

NORTH CAROLINA

DECLARATION OF CONDOMINIUM

FILED

DARE COUNTY

PELICAN WATCH CONDOMINIUM - NO. 6

'88 APR 3 PM 5

THIS DECLARATION, made this 8th day of April 1988, by OUTER BANKS ASSOCIATES, a Virginia general partnership (hereinafter called the "Declarant"), as developer and sole owner in fee simple of the real property described hereinafter, (hereinafter called the "Property");

W I T N E S S E T H A T :

ARTICLE ONE

CREATION AND ESTABLISHMENT OF THE CONDOMINIUM AND RECORDATION

This Declaration and the accompanying Bylaws and plats and plans attached hereto as an integral part hereof and recorded simultaneously herewith as Exhibits A, B and C, respectively, all such instruments hereinafter referred to by the collective term "condominium instruments", records the property of a condominium, and through recordation hereof the Declarant, undertaking to develop a real estate condominium project in the form of a 2-unit project contained in one structure to be known as PELICAN WATCH Condominium - No. 6, hereby expressly declares its desire to submit, and does hereby submit, the property to the regime established by the North Carolina Condominium Act, Chapter 47C of the General Statutes of North Carolina, as amended, and does hereby create and establish a condominium form of ownership for the property and does constitute the property into a condominium to be known as Pelican Watch Condominium - No. 6, the particulars of which are set forth hereinafter.

These condominium instruments shall be construed together and shall be deemed to incorporate one another to the extent that any requirement of the Condominium Act as to the content of one shall be deemed satisfied if the deficiency can be cured by reference to any one or more of the other. Any amendment of any condominium instrument shall, from the time of the recordation of such amendment be deemed an integral part of the affected condominium instrument, so long as such amendment was made in accordance with the provisions of the North Carolina Condominium Act.

This Declaration is recorded also for the purpose of complying with the provisions of Chapter 47C of the General Statutes of North Carolina, as amended, and hereafter provision shall be made for the recordation of the individual condominium units on subsequent resales, mortgages and other encumbrances, as is done with all other real estate recordation, and each

condominium Unit shall constitute for all purposes a separate parcel of real property, distinct from all other condominium units.

ARTICLE TWO

DESCRIPTION AND STATUTORY PARTICULARS

As used herein, the "Property" means and includes the land described hereinafter, which is owned by the Declarant in fee simple, together with any improvements and structures erected or to be erected thereon, to be known as PELICAN WATCH CONDOMINIUM - NO. 6, in accordance with the plats and plans attached hereto as Exhibit "C" and recorded herewith, (hereinafter called the "plats and plans"), and all easements, rights, privileges and appurtenances thereto belonging and all incidents thereto or interest thereon.

A. Legal Description of the Land.

All that certain lot, piece or parcel of land, with the appurtenances thereto, situated in Southern Shores, Dare County, North Carolina, designated on that certain plat entitled "Pelican Watch Duplex Condominium Development", dated September 5, 1986, by William T. Robbins, Southern Surveying & Land Planning, Inc., Registered Land Surveyors, and recorded in Plat Cabinet C, Slide(s) 24D and 24E, Dare County Registry, as Lot Numbered Six (6).

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

The Declarant is undertaking to develop a real estate condominium project on the property whereby two condominium units, as defined hereinafter, consisting of one structure, are to be individually offered for sale and sold and conveyed to unit owners, and thereafter individually owned, possessed, sold, conveyed, encumbered and disposed of by unit owners under condominium ownership.

The units are labeled and identified as Unit A, Lot 6 and Unit B, Lot 6, respectively. A description of each unit is stated hereinbelow, and reference is also made to the plats and plans attached hereto as Exhibit "C".

C. Description of the Common Elements and Prohibition Against Partition.

Any utility facilities serving both units shall constitute general common elements as further provided hereinbelow. Common elements shall also include all portions of the condominium area submitted herein except the units and the limited common elements. The limited common elements shall include the doorsteps, stoops, decks, porches, balconies, patios, driveways,

parking and storage areas immediately below a unit, and all other exterior doors and windows designated to serve a single unit but located outside the unit's boundaries, and are hereby allocated exclusively to that respective unit. Any heating or air conditioning system exclusively serving a particular unit or units shall be a limited common element assigned to that unit or units.

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

Nothing contained herein shall be construed as a limitation on partition by the unit owners of one condominium unit in the regime as to the individual ownership of such condominium units. Provided that upon partition of any such individual condominium unit the same shall be sold as an entity and not be partitioned in kind.

ARTICLE THREE

DEFINITIONS, OWNERSHIP, RIGHTS, TITLE AND INTEREST, DEEDS TO INDIVIDUAL UNITS, LIMITATIONS ON SUBDIVISION

Except to the extent otherwise provided by the condominium instruments, the terms defined in Section 47-C-1-103 of the North Carolina Condominium Act, as amended, shall be deemed to have the meanings therein specified and ascribed to them wherever they appear in the condominium instruments unless the context clearly otherwise requires.

"Unit" as used herein, shall mean all improvements which consist of a self-contained single family residence and shall include, inter alia, all interior walls, all interior airspace, and all other interior physical improvements comprising the structure. In addition, all chutes, flues, ducts, conduits, wires and utilities, wherever located and which serve only one unit shall constitute a part of that unit. Moreover, all doors and windows in a unit, and all lathe, plasterboard, wallboard, plaster, paneling, tiles, wallpaper, paint, and flooring shall constitute a part of the unit. The land area submitted to the regime shall constitute common elements as shown on Exhibit "C" hereto. The garage and/or storage area beneath each unit shall constitute limited common elements for that unit respectively as shown on Exhibit "C" hereto. All units are situated on wooden pilings with wood flooring and external covering, while the roof finish is asphalt shingles.

Unit Boundaries, both as to vertical and horizontal planes, as shown on the plats and plans attached hereto as Exhibit "C", shall be the undecorated surfaces of the perimeter walls,

exterior doors and exterior windows facing the interior of the unit, the undecorated surfaces of the ceiling facing the interior of the unit, and the topmost surfaces of the subflooring, and include the decoration on all such interior and topmost surfaces, including, without limitation, all panelling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the decorated surfaces thereof, and also includes all spaces, interior partitions and other fixtures and improvements within such boundaries.

"Common Expenses" shall mean all expenditures lawfully made or incurred by or on behalf of the Unit Owners' Association, or incurred by or on behalf of the Pelican Watch Master Owner's Association, together with all funds lawfully assessed for the creation and/or maintenance of reserves pursuant to the provisions of the condominium instruments; "future common expenses" shall mean common expenses for which assessments are not yet due and payable.

"Unit Owners' Association" shall mean a North Carolina unincorporated association composed of the unit owners which shall govern the condominium and be vested with certain rights and duties more fully described in this Declaration and the condominium Bylaws.

"Master Owners' Association" shall mean a North Carolina incorporated association composed of all unit owners within the Pelican Watch Condominium Development, Lots 1 through 12 inclusive which shall be vested with certain titles, rights and duties more fully described in this Declaration and the condominium Bylaws and the Bylaws of the Master Owners' Association.

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

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

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

"Board of Directors" shall mean the executive and administrative entities herein designated as the governing body of either the Unit Owners' Association, or the Pelican Watch Master Owners' Association.

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

The number of votes in the Unit Owners' Association, the undivided interest in the common elements, rights to common profits and liability for common expenses, allocated and appurtenant to the unit and vested in each unit owner, are equal being 50% each, or one vote each, and the same may not be altered or changed except by agreement of both unit owners and any purported transfer, encumbrance or other disposition of the undivided interest in the common elements allocated to a unit without the unit to which it is appurtenant shall be void. The undivided interest in the common elements, the right to common profits and liability for common expenses allocated and appurtenant to each unit shall at all times be in proportion to the number of votes in the Unit Owners' Association appertaining to such unit.

"Unit Owners" shall mean one or more persons ("Person" meaning natural person, firm, corporation, partnership, association, trust or other legal entity capable of holding title to real property, or any combination thereof) who own a condominium unit and whose ownership is reflected by a conveyance duly recorded in the Registrar's office of the Register of Deeds of Dare County, North Carolina. Each unit owner shall own his unit in fee simple absolute, in addition to an undivided fee simple interest, as a tenant in common with the other unit owners, in common elements.

"Condominium unit" shall mean a unit together with an undivided interest in the common elements. Each unit shall have the same par value for purposes of this Declaration.

Each unit and all common areas shall be subject to an easement in favor of the owner of the other unit. This easement shall permit access to either unit by the owner of the other unit, or his agents, for purposes of maintaining, repairing or replacing existing utility or drainage facilities serving either or both units and for purposes of maintaining, repairing and replacing common elements. The Declarant or Unit Owners' Association may install and maintain a common utility and drainage facility, provided that such facility shall be installed underground to the extent possible and the Declarant or unit owner utilizing such easement shall promptly restore the area affected by his use of the easement to its condition prior to such use.

The Declarant shall have a transferrable easement over and on the common elements for the purpose of making improvements on the submitted land pursuant to the provisions of the condominium instruments and of the North Carolina Condominium Act, and for the purpose of doing all things reasonably necessary and proper in connection therewith.

To the extent that damage is inflicted on any part of the condominium by any person or persons utilizing the easement

created by the preceding paragraph, the Declarant together with the person or persons causing the same shall be jointly and severally liable for the prompt repair thereof.

The Unit Owners' Association shall have the right, which may be exercised by its Board of Directors or the managing agent, to enter each unit from time to time during reasonable hours as may be necessary for the operation of the project or for making repairs therein necessary to prevent damage to any units or common elements.

Each unit owner shall afford to the other unit owner and to the Unit Owners' Association and to any agents or employees of either such access to his unit as may be reasonably necessary to enable them to exercise and discharge their respective powers and responsibilities. But to the extent that damage is inflicted on the common elements or any unit to which access is taken, the unit owner causing the same, or the Unit Owners' Association if it caused the same, shall be liable for the prompt repair thereof.

The Pelican Watch Master Owners' Association shall have the power to take title to the street, Pelican Watch Way, as shown on the plat entitled "Pelican Watch Duplex Condominium Development", dated September 5, 1986, by William T. Robbins, Registered Land Surveyor, and recorded in Plat Cabinet C, Slide(s) 24D and 24E, Dare County Registry, (hereinafter referred to as "Recorded Plat of Pelican Watch Condominium Development") which street provides access from S.R. 1200 to the condominium units submitted herein. The Pelican Watch Master Owners' Association shall have the right and duty to maintain and improve Pelican Watch Way, and to charge the unit owners of the condominium units submitted herein such assessments as it shall deem necessary as provided in this Declaration or the Bylaws of the Pelican Watch Master Owners' Association. The formula for determining the percentage of votes and percentages of common charges and assessments applicable to each member of the Pelican Watch Master Owners' Association is set forth in ARTICLE II, Section One of the Bylaws of the Master Owners' Association, a copy of which is attached as Exhibit "B" hereto. The Pelican Watch Master Owners' Association shall have easements granted by this Declaration, by the Declarant, or by the Unit Owners' Association, for the purpose of providing access to the beach area within the Pelican Watch Condominium Development and for the maintenance and improvement of all such accesses so provided. All members of the Master Owners' Association shall have the right to use said easement of access to the beach area and to grant such right of use to anyone occupying their unit(s). Said easements shall also include the right and duty to maintain and protect the dune and beach areas of the land submitted herein beyond the Coastal Areas Management Act's setback line as it may from time to time be established. The Pelican Watch Master Owners' Association shall have an easement to be established on Lot 12 of the Pelican Watch Condominium Development as shown on the recorded plat of Pelican Watch Condominium Development. Said easement shall be for the purpose of erecting a sign for the Pelican Watch Condominium

Development, for providing and maintaining a master electric meter for the Pelican Watch Condominium Development, for the construction and maintenance of a gate and/or fence at the entrance of Pelican Watch Way, for the construction and maintenance of a swimming pool, and for providing and maintaining cluster type post office boxes for unit owners in the Pelican Watch Condominium Development. The Master Owners' Association shall also have an easement of access over the common elements of the condominium units submitted herein to provide and maintain all utility facilities it is required to provide and maintain. The Pelican Watch Master Owners' Association shall have the right and duty to charge the unit owners of the condominium units submitted herein assessments for the maintenance and improvement of all such easements herein created or which shall be hereafter granted to the Master Owners' Association, to be determined according to the formula as provided in these condominium instruments or in the Bylaws of the Pelican Watch Master Owners' Association. The Pelican Watch Master Owners' Association shall also have, if necessary, all the powers enumerated in N.C.G.S. Section 47C-3-102. Such powers enumerated in N.C.G.S. Section 47C-3-102 are herein referred to and incorporated by reference as if fully set forth herein and may be invoked to the extent the Master Owners' Association deems it necessary to act on its own behalf or on behalf of the unit owners.

Notwithstanding anything contained herein to the contrary, all powers, duties, rights, obligations, assets and liabilities of each unit owners' association in the Pelican Watch Condominium Development Lot 5 through 10 inclusive, as shown on the plat thereof recorded in Plat Cabinet C, Slides 24D and 24E, which shall have been established and created on any of the lots shown on the aforesaid recorded plat, shall be merged and consolidated on July 1, 1990 into the Pelican Watch Condominium Association. All powers and duties of the said unit owners' associations, including the powers and duties of the Board of Directors and the officers, shall be thereby automatically delegated and transferred to the Pelican Watch Condominium Association, its respective Board of Directors and officers. As used herein, unit owners' associations refers to an association described in § 47C-3-101 of the North Carolina Condominium Act. The Pelican Watch Condominium Association shall thereafter act as the sole and only association of condominium unit owners and shall be, for all purposes, the legal successor of all of the pre-existing associations. All the operations and activities of the pre-existing unit owners' associations shall thereafter be merged and consolidated into a single association, the Pelican Watch

Condominium Association, which shall have and hold all powers, rights, obligations, assets and liabilities of all the pre-existing unit owners' associations within the Pelican Watch Condominium Development, Lots 5 through 10 inclusive. No amendment to this Declaration or the Bylaws of the Pelican Watch Condominium Association shall be necessary to effectuate and accomplish the said merger and consolidation of unit owners' associations hereby provided for. The Bylaws of the Pelican Watch Condominium Association shall be those adopted by the said Association upon the merger and consolidation of July 1, 1990 contemplated herein.

The executive organ of the Unit Owners' Association, if any, and if not, then the Unit Owners' Association itself, shall have the irrevocable power as attorney-in-fact on behalf of all the unit owners and their successors in title to grant easements through the common elements and accept easements benefiting the condominium or any portion thereof.

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

No unit may be subdivided so as to make two or more smaller units.

ARTICLE FOUR

CONTRIBUTIONS AND ASSESSMENT OF UNIT OWNERS, WARRANTY AGAINST STRUCTURAL DEFECTS; UNIT OWNERS' ASSOCIATION

All unit owners are bound to maintain and repair their respective units and to contribute pro rata toward the expenses of administration and of maintenance and repairs of the general common elements, and toward any other expenses lawfully agreed upon by the Unit Owners' Association, or the Pelican Watch Master Owners' Association.

If a unit owner fails to maintain or repair his unit or fails to contribute his pro rata share towards such expenses and assessments as set forth herein, the Board of Directors of the Unit Owners' Association or the Pelican Watch Master Owners' Association or, in the proper case, an aggrieved unit owner may maintain an action at law to recover sums due for damages, and in equity for injunctive relief on behalf of the Unit Owners' Association or the Pelican Watch Master Owners' Association, which may file a claim of lien against the individual unit.

Any unit owner may make any improvements or alterations in the interior of the structure that do not impair the structural integrity of any improvement or otherwise lessen the support of any portion of the condominium. No unit owner may erect any improvements on the exterior of the structure or change the appearance of the exterior without the consent of the other unit owner or the Pelican Watch Master Owners' Association.

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

Express consent and a request by the unit owner of any unit shall be deemed to be given in the case of emergency repairs to his unit or any common elements located therein.

The Unit Owners' Association shall be established and come into being upon the conveyance by the Declarant of the initial unit. Assessments shall commence to accrue as to all units upon said conveyance of the initial unit and the Declarant shall henceforth be responsible for 100% of all assessments attributable to the units which are unsold until such time as each unit is conveyed.

The Pelican Watch Master Owners' Association shall be established and come into being upon the conveyance by the Declarant of the initial unit in the Pelican Watch Condominium Development. Assessments shall commence to accrue as to all completed condominium units in the Pelican Watch Condominium Development upon said conveyance of the initial unit and the Declarant shall henceforth be responsible for 100% of all assessments attributable to the units which are unsold until such time as each unit is conveyed.

All powers and responsibilities with regard to maintenance, repair, renovation, restoration, and replacement of the condominium shall belong (1) to the Unit Owners' Association in the case of the common elements, and (2) to the individual unit owner in the case of any unit or any part thereof.

All powers and responsibilities with regard to maintenance, repair, renovation, restoration, and replacement of Pelican Watch Way and any easements granted or to be granted to the Pelican Watch Master Owners' Association for the benefit and enjoyment of all unit owners in Pelican Watch Condominium Development, shall belong to the Pelican Watch Master Owners' Association.

Each unit owner shall automatically become a member of the Unit Owners' Association and the Pelican Watch Master Owners' Association.

The Unit Owners' Association shall have the power to employ, dismiss and replace agents and employees to exercise and discharge the power and responsibilities of the Unit Owners' Association, to make or cause to be made additional improvements on and as a part of the common elements, and to grant or withhold approval of any action by one or more unit owners or other persons entitled to the occupancy of any unit which would change the exterior appearance of any unit or of any other portion of the condominium.

The Board of Directors of the Unit Owners' Association, if any, and if not, then the Unit Owners' Association itself, shall have the irrevocable power as attorney-in-fact on behalf of all the unit owners and their successors in title to grant easements through the common elements and accept easements benefiting the condominium or any portion thereof.

Nothing contained in the foregoing shall be construed to prohibit the grant, by the condominium instruments, including the Bylaws, of other powers and responsibilities to the Unit Owners' Association or the Pelican Watch Master Owners' Association, or the respective Boards of Directors thereof.

The amount of assessments to be charged against each member of the Pelican Watch Master Owners' Association shall be allocated in proportion to the number of votes in the Pelican Watch Master Owners' Association as established in the Bylaws of the Master Owners' Association.

Each unit owner shall own a one-half (1/2) undivided interest in the common elements of the condominium. Each unit owner, including the Declarant, shall be entitled to one vote in the Unit Owners' Association for each unit owned.

The common profits shall be applied to the payment of common expenses, and rights in any surplus remaining shall accrue to the condominium units in proportion to the number of votes in the Unit Owners' Association appertaining to each such unit. Any such surplus shall be distributed accordingly to the unit owners, except to such extent as the condominium instruments may require the same to be added to reserve funds pursuant to those instruments.

Any common expense caused or brought about by the misconduct of the owner of either unit, tenants or guests shall be specially assessed against that unit.

The amount of all common expenses not specially assessed pursuant to the foregoing paragraph, less the amount of all common profits, shall be assessed against the condominium units in proportion to the number of votes in the Unit Owners' Association appertaining to each such unit. Such assessment shall be made by the Unit Owners' Association monthly. No change in the number of votes in the Unit Owners' Association

appertaining to any condominium unit shall enlarge, diminish or otherwise affect any liabilities arising from assessments made prior to such change.

Should any assessments herein provided for remain unpaid for thirty (30) days after they are due and payable, there shall be added thereto a Fifteen dollar (\$15.00) late payment processing fee and a twelve percent (12%) late payment charge.

The Unit Owners' Association or the Pelican Watch Master Owners' Association, as the case may be, shall have a lien on every unit for unpaid assessments levied against that unit in accordance with the provisions of the Condominium Act and all lawful provisions of the condominium instruments. The said lien once perfected, shall be prior to all other liens and encumbrances, except real estate tax liens on that unit and sums unpaid on any first mortgage or first deed of trust encumbering that condominium unit and securing an institutional lender. In order to perfect the lien given by the foregoing provision, the respective Owners' Association shall file before the expiration of ninety (90) days from the time such assessment becomes due and payable in the Clerk's office of the Dare County Superior Court, North Carolina, a claim of lien, which contains a description of the condominium unit in accordance with the provisions of Section 47C-2-104 of the North Carolina Condominium Act, the names of the record owners of that condominium unit, the amount of unpaid assessments currently due or past due, together with the date when each fell due pursuant to the provisions of N.C.G.S. Section 47C-3-116 and Article 8 of Chapter 44 of the General Statutes of North Carolina. When payment or satisfaction is made of a debt secured by the foregoing lien, said lien shall be released by the duly authorized agent of the lien creditor.

Any unit owner or purchaser of a condominium unit, having executed a contract for the disposition of the same, shall be entitled upon request to a recordable statement setting forth the amount of unpaid assessments currently levied against that unit. Such a request shall be in writing, directed to the principal officer of the respective Owners' Association or to such other officer as the Bylaws may specify. Failure to furnish or make available such a statement within five (5) business days from the receipt of such request shall extinguish the lien created hereby as to the condominium unit involved. Such statement shall be binding on the respective Owners' Association, the Board of Directors, and every unit owner. Payment of a fee not exceeding \$25.00 may be required as a prerequisite to the issuance of such a statement.

Upon the sale or conveyance of a unit, all unpaid assessments against a unit owner for his pro rata share in the expenses of administration and of maintenance and repairs of the common elements and in any other expenses lawfully agreed upon by the respective Owners' Association shall first be paid out of the sellers proceeds of the sales price or by the purchaser, only if assumed by the purchaser, in preference over any other

assessments or charges of whatever nature except real estate tax liens on that condominium unit and sums unpaid on any first mortgage or first deed of trust encumbering that condominium unit and securing an institutional lender. The liability of the owner of a unit to the respective Owners' Association for pro rata expenses shall be limited to the amounts which he is assessed from time to time in accordance with the North Carolina Condominium Act and the condominium instruments. The Treasurer of the respective Owners' Association or the board of directors, shall keep, in accordance with good and generally accepted accounting procedures, a book, to be audited by an independent outside auditor at such times or intervals as chosen by the respective owners' associations with a detailed account of the receipts and expenditures affecting the regime and its administration and specifying the maintenance and repair expenses of the common elements and any other expenses incurred by or in behalf of the regime, with the vouchers verifying the entries made. Both the book and vouchers shall be available for examination by all of the unit owners and mortgagees of record at convenient hours on working days that shall be set and announced in writing for general knowledge by the Unit Owners' Association.

The election of officers and directors of the Unit Owners' Association and the Pelican Watch Master Owners' Association shall be in accordance with their respective Bylaws. All unit owners of all condominiums subject to the Master Association may elect all members of that executive board.

ARTICLE FIVE

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

The Declarant, each unit owner, and all those entitled to occupy a unit, shall comply with all lawful provisions of the condominium instruments. Any lack of such compliance shall be grounds for an action or suit to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the Unit Owners' Association, or by its Board of Directors or any managing agent on behalf of the Association, or in any proper case, by an aggrieved unit owner.

There is recorded simultaneously herewith as Exhibit "A" hereto a set of Bylaws providing for the self-government of the condominium by an Association of both unit owners.

The Bylaws shall provide whether or not the Unit Owners' Association shall elect an executive organ or Board of Directors. If there is to be such an organ it may, among other things, exercise any of the powers and responsibilities assigned by the North Carolina Condominium Act to the Unit Owners' Association. The Bylaws shall also specify which, if any, of its powers and responsibilities, the Unit Owners' Association or its Board of Directors may delegate to a managing agent.

The administration of the regime shall be governed by the Bylaws approved and adopted by the Unit Owners' Association. The initial Bylaws may be amended from time to time provided any such amendments shall be enacted in accordance with the provisions of the North Carolina Condominium Act and the condominium instruments. Any such amendment, in order to take effect, must be duly admitted to record in the Register of Deeds' office of Dare County, North Carolina, and such amendment shall set forth the name of the condominium, the name of the town in which the condominium is located, and the deed book and page number where the first page of the Declaration is recorded.

There is also recorded simultaneously herewith as Exhibit "B" hereto a set of Bylaws for the Pelican Watch Master Owners' Association which shall be applicable to and shall be adhered to by each unit owner under the terms provided therein.

ARTICLE SIX

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

If there is no unit owner other than the Declarant, the Declarant may unilaterally terminate the condominium or amend the condominium instruments and any such termination or amendment shall become effective upon the recordation thereof if the same has been executed by the Declarant.

If there is any unit owner other than the Declarant, then the condominium shall be terminated only by the agreement of both unit owners.

If there is any unit owner other than the Declarant, then the condominium instruments shall be amended only by agreement of both unit owners.

Agreement of both unit owners to termination of the condominium or to amendment of the condominium instruments, shall be evidenced by the execution of the termination agreement or amendment and the same shall become effective when such agreement is duly recorded with the office of the Register of Deeds of Dare County, North Carolina.

Upon recordation of an instrument terminating this condominium, and before any sale, all the common elements shall be owned by the unit owners as tenants in common in proportion to their respective undivided interest in the common elements immediately prior to such recordation as such is established pursuant to N.C.G.S. §47C-2-118(h). But so long as such tenancy in common lasts, each unit owner or the heirs, personal representatives, successors, or assigns thereof, shall have an exclusive right of occupancy of that portion of the property which formerly constituted his unit.

Upon recordation of an instrument terminating this condominium, any rights the unit owners may have to the assets of the Unit Owners' Association shall be in proportion to their respective undivided interests in the common elements immediately prior to such recordation.

In the event of termination of the regime, any unit owner may maintain a partition suit for the sale of the whole property. The net proceeds of the partition sale, together with the assets of the Unit Owners' Association excepting common profits, and insurance proceeds, shall be distributed to the unit owners in accordance with their respective interest in the common elements appertaining to each unit as established pursuant to N.C.G.S. §47C-2-118(h).

In the event of a deadlock within the Unit Owners' Association concerning any decision, or any controversy between any Unit Owners' Associations or between any Unit Owners' Association and the Master Owners' Association, the issue to be decided shall be submitted to the membership of the Pelican Watch Master Owners' Association, which shall decide the issue in question by a majority vote of its members, excluding the unit owners or directors initiating the deadlock or controversy, which decision shall have the same force and effect as a decision of the respective Owners' Association and may be enforced in the same fashion.

ARTICLE SEVEN

DAMAGE OR DESTRUCTION; INSURANCE

To the extent not provided by the Unit Owners' Association, each unit owner shall be solely responsible for insuring his unit against casualty or content loss. In the event of casualty or content loss to any unit, the owner of that unit shall be responsible for rebuilding, repair or demolition only if the damaged unit is unsightly, dangerous or represents a hazard to the owner of the other unit. In the event that rebuilding, repair or demolition are required according to the foregoing, the same shall be done in a prompt and workmanlike manner.

In the repair or rebuilding of either unit, the improvements shall be repaired or rebuilt so as to conform as closely as possible to the original improvements in appearance, size, architectural style and principal materials used.

Commencing not later than the time of the first conveyance of a unit to a person other than a declarant, the Unit Owners' Association shall maintain, to the extent available:

(1) property insurance on the common elements and units insuring against all risks of direct physical loss commonly insured against including fire and extended coverage perils. The total amount of insurance after application of any deductibles shall be not less than eighty percent (80%) of the replacement

cost of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations and other items normally excluded from property policies; and

(2) liability insurance in reasonable amounts, covering all occurrences commonly insured against death, bodily injury and property damage arising out of or in connection with the use, ownership, or maintenance of the common elements.

The insurance maintained under subdivision (1) need not include improvements and betterments installed by unit owners.

If the insurance described above is not reasonably available, the association promptly shall cause notice of that fact to be hand-delivered or sent prepaid by United States mail to all unit owners.

Commencing not later than the first conveyance of a unit to a purchaser other than the Declarant, the Pelican Watch Master Owners' Association shall maintain, to the extent available, liability insurance in reasonable amounts, covering all occurrences commonly insured against death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the easements, accesses, rights-of-way, and such other aspects of the Pelican Watch Condominium Development owned by or entrusted to the Pelican Watch Master Owners' Association.

Insurance policies carried pursuant to these provisions must provide that:

(1) each unit owner is an insured person under the policy with respect to liability arising out of his interest in the common elements or membership in the association;

(2) the insurer waives its right to subrogation under the policy against any unit owner or members of his household;

(3) no act or omission by any unit owner, unless acting within the scope of his authority on behalf of the association, will preclude recovery under the policy; and

(4) if, at the time of a loss under the policy, there is other insurance in the name of a unit owner covering the same risk covered by the policy, the association's policy provides primary insurance.

As soon as any policy of insurance has been obtained by or on behalf of the Unit Owners' Association, or the Pelican Watch Master Owners' Association, written notice of the obtainment thereof and of any subsequent changes therein or termination thereof shall be promptly furnished each unit owner by the officer required to send notices of meetings of the Unit Owners' Association, which notices shall be sent by United States mail,

postage prepaid, to both unit owners of record at the address of their respective units and to such other addresses as either of them may have designated to such officer, or such notice may be hand delivered by the said officer.

The Unit Owners' Association and the Pelican Watch Master Owners' Association shall have fidelity coverage against dishonest acts on the part of directors, managers, trustees, employees or volunteers responsible for handling funds belonging to or administered by the Unit Owners' Association or the Pelican Watch Master Owners' Association. The fidelity bond or insurance must name the Unit Owners' Association or the Pelican Watch Master Owners' Association as the named insured and shall be written in an amount sufficient to provide protection which is in no event less than one and one-half times the insured's estimated annual operating expenses and reserves. In connection with such coverage, an appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers.

All insurance proceeds shall be payable to the named insured.

Any policy of insurance provided for in this Article shall not be obtained or kept in force if both unit owners so elect.

ARTICLE EIGHT

RIGHTS OF MORTGAGEES AND RELATED MATTERS

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

An adequate reserve fund for replacement of common element components shall be established, and will be funded by monthly payments. There shall be established a working capital fund for the initial months of operation of the project equal to at least three months' estimated assessment for each unit.

The Unit Owners' Association shall give the holders of first mortgages prompt notice of any default in a unit mortgagor's obligations under the condominium documents not cured within thirty (30) days of default.

The holders of first mortgages shall have the right to examine the books and records of the Unit Owners' Association and to request annual report and other financial data, said report to be furnished within ninety (90) days of any such request.

Prior written approval of all first mortgagees shall be required before the Unit Owners' Association can abandon condominium status, partition or subdivide any unit, or materially amend the legal documents. In addition, unless all of

the first mortgagees of the condominium units have given their prior written approval, the Unit Owners' Association shall not be entitled to:

a. Change the pro rata interest or obligation of any individual condominium unit for the purpose of (1) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (2) determining the pro rata share of ownership of each condominium unit in the common elements;

b. Use hazard insurance proceeds for losses to any condominium property (whether to units or to common elements) for other than the repair, replacement or reconstruction of such condominium property, except as provided by statute in case of substantial loss to the units and/or common elements of the condominium project.

Timely written notice shall be given to each first mortgagee of any condemnation or eminent domain proceeding, or of any substantial damage or of destruction to common elements or to any unit.

Upon request, any first mortgagee shall be entitled to receive timely written notice of all meetings of the Unit Owners' Association and each first mortgagee shall be entitled to designate a representative to attend any such meeting.

No unit owner shall be permitted to lease his unit for transient or hotel purposes nor for a period of less than seven (7) consecutive days. No unit owner may lease less than the entire unit. Any lease agreement shall be required to provide that the terms of the lease shall be subject in all respects to the provisions of the Declaration and the Bylaws and that any failure by the lessee to comply with the terms of such documents shall be a default under the lease. All leases shall be required to be in writing. Other than the foregoing, there is no restriction on the right of any unit owner to lease his unit.

Any right or privilege given the Unit Owners' Association or any individual unit owner by the condominium documents shall inure to the benefit of any institutional mortgagee holding a first mortgage on any unit and any such right or privilege may be enforced by a first mortgagee.

A reasonable method for dealing with any condemnation of the condominium shall be provided, and written notice shall be given immediately by the Unit Owners' Association to first mortgagees of any such proceedings, and the priority of any mortgagee's first lien shall not be disturbed by any such proceedings.

In the event of any condemnation award, first mortgagees shall share pro rata in the award based upon the reduction of their respective security and shall be made whole before distribution to any other interested party of the condemnation

proceeds. The Unit Owners' Association shall have the authority to retain legal counsel in the event condemnation proceedings are instituted or anticipated which affect directly or indirectly any part of the property subject to this regime. Legal fees may be assessed by the Unit Owners' Association against unit owners if reasonably incurred in connection with such proceedings.

The Unit Owners' Association shall have the right to maintain existing improvements regardless of any present or future encroachments of the common elements upon another unit.

No unit shall be subject to any unreasonable restraints on alienation which would adversely affect the title or marketability of the unit, or the ability of the mortgage holder to foreclose its first mortgage lien and thereafter to sell or lease the mortgaged unit.

Appropriate fidelity bond coverage shall be required for any person or entity handling funds of the Unit Owners' Association, or the Pelican Watch Master Owners' Association including, but not limited to, employees of professional managers. Such fidelity bonds shall name the respective Owners' Association as obligee, and be written in an amount equal to at least 150% of the estimated annual operating expenses of the respective owners' association including reserves.

Any obligation or duty of any unit owner or of the Unit Owners' Association imposed by this Declaration, the condominium Bylaws or any amendment of either said document may be enforced by any first mortgagee.

The Declarant shall have the right to enter into contracts for the professional management of the condominium, and may grant such right to his successor, to the Unit Owners' Association, or to the unit owners. Any agreement for professional management of the condominium project, or any other contract providing for services of the developer, sponsor, or builder, may not exceed three (3) years. Any such agreement must provide for termination by either party without cause and without payment of a termination fee on ninety (90) days or less written notice.

Provided, however, that the Pelican Watch Master Owners' Association, Inc. shall have the absolute right and duty to appoint, employ and designate the managing entity for the Unit Owners' Association. In addition, the Master Owners' Association shall have the absolute right and duty to maintain and care for all lawns and other common areas in the Pelican Watch Condominium Development in order to ensure a uniform and quality of appearance throughout said Development.

ARTICLE NINE

CONTROL BY THE DECLARANT, DEVELOPMENT RIGHTS

The Declarant, or a managing agent or some other person or persons selected or to be selected by the Declarant, is authorized to appoint and remove all of the officers of the Unit Owners' Association and/or its Board of Directors, and to exercise powers and responsibilities otherwise assigned by these condominium instruments and by the Condominium Act to the Unit Owners' Association, its officers, or the Board of Directors, for a period of two (2) years, or until units to which one-half (1/2) of the undivided interests in the common elements appertain have been conveyed, whichever occurs first.

The Declarant also expressly reserves an easement for himself or his assignees to facilitate sales, and may maintain a model unit and/or sales office in any unit owned by the Declarant or his assignee. Said easement shall include the reasonable use of common areas for sales and promotion of any unit or units.

The Declarant is the owner of any and all the lots numbered 1 through 12, inclusive, not yet submitted to a condominium regime as shown on the Recorded Plat of Pelican Watch Condominium Development. This Declaration only submits Lot 6 as shown on the aforesaid Recorded Plat to the North Carolina Condominium Act, Chapter 47C of the General Statutes of North Carolina. The Declarant reserves the right to construct on the lots not submitted herein condominium units substantially similar to the condominium units submitted herein, and to submit such units to terms and conditions substantially similar to those contained herein. The Declarant may exercise these rights within five (5) years from the recording of this Declaration, and may develop different lots at different times. No assurances are made as to boundaries of lots or portions developed and as to their order of development. No assurances are made as to condominium units being actually constructed and condominium regimes being actually established on any of the lots 1 through 12, inclusive, as shown on the Recorded Plat of Pelican Watch Condominium Development which have not already been submitted to the North Carolina Condominium Act. Therefore, as to these units, they NEED NOT BE BUILT. The Declarant may chose not to submit to a condominium regime any of the lots not yet so submitted in the Pelican Watch Condominium Development.

Notwithstanding anything contained herein to the contrary, in the event that a condominium regime is not declared by appropriate Declaration of Condominium on any of the lots numbered 1 through 12 inclusive on the aforesaid Recorded Plat of Pelican Watch, then those lots shall be allocated two (2) votes in the Pelican Watch Master Owners' Association, Inc. for each lot not so submitted to a condominium regime. The said lot(s) shall also be liable for 1/12th of the common expenses and assessments of the Association, subject to the lien rights of the said Association. Any and all references in this Declaration and the Condominium Instruments to "units" or "unit owners" shall be deemed to apply to the fee simple owners of the said lot(s) and any improvements thereon. The Declarant hereby covenants to convey title to any of the said lot(s) subject to the Bylaws of

the Pelican Watch Master Owners' Association, Inc. and the terms governing assessments, easements, use and all other applicable terms and provisions contained in these Condominium Instruments concerning the rights and responsibilities of the Pelican Watch Master Owners' Association, Inc. Provided, however, that the Declarant shall not be liable for common expenses of the Master Owners' Association in the percentage allocated to said lot(s) so long as and to the extent that Declarant remains the fee simple owner of any of the 12 lots shown on the Recorded Plat of the Pelican Watch Condominium Development and not yet submitted to a condominium regime by appropriately recorded Declaration. In lieu thereof, the Declarant shall be obligated to pay and shall be responsible for actual operating expenses in excess of the collections of assessments to the extent that said excess would be otherwise payable for the lot(s) remaining unsold and not submitted to a condominium regime.

ARTICLE TEN

RULES OF CONDUCT

The Pelican Watch Master Owners' Association shall maintain a set of rules called the "Pelican Watch Condominium Development Rules of Conduct" which shall be binding upon all owners of units in the Pelican Watch Condominium Development, their families, guests, lessees, and invitees. Said Rules of Conduct are referred to and hereby incorporated by reference as if fully set forth herein. The Rules of Conduct shall be amended by majority vote of the Pelican Watch Master Owners' Association, and any such amendments shall not require an amendment to this Declaration. The Declarant has promulgated an initial set of Rules of Conduct that shall apply to and be binding upon all unit owners, which have been enumerated in the Bylaws of the Master Owners' Association, and which shall be the "initial" Pelican Watch Condominium Development Rules of Conduct to be enforced by the Master Owners' Association. A fine may be assessed against any unit owner for a violation of any Rule of Conduct, and may be enforced by appropriate action by the Master Owners' Association, including, but not limited to, the filing of a lien on the unit pursuant to the procedure set forth in Article Four of this Declaration and Article Six, Section Two of the Bylaws of the Master Owners' Association. All unit owners shall obey the said Rules of Conduct and shall use their best efforts to see that they are faithfully observed by their families, guests, invitees, servants, lessees, and persons over whom they exercise control and supervision.

In the event of a conflict or inconsistency between this Declaration and the Bylaws of the Pelican Watch Master Owners' Association, Inc., the said Bylaws of the Master Owners' Association shall prevail and control. The inconsistent or conflicting provisions of this Declaration shall be null and void and of no effect and no amendment of the Declaration shall be necessary.

The Bylaws of the Pelican Watch Master Owners' Association provide for a hearing before a committee of three members of the Master Owners' Association to determine if a unit owned should be fined for a violation of this Declaration, the Bylaws, or the rules or regulations of either of the respective Owners' Associations. The said fine shall not exceed One Hundred Fifty Dollars (\$150.00). The Committee shall accord to the party charged with the violation notice of the charge, opportunity to be heard and to present evidence, and notice of the decision. Such a fine shall be an assessment secured by lien under N.C.G.S. Section 47C-3-116.

IN WITNESS WHEREOF, Outer Banks Associates, Inc., a Virginia general partnership, has caused this instrument to be executed on its behalf pursuant to due authority.

OUTER BANKS ASSOCIATES, a Virginia General Partnership
By: TIDEWATER REALTY AND DEVELOPMENT COMPANY, a Virginia corporation, one of its General Partners

By: *R. J. McGinnis*
R. J. McGinnis, President

ATTEST:

Barbara L. McGinnis
(Assistant) Secretary

STATE OF North Carolina

COUNTY/CITY OF Dare

This is to certify that on the 8th day of April, 1988, before me personally came Barbara L. McGinnis with whom I am personally acquainted, who, being by me duly sworn, says that R. J. McGinnis is the President and Barbara L. McGinnis is the (Assistant) Secretary of TIDEWATER REALTY AND DEVELOPMENT COMPANY, a Virginia corporation, the corporation described in and which executed the foregoing instrument on behalf of OUTER BANKS ASSOCIATES, a Virginia General Partnership; that he knows the common seal of said corporation; that the seal affixed to the foregoing instrument is said common seal, and the name of the corporation was subscribed thereto by the said President, and that said President and (Assistant) Secretary subscribed their names thereto, and said common seal was affixed, all by order of the Board of Directors of said corporation, and that the said instrument is the act and deed of said corporation.

WITNESS my hand and notarial seal the day and year first
above written.

Nana Williams
Notary Public

My Commission Expires: 5/18/90.

NORTH CAROLINA
DARE COUNTY

The foregoing certificate of Nana Williams
a notary public of Dare County, NC, is certified
to be correct.

This instrument is recorded in the book and at the page and
on the date and at the time shown on the first page hereof.

Alton A. Day
Register of Deeds

By: Mary B. Scarborough
Deputy/Assistant Register of Deeds



IN WITNESS WHEREOF, the Trustee and Beneficiary have caused this instrument to be signed in their name or by their proper officer duly authorized, this 8th day of April, 1988.

Charles E. Land, Trustee
Charles E. Land, Trustee

Essex Savings Bank, Inc.,
Beneficiary

By: [Signature]
(Vice) President

ATTEST: Christy J. Lumbert
(Assistant) Secretary

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF York

I, Jenise Corn, a Notary Public of the aforesaid County and State, do hereby certify that, Charles E. Land, Trustee, personally appeared before me this day and acknowledged the due execution of the foregoing JOINDER.

Witness my hand and official seal, this the 24th day of April, 1988.

Jenise Corn
Notary Public
Commissioned as Jenise Corn

STATE/Commonwealth of North Carolina
CITY/COUNTY OF Wayne

I, Allen Morris Jr., a Notary Public of the aforesaid County and State, do hereby certify that, Allen Morris Jr., personally appeared before me this day and stated that he is (Vice) President of Essex Savings Bank, Inc., Beneficiary, and acknowledged, on behalf of Essex Savings Bank, Inc., the due execution of the foregoing JOINDER.

Witness my hand and official seal, this 10th day of April, 1988.

Allen Morris Jr.
Notary Public

My Commission expires: 11-11-88

JOINDER

WHEREAS, ESSEX SAVINGS BANK, INC. (hereinafter "Beneficiary") is, as of the date of recordation of the foregoing Declaration of Condominium for Pelican Watch Condominium No. 6, the first mortgagee of the property being submitted to a condominium regime by virtue of that certain Deed of Trust recorded in Book 489, page 44, Dare County Registry, and that certain Assignment of Rents and Leases recorded in Book 489, page 55, Dare County Registry;

WHEREAS, Outer Banks Associates, as fee simple owners of the property submitted to a condominium regime by the foregoing Declaration, has requested that Beneficiary join in the execution of the foregoing Declaration to express its approval thereto;

AND, WHEREAS, Beneficiary, as holders of the promissory note secured by the aforementioned Deed of Trust and Assignment of Rents and Leases, has requested that Charles E. Land (hereinafter "Trustee") join in the execution of this instrument as trustee pursuant to the terms of the said Deed of Trust and Assignment of Rents and Leases creating a first lien on the property being submitted to a condominium regime.

NOW THEREFORE, the undersigned Trustee, Charles E. Land, and the Beneficiary, Essex Savings Bank, Inc. under that certain Deed of Trust recorded in Book 489, page 44, Dare County Registry and that certain Assignment of Rents and Leases recorded in Book 489, page 55, Dare County Registry, do hereby signify and by their signatures hereto do declare their approval of the foregoing Declaration of Condominium, Pelican Watch Condominium No. 6, filed for record with this instrument attached thereto. Said Declaration is incorporated by reference herein as if set forth word for word.

By their joinder hereto, neither the Trustee nor the Beneficiary are thereby creating or intending to create developer liability or joint venture liability with Outer Banks Associates. By their joinder hereto, Trustee and Beneficiary do expressly hereby agree to subordinate the priority created by the Deed of Trust and Assignment of Rents and Leases to the foregoing Declaration for the sole and limited purpose of allowing the condominium regime created by said Declaration to survive any foreclosure sale(s) or deed(s) in lieu of foreclosure and apply to the purchaser at foreclosure or the grantee of a deed in lieu of foreclosure. Any such foreclosure sale or deed in lieu of foreclosure shall not terminate this condominium or withdraw any property therefrom.