominium Unit whatever is reasonably necessary or advisable in connection with the completion of said work in accordance with the terms, conditions and limitations of this Declaration; or
- (b) Prevent Duke-Stone, Inc., or its representatives from erecting, constructing and maintaining on any part or parts of the Project such structures as may be reasonable and necessary for the conduct of his business of completing said work and establishing said Project as a residential community and disposing of the same in Condominium Units by sale, lease or otherwise; or
- (c) Prevent Duke-Stone, Inc. from conducting on any part of the Project its business of completing said work and of establishing a plan of residential ownership and of disposing of said Project in Condominium Units by sale, lease or otherwise; or
- (d) Prevent Duke-Stone, Inc. from maintaining such sign or signs on the Property as may be necessary for the sale, lease or disposition thereof.

So long as Duke-Stone, Inc. its successors and assigns, owns one or more of the Condominium Units described herein, Duke-Stone, Inc., its successors and assigns, shall be subject to the provisions of this Declaration.

Duke-Stone, Inc. may transfer three (3) or more Units at any one time to an individual or entity for the purpose of resale to the general public, and any such grantee of Duke-Stone, Inc. shall succeed to Duke-Stone, Inc.'s rights hereunder provided that (i) the Condominium Units sold to such a grantee are not occupied as living quarters by the grantee, and (ii) Duke-Stone, Inc. designates in the Deed or other recordable documents that the Grantee is to succeed to

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Duke-Stone, Inc.'s rights. Any Mortgagee of Duke-Stone, Inc. who acquires title to one or more Condominium Units due to foreclosure of liens against the Units as well as the first purchaser from such Mortgagee shall automatically succeed to Duke-Stone, Inc.'s rights and privileges hereunder; provided such purchaser does not occupy the Unit for residential purposes.

28. ALTERATION OF BOUNDARIES OF RESIDENTIAL UNITS. If one person, firm or entity (including Duke-Stone, Inc.) is the Owner of all or part of two (2) residential units which are adjoining, whether adjoining vertically (above and below each other) or horizontally (on the same floor of the building), or if two (2) Owners of adjoining residential units so agree, then such Owner or Owners shall have the right, with the prior written approval of the Board of Managers and the First Mortgagees of such affected Units, to remove all or any part of any intervening partition or floor or to create doorways or other openings in such partition or floor, notwithstanding the fact that such partition or floor may be in whole or in part a Common Element, so long as no portion of any bearing wall or bearing column is weakened or removed and no portion or any Common Element other than that partition is damaged, destroyed or

endangered. In any of such events, the Owner or Owners involved may relocate the boundaries between adjoining residential units by causing an appropriate instrument of amendment to this Condominium Declaration to be prepared and executed by such Owners, which instrument shall be joined in by the President of the Association and recorded. This instrument of amendment shall (i) show the boundaries between those residential units which are being relocated, (ii) recite the occurrence of any conveyancing between the Owners of such adjacent residential units, and (iii) specify any reasonable reallocation as agreed upon between the residential units involved of the aggregate Ownership Interests in the Common Elements pertaining to those residential units. Such plats and Floor Plans as may be necessary to show the altered boundaries between the residential units involved shall be certified as to their accuracy by a registered architect or
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engineer.

29. **ANNEXATION OF ADDITIONAL PROPERTY.** Developer hereby declares that it presently contemplates that at a future time the Project may be expanded (but Developer does not hereby obligate itself to expand the Project) by adding thereto additional parcels of land, together with the improvements to be constructed thereon, any such additional improvements to be of comparable quality and style, floor plan, size and structure to those presently in existence (such additional parcels being sometimes referred to herein as "Phases"). Such property as may be annexed may contain a contemplated additional one hundred thirty-six (136) Units, although the exact number may vary due to design or planning changes which may hereafter occur. Such additional property, designated on Exhibit "F" hereto, may be annexed in whole or in part, from time to time, and at more than one time, in order that such additional property may become a part of the Project described and defined in this Declaration, which annexation may be accomplished within five (5) years from the date of this Declaration without the assent of the Association, the Board, any Owner, or any Mortgagee, it being the intention of this instrument that such additional property may be annexed during such period at the sole discretion of Developer without the consent of any other party whatsoever. The provisions of this Article 29 shall be effected on, but not before the date on which there is filed for record in the office of the County Clerk of Bexar County, Texas, a certificate or certificates of annexation ("Certificate"), signed and acknowledged by Developer and the Owner of record title to the property being annexed, which Certificate or Certificates shall describe the property which then constitutes the Project, refer to this Declaration, and declare that it is desired and intended that the provisions of this Article 29 shall become effective; and, therefore, that this Declaration shall apply to and affect the property described in the Certificate. The Certificate or Certificates so recorded shall specify the number of Units which are being added and annexed to the Project by reason of the filing for
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record of such Certificate or Certificates. The Developer may cause to be recorded as many separate Certificates as may be desired by Developer from time to time to effect the annexation of the property described on Exhibit "F" hereto. Developer further reserves the right, at any time and from time to time, without requesting or receiving the assent or consent of any Owner or any Mortgagee to resubdivide, amend the Map, modify, alter, or otherwise change the legal or other

status or configuration of the property to be annexed, to grant easements, and to otherwise take such action as may be deemed necessary by Developer to satisfactorily expand the Project. Each Owner hereby appoints Developer as its attorney-in-fact for the purpose of effecting the provisions of this Article 29 and the power hereby granted to Developer shall be, and is a power coupled with an interest and is irrevocable. Acceptance by each Owner of a Deed to a Unit shall constitute a recognition by such Owner of this appointment of Declarant as Owner's attorney-in-fact and no further documentation shall be required to evidence same. Upon the recordation of a Certificate in compliance with the provisions of this Article 29 adding additional property to the Project, this Declaration shall further apply to and affect all of the property described in this Declaration and the property described in any such Certificate, and shall also bind all Owners of any part of such property with the same effect as if the property described in the Certificate were originally subject to and described in this Declaration. Thereafter, the powers and responsibilities of the Board shall be coextensive with regard to all property included within the expanded Project and the Board shall, pursuant to the provisions of this Declaration, constitute the Board for the entire Project, as expanded, and the rights, obligations, and duties of each Owner shall be the same and identical to the rights, obligations and duties of the Owners prior to the recordation of such Certificate, except as each Owner's Percentage Interest may be modified in accordance with this Declaration upon any such annexation of additional property, it being specifically recognized and acknowledged that each Owner's Percentage Interest, as a percentage, will be

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reduced by such annexation. The Board shall thereupon continue to maintain one Common Expense Fund for the collection and disbursement of monies as required and permitted hereby for the maintenance, repair and operation of the expanded Project; and in all respects and meanings, the Project (as expanded) shall be deemed to be a single condominium project for the purposes, and in accordance with the provisions of this Declaration and The Texas Condominium Act. Upon the annexation of additional property by the recordation of one or more Certificates in accordance with this Article 29 the ownership of the Common Elements, Limited Common Elements and the remainder of the Project other than Units shall automatically become, as to each Unit, a Percentage Interest equivalent to the number of square feet of floor area within each Unit divided by the total number of square feet of floor area within all Units in the Project after annexation is completed. Any Certificate recorded in accordance with this Article 29 shall set forth the new Percentage Interest appurtenant to each Unit within the expanded Project. This Declaration, including, but not limited to, this Article 29 does not presently create any interest in or with respect to the property described on Exhibit "F" hereto, and this Declaration shall not affect in any manner all or any part of such property unless and until a Certificate of Annexation is filed with respect thereto in accordance with this Article 29. In no event shall a Certificate of Annexation be recorded until such time as the improvements in such annexed area have been substantially completed. In the event the Declarant should transfer control of the Association to the Owners prior to May 10, 1985, in accordance with Paragraph (b) of Article 14 hereof, such early transfer shall not affect the option reserved by the Declarant in this Article 29 of the Declaration to annex additional phases to the Condominium Project. In the event an additional Phase is annexed to the Condominium Project after the Declarant has transferred control of the

Association to the Owners, the Declarant may retain control of such additional Phase until the initial conveyance by the Declarant of seventy-five per cent (75%) of the Condominium Units
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located in such Phase. The Declarant may, in its discretion, transfer control of the additional Phase to the Association at an earlier time if it determines that such Phase has been developed and is occupied to such an extent that the Association can adequately maintain and administer such Phase as a part of the entire Condominium Project. During any period in which the Declarant retains control of the Phases, such Phase shall be operated and administered by the Declarant independently of the remaining Condominium Project, and the Association shall have no administrative responsibilities with respect to such Phase. The Owners of Condominium Units in the controlled Phase shall pay Assessments to the Declarant in accordance with their Percentage Interests; and the Declarant shall pay any expenses of operation of the controlled Phase which exceed the monthly Assessments received from such Owners, but shall not pay Assessments until control of the Phase is transferred. A separate capital fund shall be established and maintained by the Declarant for each controlled Phase in the manner set forth in Paragraph (d) of Article 25 which fund shall be delivered to the Association at the time control of the Phase is relinquished by the Declarant. In administering a controlled Phase, the Declarant's rights and obligations shall be the same as those set forth in this Declaration for the initial administration of the Condominium Project, but shall be applicable only to the controlled Phase. With respect to that portion of the Condominium Project administered and controlled by the Association, the Declarant's rights and obligations shall be the same as those of any Owner under this Declaration, including the payment of Assessments. Upon expiration of the period of control of a Phase, the Developer shall effect transfer of control to the Association in the manner set forth in Paragraph (b) of Article 14 of this Declaration. Notwithstanding the foregoing, Declarant must transfer the control of any additional Phase or Phases to the Association no later than May 10, 1987. Declarant herein covenants that at the time of any such annexation of an additional Phase, all taxes and other Assessments relating thereto for prior periods shall be paid or otherwise
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satisfied. Once annexed, Assessments and voting rights attributable to the Units situated in such annexed Phase shall immediately become effective, pursuant to the applicable provisions of this Declaration.

30. MISCELLANEOUS PROVISIONS.

(a) Amendments to Declaration; Approval of Owners and Mortgagees.

(1) The consent of the Owners of Units to which at least sixty-seven percent (67%) of the votes in the Association are allocated, the approval of First Mortgagees holding mortgages on Units which have at least fifty-one percent (51%) of the votes of Units subject to mortgages and, upon written request, notice to all First Mortgagees holding mortgages on Units, shall be required to add or amend any material provisions to this Declaration or to the By-Laws which establish, provide for, govern or regulate any of the following:

- (i) Voting;
- (ii) Assessments, assessment liens or subordination of such liens;

- (iii) Reserves for maintenance, repair and replacement of the Common Elements
- (iv) Insurance or fidelity bonds;
- (v) Rights to use of the Common Elements;
- (vi) Responsibility for maintenance and repair of the Units and Common Elements;
- (vii) Expansion of the Project; (viii) Boundaries of any Unit;
- (ix) Interests in General and Limited Common Elements;
- (x) Convertibility of Units into Common Elements, or Common Elements into Units;
- (xi) Leasing of Units;
- (xii) Imposition of any right of first refusal or similar restriction on the right of a Unit Owner to sell, transfer, or otherwise convey his Unit; or
- (xiii) Any provisions which are for the express benefit of first mortgage holders, insurers, or guarantors of first mortgages.

(2)

First Mortgagees shall

(i)

The unanimous consent of Owners of Units and the unanimous approval of be required for: Vacation, waiver, revocation, abandonment or termination of the 51

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Project as a condominium regime, except for abandonment or termination provided by the Texas Condominium Act in the event of condemnation proceedings or substantial casualty loss or destruction to the Units and Common Elements;

(ii) Partition or subdivision of any Unit in the Condominium Project, except as provided in Article 28 of this Declaration; however, nothing contained herein shall be construed to prohibit judicial partition by sale of a single Unit owned by two or more persons and division of the sales proceeds;

(iii) Abandonment, partition, subdivision, encumbrance, sale or transfer of any of the Common Elements; however, nothing contained herein shall prevent the granting of easements for public utilities or other public purposes consistent with the intended use of the Common Elements by the Condominium Project;

(iv) Use of hazard insurance proceeds for any purpose other than the repair, replacement or reconstruction of the Condominium Project, except as provided by the Act in the case of substantial loss or destruction or as otherwise provided in this Declaration.

(3) Any amendment which would change the percentage or fraction of interest of the Unit Owners in the Common Elements will require the consent of Owners of sixty-seven percent (67%) of the votes allocated in the Association and the approval of First Mortgagees holding mortgages on Units which have at least fifty-one percent (51%) of the votes of Units subject to mortgages; provided, that the change of percentage or fraction of ownership must have the approval of each Unit Owner affected by said amendment.

(4) Any First Mortgagee who receives a written request to approve additions or amendments to the Declaration or By-Laws, and who does not deliver or post to the requesting party a negative response within thirty (30) days, shall be deemed to have approved such request.

(5) Unless otherwise provided in this Article 30 or elsewhere in the Declaration, 52

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any of the provisions herein may be amended by the consent of Owners of Units to which at least sixty-seven percent (67%) of the votes in the Association are allocated; but no amendment shall affect the rights given to the Declarant herein without the consent of the Declarant.

(6) Declarant intends that the Condominium Project shall comply with all requirements of the Federal National Mortgage Association (FNMA) pertaining to the purchase by FNMA of conventional home loans, and with all requirements of the Veterans Administration (VA) and/or the Federal Housing Administration (FHA) pertaining to VA-guaranteed and/or FHA-insured home loans. Notwithstanding any language to the contrary contained in this Declaration, in the event the Condominium Documents do not comply with FNMA, VA or FHA requirements, the Board of Managers shall have the power on behalf of each Owner and the Association to amend the terms of this Declaration or to enter into any agreement with FNMA, VA, FHA or the First Mortgagees which may be reasonably necessary in order to bring the Condominium Documents into compliance with such requirements.

(7) Notwithstanding any language to the contrary contained in this Declaration, the Declarant may, at any time prior to the first annual meeting of the Members of the Association (i.e., the time that Declarant's Control Period terminates), amend the Declaration with the written consent of the First Mortgagee of any Unit which would be affected, but without the consent of any Owner. So long as there is a then valid letter of approval of the Condominium Project in effect issued by the VA or FNMA, any amendment by Declarant of this Declaration, pursuant to this Paragraph (7), shall also require the written approval of such governmental agencies. The purposes for which amendments may be made by the Declarant under this paragraph shall include, but not be limited to, any amendment necessary to (i) accomplish the purposes set forth in Article 29 of this Declaration; (ii) conform this Declaration with the requirements of the FNMA, VA, FHA or any similar government authority in connection with

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the purchase or guarantee of home loans by such entities; (iii) resolve or clarify any ambiguities or conflicts, or correct any misstatements, errors or omissions in the Declaration or any exhibit thereto; or (iv) effectuate the rights reserved by Declarant in Article 28 of this Declaration.

(b) **Correction of Error.** Declarant reserves and shall have the continuing right until the end of the Construction Period, without the consent of the other Owners or any Mortgagee, to amend this Declaration or the By-Laws for the purpose of resolving or clarifying any ambiguities or conflicts herein, or correcting any inadvertent misstatements, errors or omissions herein, and/or to comply with the requirements of Federal Home Loan Mortgage Corporation, Federal National Mortgage Association, Veterans Administration or Federal Housing Administration.

(c) **Ownership of Common Personal Property.** Upon termination of the Construction Period, as defined herein, Declarant shall execute and deliver a bill of sale to the Association transferring all items of personal property located on the Premises, furnished by Declarant, and intended for the common use and enjoyment of the Condominium Unit Owners and occupants. No Owner shall have any other interest and right thereto, and all such right and interest shall absolutely terminate upon the Owner's termination of possession of his Condominium Unit.

(d) **Change in Documents.** Upon written request, the holder of any mortgage covering any of the Condominium Units shall be entitled to written notification from the Association thirty (30) days prior to the effective date of any change in the Condominium documents.

(e) **Notice.** All notices, demands or other notices intended to be served upon an Owner shall be sent by ordinary and/or certified mail, return receipt requested, postage prepaid, addressed in the name of such Owner in care of the Unit number and Building address of such Owner. All notices, demands or other notices intended to be served upon the Board of Managers of the Association or the Association, shall be sent by registered and/or certified mail, return receipt requested, postage prepaid, to P.O. Box 29927, San Antonio, Texas 78229, until such

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address is changed by a notice of address change duly recorded in the Condominium Records of Bexar County, Texas.

(f) **Leasing.** All leases or rental agreements for Units shall be in writing and must be subject to the requirements of the Declaration and Bylaws. No Unit may be leased for less than thirty (30) days.

(g) **Conflict Between Declaration and By-Laws.** Whenever the application of the provisions of this Declaration conflict with the application of any provision of the By-Laws adopted by the Association, the provisions or application of this Declaration shall prevail.

(h) **Invalidation of Parts.** If any of the provisions of this Declaration or any paragraph, sentence, clause, phrase or word or the application thereof in any circumstance be invalidated, such invalidity shall not affect the validity of the remainder of this Declaration and the application of any provision, paragraph, sentence, clause, phrase or word in any other circumstance shall not be affected thereby.

(i) **Omissions.** In the event of the omission from this Declaration of any word, sentence, clause, provision or stipulation which shall be necessary for the accomplishment of the intent and purpose hereof, or any part hereof, then such omitted matter shall be supplied by inference and/or by reference to the Act.

(j) **Texas Condominium Act.** The provisions of this Declaration shall be in addition and supplemental to the Texas Condominium Act and to all other applicable provisions of law.

(k) **Gender.** Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

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IN WITNESS WHEREOF, the Declarant has caused this instrument to be signed, sealed and delivered by its proper corporate officers and its corporate seal to be affixed this **7th** day of **May, 1982.**

DUKE-STONE, INC.

By:

R. Jerry Stone, Jr. , President DECLARANT
THE STATE OF TEXAS § COUNTY OF BEXAR §

-) Notary Public, 'The State of Texas This instrument was acknowledged before me on **May 7th 1982** by **R. JERRY STONE,**

JR., President of DUKE-STONE, INC., a Texas Corporation, on behalf of said corporation. My Commission Expires:

Notary Public, The State of Texas

Eva J. Adams

Notary Public, State of Texas My Commission Expires July 21, 1984

PLEASE RETURN TO:

Mr. Richard L. Kerr

Foster, Lewis, Langley, Gardner

& Banack, Incorporated 1655 Frost Bank Tower San Antonio, Texas 78205 (4503.024.002)

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EXHIBIT "F"

TO

THE DECLARATION OF

THE CHESAPEAKE CONDOMINIUMS

Metes and Bounds Description

of Area that May be Annexed by Declarant

A **9.6128** acre tract of land being more particularly described as follows:

25.4468 acres (1,108,463.41 square feet) of land lying in San Antonio, Bexar County, Texas, being out of the 1,442.8312 acre Robert S. Folsom Investments, Inc. Tract, said 1,442.8312 acre Robert S. Folsom Investments, Inc. Tract being the same property conveyed by Deed from the Walker Tract Joint Venture, a partnership of John M. Schaefer and W. Guy Shown, Jr., said Deed being recorded in Volume 7435, Page 191, of the Bexar County Deed Records on September 4, 1974, said 25.4468 acre tract being in the Pinckney Caldwell Survey No. 83, Abstract 124, County Block 4984, New City Block 16325, and being more particularly described as follows : COMMENCING at a point on the northeasterly right of way line of Blanco Road, said point being the most northwesterly end of the intersection return between the northwesterly right of way line of Vista Del Norte and the northeasterly right of way line of Blanco Road and the POINT OF BEGINNING of the hereinafter described 25.4468 acre tract;

THENCE, N 29°31'07" W, along and with the northeasterly right of way line of Blanco Road, a distance of 1,382.16 feet to a point for angle;

THENCE, N 18°41'45" W, along and with the northeasterly right of way line of Blanco Road, a distance of 293.52 feet to a point of curvature;

THENCE, following an arc to the right, along and with the northeasterly right of way line of Blanco Road, said arc starting from a radial having a bearing of S 66°32'59" W and having a central angle of 09°48'27" and a radius of 2,764.83 feet, a distance of 473.26 feet to a point for corner;

THENCE, S 86°42'19" E, a distance of 685.06 feet to a point for corner; THENCE, S 22°03'00" E, a distance of 539.99 feet to a point for angle; THENCE, S 14°43'00" E, a distance of 824.99 feet to a point for angle;

THENCE, S 30°09'02" E, a distance of 445.18 feet to a point for angle, said point being on the northwesterly right of way line of Vista Del Norte;

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THENCE, S 60°28'10" W, along and with the northwesterly right of way line of Vista Del Norte, a distance of 429.78 feet to a point of curvature, said point being the most northeasterly end of the intersection return between the northwesterly right of way line of Vista Del Norte and the northeasterly right of way line of Blanco Road;

THENCE, following an arc to the right, along and with the intersection return between the northwesterly right of way line of Vista Del Norte and the northeasterly right of way line of Blanco Road, said arc having a central angle of 89°59'17" and a radius of 15.00 feet, a distance of 23.56

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