

# **THE ALGONQUIN ASSOCIATION, INC.**



## **DECLARATION**



**AMENDED AND RESTATED DECLARATION OF  
THE ALGONQUIN ASSOCIATION**

**GPIN: see attached**

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*This instrument was prepared by Vandeventer Black LLP, 500 World Trade Center, Norfolk, Virginia 23510*

**AMENDED AND RESTATED DECLARATION  
OF  
THE ALGONQUIN ASSOCIATION**

THIS AMENDED AND RESTATED DECLARATION made this 17 day of October, 2005 by THE ALGONQUIN ASSOCIATION, a Virginia non-stock corporation and condominium association, composed of all owners owning units in The Algonquin Condominium (the "Association") (Grantor and Grantee for recording purposes).

**WITNESSETH:**

WHEREAS, pursuant to that certain Declaration - The Algonquin Condominium executed on June 10, 1981, and recorded in the Clerk's Office of the Circuit Court of the City of Norfolk, Virginia in Book 1587, Page 0905 (the "Declaration"), the accompanying Bylaws identified as Exhibit F to the Declaration, the plat of the building on the Land attached to the Declaration as Exhibit B (the "plat"), the plans showing the location of the Units within the building on the Land attached to the Declaration as Exhibits C-1 through C-7 (the "plans"), and the covenants and provisions contained in the Condominium Instruments, the Declarant, Investors Service Corporation (the "Declarant") did submit the land, together with all easements, rights and appurtenances, described on Exhibit A to the Declaration to the condominium form of ownership as set forth in the Virginia Condominium Act, Va. Code Ann. Title 55, Chapter 4.2, Section 55-79.39, *et seq.*, as amended (the "Act"), and establish, create and develop a residential condominium known as The Algonquin Condominium;

WHEREAS, Article IX of the Declaration provides for amendment by the affirmative vote of the Unit Owners of at least two-thirds (2/3) of the aggregate Percentage Interest in the Condominium; and

WHEREAS, the Board of Directors did propose, in the best interest of the Association, to amend and restate the Declaration as set forth herein to eliminate obsolete provisions, make changes as are desired by the owners and to reformat and better organize, update and make the Declaration consistent with changes in the law, operations, technology and the Condominium.

WHEREAS, notice having been given, a meeting having been duly called and held and the requisite approval of owners having been obtained.

GPIN# (see attached)

**NOW, THEREFORE,** pursuant to the rights given to and reserved by the Association and the unit owners to amend the condominium instruments and in accordance with the Act, the Declaration is hereby amended and restated as follows:

## **ARTICLE 1. NAME; LOCATION**

### **1.1. Name.**

The Condominium has been varyingly referred to as The Algonquin Condominium, The Algonquin Association and The Algonquin House. The name of the Condominium shall be The Algonquin Association.

### **1.2. Location.**

The Condominium is located at 7320 Glenroie Avenue, Norfolk, Virginia.

## **ARTICLE 2. DESCRIPTION OF THE LAND SUBMITTED; BUILDING**

### **2.1. Background; General.**

The recordation of the Declaration submitted the Land, together with all easements, rights and appurtenances thereto, described on Exhibit A (Submitted Land) thereto and attached hereto as Schedule A and made a part hereof, to the Act and the condominium form of ownership. Prior to recordation of the Declaration there was located on the Land certain improvements, including without limitation an apartment building built in 1965, which by the creation of the Condominium, was converted to 124 condominium units, together with an undivided percentage interest in the common elements that is based upon square footage as allocated on Exhibit D to the Declaration and attached hereto as Schedule D and made a part hereof, and the Limited Common Elements appurtenant thereto. The location of Units within the building on the Land is shown on the plans.

### **2.2. Plats and Plans; Building.**

This Amended and Restated Declaration incorporates herein by reference and makes a part hereof as if attached hereto and made a part hereof the plat attached to the Declaration as Exhibit B and the plans attached to the Declaration as Exhibits C1 through C-7. The location and dimensions of the building on the Submitted Land is depicted on the plat.

## **ARTICLE 3. DEFINITIONS**

Unless a term is otherwise defined in the Condominium Instruments or the context requires otherwise, it shall have the meaning specified in the Condominium Act. The definitions shall prevail as the context requires whether or not they are capitalized.

3.1. "Act" or the "Condominium Act" means the Virginia Condominium Act, Va. Code Ann. (1950), Section 55-79.39, *et seq.*, as amended, supplemented or replaced from time to time.

3.2. "Association" means the Unit Owners Association of The Algonquin Condominium or The Algonquin Association, a Virginia non-stock, non-profit corporation, and is the entity responsible for the Condominium.

3.3. "Common Expenses" means all expenditures lawfully made or incurred by or on behalf of the Association, together with all funds lawfully assessed for the creation and/or maintenance of reserves pursuant to the provisions of the condominium instruments.

3.4. "Common Surplus" means all income collected or accrued by or on behalf of the Association in excess of the amount of the Common Expenses.

3.5. "Condominium" means The Algonquin Association. Condominium also means the Land and improvements, and any incidents thereto or interests therein, lawfully submitted to the Act by the condominium instruments and to the condominium form of ownership.

3.6. "Condominium Instruments" is a collective term referring to the Declaration, Bylaws, and plats and plans, recorded pursuant to the provisions of the Act. Any exhibit, schedule, or certification accompanying a condominium instrument and recorded simultaneously therewith shall be deemed an integral part of that condominium instrument. Any amendment or certification of any condominium instrument shall, from the time of the recordation of such amendment or certification, be deemed an integral part of the affected condominium instrument, so long as such amendment or certification was made in accordance with the provisions of the Act and the condominium instrument applicable.

3.7. "Condominium Unit" means the fee simple interest in and to a Unit, together with the undivided interest in the Common Elements appertaining to that Unit as specified in the attached Schedule D. The "size" of each Unit is the total number of square feet contained therein determined by reference to the dimensions shown on the Plats and Plans (exclusive of interior partitions) and as specified on Schedule D.

3.8. "First Mortgagee" means the holder of record of a first Mortgage.

3.9. "Manager" means a person or entity engaged by the Board of Directors to perform certain duties and functions.

3.10. "Mortgage" means any mortgage, deed of trust or other document that is recorded in the applicable Circuit Court Clerk's Office and encumbers any portion of the Property or interest therein as security for payment of a debt or obligation.

3.11. "Mortgagee" means any person named as a mortgagee or beneficiary in any Mortgage, or any successor to the interest of any such person under such Mortgage.

3.12. "Occupant" means the person(s), other than the Unit Owner, in actual possession of a Unit.

3.13. "Owner" shall have the same meaning as "Unit Owner."

3.14. The "Percentage Interest" of each owner in the Common Elements shall be defined to mean the ratio between the size of the Owner's Unit and the aggregate square footage of all Units in the Condominium.

3.15. "Person" means a natural person, corporation, partnership, limited liability company, trust or any other entity or combination thereof capable of holding title to real property, or any combination thereof.

3.16. "Property" means and includes the Submitted Land described in Schedule A, together with the improvements and structures erected thereon whether or not in accord with the plats and plans and all easements, rights, privileges and appurtenances thereto belonging and all incidents thereto or interest therein.

3.17. "Resident" shall have the same definition as Occupant, except that in certain contexts it shall also include Unit Owners.

3.18. "Unit" generally means a portion of the Condominium designed and intended for individual ownership and use as a single-family dwelling, and is more particularly described in Article 4 herein, together with an undivided percentage interest in the Common Elements as specified in the attached Schedule D.

3.19. "Unit Owner" means one or more persons who own a Unit in the Condominium. This term shall not include any person or persons holding an interest in a condominium unit solely as security for a debt.

3.20. "Unit Owners' Association" means a Virginia non-stock corporation or an unincorporated association composed of the Unit Owners, which is the entity responsible for governing the Condominium and is vested with certain rights and duties more fully set forth in the condominium instruments and applicable law.

#### **ARTICLE 4. INTEREST IN, OWNERSHIP OF AND DESCRIPTION OF UNITS, COMMON ELEMENTS AND LIMITED COMMON ELEMENTS**

4.1. Description of Units. Each Unit shall consist of the area enclosed by the unit boundaries set forth in these subparagraphs, and as shown on the plats and plans, together with the undivided Percentage Interest in the Common Elements set forth on Schedule D hereto. The Percentage Interest in the Common Elements shall not be changed without the unanimous consent of all Owners.

4.1.1. Horizontal Boundaries. The horizontal boundaries of the Unit shall be the following boundaries extended to an intersection with the vertical or perimetric boundaries as follows:

4.1.1.1. Upper Horizontal Boundary. The horizontal plane of the bottom surface of the unfinished surface of the ceiling.

4.1.1.2. Lower Horizontal Boundary. The horizontal plane of the top surface of the unfinished floor slab.

4.1.2. Vertical or Perimetric Boundaries. The vertical boundaries of the Unit shall be the vertical plane which includes the outermost surface of the plasterboard of all walls bounding the Unit extended to intersections with the upper and lower horizontal boundaries.

4.1.3. Utility Systems. In addition to what is included in subparagraphs 4.1.1 and 4.1.2 of this Article, each Unit shall include any heating and cooling equipment, ventilation duct work, electrical switches, receptacles or sockets located within or partially outside of its boundaries, if those items serve only that Unit. Any portion of a utility system serving more than one Unit, such as pipes, ducts, or electrical conduits, cable and telephone lines, whether within or outside of the Unit boundaries is part of the Common Elements. The water valve between the main pipes or plumbing line and that serving only one Unit shall be a part of the Common Elements.

4.1.4. Relocation of Boundaries Between Units. Relocation of boundaries between Units will be permitted in accordance with Va. Code Section 55-79.69.

4.2. Common Elements. Everything not otherwise designated herein as being either Unit or Limited Common Element shall be a Common Element.

4.2.1. Designation of Reserved Common Elements.

The Board of Directors of the Association shall have the power in their discretion to designate from time to time certain Common Elements as "Reserved Common Elements" and grant reserved rights to any or less than all of the Unit Owners, impose such restrictions and conditions on such use and establish reasonable charges to such Unit Owners for the use and maintenance thereof as the Board deems appropriate. Such disposition by the Board shall not be construed as a sale or disposition of the Common Elements.

4.2.2. Parking Spaces.

A portion of the Common Elements are shown on the plats and plan as numbered parking spaces. The Association reserves the right to assign these parking spaces as Limited Common Elements for the exclusive use of certain Unit Owners to whose Units these parking spaces shall become appurtenant. The Association may assign such portions of the Common Elements as Limited Common Element parking spaces pursuant to the provisions of §55-79.57 of the Condominium Act.

4.3. Limited Common Elements.

All individual mailboxes, door bells, window screens, balcony storm doors and other items designated by §55-79.50(e) of the Condominium Act shall be deemed a Limited Common Element and shall belong to the Unit to which they are appurtenant. All balconies as shown on Exhibits C-1 through C-7 are Limited Common Elements for the exclusive use of the Unit Owners to whose Units the balconies are appurtenant. The right of the Unit Owner to whose Unit the Limited Common Elements are appurtenant to use and enjoy the same shall be subject to such reasonable rules and regulations as the Board of Directors may from time to time enact and amend.

#### 4.4. Right to Divide or Partition.

##### 4.4.1. Common Elements.

The Common Elements shall remain undivided and shall not be subject to any suit for partition until and unless the Condominium is terminated. No Owner or any other person shall bring any suit or other proceeding for partition or division of the co-ownership of the Common Elements unless and until the Condominium is terminated.

##### 4.4.2. Units.

No Unit Owner shall be entitled to partition (except as otherwise provided in the Article on Termination herein) or divide his undivided interest in the Common Elements. No Unit may be sold, conveyed, encumbered or otherwise transferred or disposed of independent of or separate from the Unit Owner's undivided percentage interest in the Common Elements. Nothing contained herein shall be construed as a limitation on partition by the Unit Owners of a Unit in the Condominium as to the individual ownership of such Unit, provided that upon partition of any such Unit, the same shall convey as an entity and not be partitioned in kind.

##### 4.4.3. Division or Subdivision.

No Unit may be divided or subdivided into two or more smaller units.

### ARTICLE 5. EASEMENTS

In addition to the easements created by Sections 55-79.60 and 55-79.65 of the Condominium Act, the following easements are hereby granted:

#### 5.1. Easement for Ingress and Egress Through Common Elements, Access to Units and Support.

Each Unit Owner is hereby granted an easement in common with each other Unit Owner for ingress and egress through all Common Elements, subject to such reasonable rules and restrictions as may be imposed from time to time by the Association. Each Condominium Unit is hereby burdened with and subject to an easement for ingress and egress through all Common Elements by persons lawfully using or entitled to the same.

#### 5.2. Easement for Maintenance, Emergencies.

The Association and its authorized agents reserve the right of access to any Unit for the purposes provided in Section 55-79.79 of the Condominium Act or to carry out any duties set forth in the condominium instruments. In case of emergency, such entry shall be immediate, whether the Unit Owner is present at the time.

#### 5.3. Support.

Each Unit and Common Element shall have an easement for lateral and subjacent support from every other Unit and the Common Elements.

#### 5.4. Utility Easements.

The Property is subject to utility and drainage easements of record. The plat does not show the location and dimensions of all such easements as it is not feasible to do so as contemplated by

Va. Code Section 55-79.58(a). Utility easements are reserved to the Association and may be granted by the Board of Directors on behalf of the Association on or through the Property as may be required or desired for the provision, establishment, construction, maintenance, repair, replacement or removal of utility services in order to adequately serve the Condominium and the Residents.

**5.5. Improvements.**

The Declarant transferred to the Association and there is vested in the Association an easement over, upon and through the Common Elements for the purpose of making improvements on and to the Property pursuant to the provisions of the condominium instruments and the Condominium Act and for the purpose of doing all things reasonably necessary and proper in connection therewith and in the operation of the Association and the Property.

**5.6. Use.**

The use of any easement by a Unit Owner shall be subject to all of the provisions of the Condominium Instruments, as amended.

**5.7. Additional Easements.**

The Board of Directors on behalf of the Association shall have the irrevocable power as attorney-in-fact on behalf of all Unit Owners to grant easements through the Common Elements and accept easements benefiting the Property or any portion thereof.

**5.8. Damage.**

To the extent that damage is inflicted on any part of the Property by an person or persons utilizing the aforesaid easements, the person(s) causing such damage shall be jointly and severally liable for the prompt repair thereof.

**ARTICLE 6. ADMINISTRATION OF THE CONDOMINIUM**

**6.1. The Association.**

The Association was established and came into being upon the conveyance by the Declarant of the first Unit. The Algonquin Association, which is a nonprofit, nonstock Virginia corporation, functions as the Unit Owners Association. Nothing herein shall be construed as requiring the Association to operate in corporate form.

**6.1.1. Responsibility.**

The Association shall administer the operation and management of the Condominium and shall have the power to perform all acts and duties incident to such function in accordance with its Articles of Incorporation, the Condominium Instruments and applicable law, as amended.

**6.2. Powers.**

Except as limited by the condominium instruments or the Articles of Incorporation, as amended or restated, the Association shall have all of the powers and duties set forth in the Condominium Act, the Virginia Nonstock Corporation Act, Va. Code Ann. Section 13.1-800, *et seq.* (the "Virginia Nonstock Corporation Act") and the condominium instruments.

**6.3. Board of Directors.**

The Board of Directors shall exercise for the Association all powers, duties and authority vested in or obligated to be taken by the Association and not reserved exclusively for the Unit Owners by the condominium instruments, the Articles of Incorporation or the Act and as further specified in the Bylaws.

**6.4. Membership.**

All Unit owners shall automatically become members of the Association upon the acquisition of title to a Unit and such membership shall automatically terminate upon divestiture of such ownership regardless of how such ownership is divested. Neither membership in the Association nor the rights and privileges thereof shall extend to any person holding any lien, deed of trust or other encumbrance upon any Unit or upon the Condominium as a whole by virtue thereof.

**6.5. Management.**

The Association shall not be "self-managed."

**6.6. Voting.**

Voting shall be governed by the provisions of the Bylaws. The percentage of total votes in the Association attributable to each Unit are those percentages set forth on Schedule D hereto and shall not be changed except by unanimous agreement of all Unit Owners.

**ARTICLE 7. FISCAL MATTERS**

**7.1. Assessments.**

The Board of Directors shall have the power to make, levy and collect regular, special and such other assessments against the Units and the Unit Owners to defray the Common Expenses as the Act and the condominium instruments may allow. Such assessments shall be in such amounts and upon such terms as are either set forth in the condominium instruments or as determined by the Board.

**7.2. Reserves.**

In assessing for Common Expenses, the Board shall include therein a sum to be collected for the reserve funds set forth below.

**7.2.1. Requirement for Reserve Study.**

The Board of Directors shall conduct at least once every five (5) years a professional study to determine the necessity and amount of reserves required to repair, replace and restore the Common Elements.

**7.2.2. Replacement Reserve.**

The Replacement Reserve fund shall be maintained to repair, replace and restore the Common Elements. In determining the annual assessment needed for the Replacement Reserve fund, the Board shall consider guidance provided in a professional reserve study, review the results of that study at least annually to determine if reserves are sufficient and make any adjustments the Board deems necessary to maintain reserves, as appropriate, taking into account such factors as the current fund balance, annual return on the balance,

estimated remaining life and estimated useful life of the Common Element capital components, modifications to conform to current laws, ordinances, regulations and codes, availability of materials, style and projected short-term and long-term expenditures.

7.2.3. Operating Reserve.

The Operating Reserve fund(s) shall be maintained to provide a measure of financial security during periods of financial stress, including but not limited to deficiencies resulting from default in payment of assessments, emergencies and unforeseen expenses.

7.3. Separate Property.

All sums collected by the Association shall, unless collected for the benefit of others, be the separate property of the Association. Such sums may be applied by the Association to the payment of any expense of operating and managing the Condominium or to the proper expenses incurred in carrying out the powers and duties imposed upon it by virtue of the condominium instruments. All sums received from assessments may be co-mingled with other sums held by the Association. All sums received by the Association shall be subject to the right to assign, hypothecate, pledge or transfer an interest therein, except as an appurtenance to the Units. Such funds shall not be subject to attachment or levy by a creditor of any creditor of a Unit Owner. When any Unit Owner ceases to be a member of the Association due to divestiture of ownership of his Unit by any manner, the Association shall not be required to account to such owner for any funds or assets of the Association.

7.4. Separate Accounts.

The funds of the Association shall be deposited in account(s) of the Association and shall not be commingled with any accounts or funds of any other person or entity.

7.5. Depositories.

The funds of the Association shall be deposited in such account(s) with a state or federal savings or commercial bank, or savings and loan association or trust company or credit union, mutual fund, agency of the United States government or like financial institutions as shall administer investments and as shall be insured, safe and responsible.

7.6. Unit Owner Liability.

Each Unit Owner, by accepting a deed for a Unit, whether or not it shall be expressly stated in such deed or other instrument of transfer, covenants to pay to the Association such assessments as may be imposed pursuant to Section 7.1 above and the condominium instruments.

7.6.1. Common Expenses.

Each Unit Owner shall be liable for a proportionate share of the Common Expenses based upon his percentage interest of ownership in the Common Elements as set forth on Schedule D hereto. The liability of any Unit Owner for future assessments for Common Expenses shall cease upon the termination of ownership of a Unit, however, the Association shall have no obligation to pro rate any monthly installment for the remaining portion of a month after which ownership ceases.

7.6.1.1. Misconduct.

A Unit Owner shall be liable for any Common Expense caused by his misconduct, carelessness, conscious act or neglect or that of his family members, tenants, guests, invitees, contractors or agents.

7.6.2. Limited Common Element Expenses.

Except as specified in paragraph 8.4 hereof, each Unit Owner shall be liable for the expenses of maintenance, repair, replacement, renovation and restoration of the Limited Common Elements appurtenant to his Unit.

7.6.3. No Exemptions.

No Unit Owner, Mortgagee or other person who acquires title to or a beneficial interest in a Unit shall be exempt from maintaining or repairing his Unit or the Limited Common Elements appurtenant thereto or from contributing his proportionate share of the Common Expenses by waiver or nonuse of the Common Elements, by abandonment of the Unit or for any other reason.

7.6.4. No Setoff.

No Unit Owner, Mortgagee or other person who acquires title to or a beneficial interest in a Unit shall have any right to setoff liability for or withhold all or any portion of the assessments for any reason, including the alleged failure of the Association to carry out any of its powers or obligations.

7.7. Payment.

The regular assessment levied against each Unit Owner and Unit to pay for the Common Expenses shall be considered an annual assessment payable in twelve (12) equal monthly installments on the first day of each month, or such other installments as the Board may determine from time to time.

7.8. Default.

The payment of any assessment or installment thereof due to the Association shall be in default if such payment is not received when due.

7.8.1. Interest.

In the event of default in the payment of any assessment, installment or part thereof, which continues for a period of more than ten (10) days, interest shall accrue at the rate of twelve percent (12%) per annum, or such other rate as the Board of Directors may establish from time to time, not to exceed the maximum rate permitted by law, from the due date thereof until paid.

7.8.2. Late Charge.

In the event of default in the payment of any assessment, installment or part thereof, that continues for a period of more than ten (10) days from the due date thereof, a late charge of ten dollars (\$10), or such other amount as the Board of Directors may establish from time to time, may be imposed that shall be deemed a part of the assessment due.

**7.8.3. Acceleration.**

In the event of default in the payment of any assessment, installment or part thereof, that continues for a period of more than thirty (30) days from the due date thereof, the balance of installments due for the then current fiscal year may be accelerated and considered due and payable, provided notice of intent to accelerate is sent to the Owner.

**7.8.4. Attorneys Fees and Costs.**

In the event that the Association employs an attorney to collect any assessments or other amounts due the Association, whether or not by suit, the Association shall be entitled to recover from such defaulting Unit Owner attorneys fees in the greater amount of one-third (1/3) of the delinquent assessments (including interest and late fees) or actual attorneys fees incurred, and all court and collection costs.

**7.8.5. Remedies.**

The Association shall have all rights and remedies as are provided for in Article 15 - Enforcement herein, by law or the condominium instruments.

**7.9. Lien.**

The Association shall have a lien on every Unit for unpaid assessments levied against that unit in accordance with Section 55-79.84 of Condominium Act and the provisions of the condominium instruments. The lien shall secure the payment of sums due the Association, including all assessments, installments or parts thereof, interest, late fees, attorneys fees incurred as an incident to the enforcement of said lien and costs. The lien shall also secure such advances for taxes and payments on accounts of First Mortgagees, liens or encumbrances that may be advanced by the Association in order to preserve and protect its lien. The lien shall be effective, perfected, have priority, be foreclosed and enforced as provided in the Condominium Act. For purposes of this paragraph, the principal officer of the Association, such other officer or persons as the Bylaws may specify or the Board may determine from time to time, or the Manager or a representative of the Manager shall be deemed the duly authorized agent of the Association for purposes of verification.

**7.9.1 No Election of Remedies.**

Nothing herein shall be construed to prohibit any action to recover sums for which Va. Code Ann. Section 55-79.84(A) creates a lien, maintainable pursuant to Va. Code Section 55-79.53 or the condominium instruments.

**7.9.2. Release.**

When payment or satisfaction is made of a debt secured by the lien perfected pursuant to Va. Code Section 55-79.84, said lien shall be released in accordance with the provisions of Va. Code Ann. Section 55-66.3, as amended.

**7.10. Succession of Assessments.**

The Common Expenses assessed against any Unit, with interest, late charges, attorneys fees and costs, shall be a lien upon such Unit in accordance with applicable law and the provisions of the condominium instruments. Each such assessment, together with interest, late charges, attorneys fees and costs shall also be the personal obligation of the person who was the Owner of the Unit at the time the assessments became due. The personal obligation for the amount of any default

shall not pass to successors in title or interest unless assumed by them. Upon such acquisition or transfer, any prior acceleration of assessments due to default in payment shall be deemed to extend only to the date of such acquisition or transfer and nothing contained in the foregoing sentences shall be deemed to relieve any successor in title or interest to a Unit from the obligation to pay assessments that shall accrue after the date he acquires title to or an ownership interest in a Unit.

**7.11. Statement of Status of Assessments.**

Any Unit Owner or purchaser of a Unit who has executed a contract for the disposition of the same, may require a statement as set forth in Va. Code Section 55-79.84(H). The Association may charge a fee for such statement as allowed by the Act.

**7.12. Common Surplus.**

Each Unit Owner shall have as an appurtenance to his Unit a common right, with the other Unit Owners, to a proportionate share in the Common Surplus based on his percentage ownership interest in the Common Elements set forth on Schedule D hereto. The right to share in the Common Surplus does not include the right to withdraw or to require payment or distribution thereof, except upon termination of the Condominium and dissolution of the Association.

**ARTICLE 8. MAINTENANCE, REPAIR AND REPLACEMENT; IMPROVEMENTS AND ALTERATIONS**

**8.1. Maintenance Responsibilities.**

Notwithstanding ownership of the various portions of the Common Elements and the Units by virtue of the boundary descriptions, or insurance requirements herein, the following provisions shall govern the division of maintenance and repair responsibilities between the Unit Owner and the Association. The Association shall have a right of access to any Unit or Limited Common Element in order to perform maintenance and repairs as set forth herein and in the Bylaws.

**8.2. Common Elements.**

The Association shall, as a Common Expense, be responsible for all maintenance, repair, replacement, restoration and renovation of the Common Elements, except to the extent that the Board of Directors determines that the need for such was caused by or due to the fault of the Unit Owner, his tenants, guests or invitees, in which case the Unit Owner shall reimburse the Association for any such expenses.

**8.3. Units and Limited Common Elements.**

Each Unit Owner shall, at his own expense, be responsible for the maintenance, repair, renovation, restoration and replacement of all portions of his Unit (including but not limited to all equipment, appliances, appurtenances, such as refrigerators, dishwashers, plumbing fixtures, drains, lines and connections serving only that Unit, all windows, doors, jambs, hardware and frames, frame and casing, carpet, tile, vinyl, parquet flooring, wallpaper, paint, plaster and all other finished surfaces of the walls, floors and ceilings, all electrical panels, wiring, outlets and fixtures) and the Limited Common Elements appurtenant to his Unit, except to the extent assigned to the Association pursuant to paragraph 8.4 hereof. Each Unit Owner shall maintain his Unit and the Limited Common Elements appurtenant thereto (except those for which the

Association is responsible) in good repair, in a clean and sanitary condition, including keeping them free of debris, ice and accumulation of water, and redecorating and painting that may be necessary to maintain the good appearance and condition of same, and shall promptly cause to be performed all maintenance and repair work within his Unit and the Limited Common Elements appurtenant thereto.

**8.4. Association Responsibility for Units and Limited Common Elements.**

The Association shall, as a Common Expense, be responsible for the following portions of the Units and Limited Common Elements:

- (a) making structural repairs and replacements to the Limited Common Elements, except for those which have been designated herein as the responsibility of the Unit Owner; and
- (b) to the extent determined by the Board of Directors, maintenance of the heating and cooling equipment that is a part of each Unit.

**8.5. Association Right to Enter Units In Case of Emergency.**

In case of emergency, including but not limited to fire, storm or burst pipe, hose or line, in which it is necessary to enter a Unit or Limited Common Element appurtenant thereto, the Association or its authorized agents shall have the right, but not the obligation, to enter a Unit without notice and without liability for any damage attributable to such entry, including any alleged property damage or theft. Any expenses so incurred by the Association in repairing, replacing or restoring any portions of any Unit or the Limited Common Elements appurtenant thereto, except those specified in section 8.4 hereof, shall be the responsibility of the Unit Owner thereof. Any expenses so incurred by the Association in repairing, replacing or restoring any portions of the Common Elements shall be the responsibility of the Association, unless same was caused, in the opinion of the Board, by the negligence, misuse, misconduct or the failure to maintain or repair on the part of the Unit Owner, his tenants, guests or invitees, in which case such expenses shall be the responsibility of the Unit Owner.

**8.6. Failure of Owner to Maintain.**

In the event that a Unit Owner fails or refuses to maintain or make repairs as required to his Unit or Limited Common Elements appurtenant thereto, or makes repairs that do not maintain the integrity or appearance, or causes damage to the Common Elements or undertakes unauthorized additions and alterations, the Association shall be authorized and may, but shall not be required, to undertake such maintenance, repairs or replacements, and the cost thereof shall be the responsibility of said Unit Owner.

**\* 8.7. Improvements and Alterations to Units and Limited Common Elements.**

No structural improvements or alterations may be made to any Unit or Limited Common Element appurtenant thereto without the prior written consent of the Board of Directors or such committee as the Board may appoint for such purpose. No improvements or alterations, including without limitation painting or decorating or installation of electrical wiring, antennas or communications equipment, or other object, equipment or heating and air conditioning units that protrude through walls, roof or windows of the Condominium, may be made to the exterior of any Unit or Limited Common Element appurtenant thereto, including without limitation the

doors and windows, without the prior written approval of the Board of Directors or such committee as the Board may appoint for such purpose, unless prior approval is prohibited by applicable law. Improvements or alterations to the interior of a Unit that do not impair the structural integrity of any portion of the Condominium shall not require approval. For any improvements or alterations that require the prior approval of the Board of Directors, such consent shall be deemed given if the Board fails to reply to the written request of the Unit Owner within forty-five (45) days after receipt of such request. The Board shall do all acts and things as are reasonably required by any governmental authority (i.e. endorsing permit applications, etc.), except the payment of any fees, for any alterations or improvements to a Unit that have been approved by the Board without incurring any liability on the part of the Board, Association or directors for any injury to person or property arising therefrom.

**8.8. Modifications Upon Acquisition of Adjoining Unit.**

If a Unit Owner acquires an adjoining unit, or an adjoining part of an adjoining unit, then such Unit Owner shall have the right to remove all or any part of any intervening partition or to create doorways or other apertures therein, notwithstanding the fact that such partition may in whole or in part be a Common Element, so long as no portion of any bearing wall or bearing column is weakened or removed and no portion of any Common Element other than that partition is damaged, destroyed or endangered. Such creation of doorways or other apertures shall not be deemed an alteration of boundaries within the meaning of Va. Code Section 55-79.69 or of the provisions of Article 4 hereof relative to relocation of boundaries between units.

**8.9. Additions, Alterations or Improvements to Common Elements.**

The Board of Directors shall have the power to make or cause to be made additions, alterations and improvements to the Common Elements as it deems necessary or in the best interests of the Condominium or Association, except that any such additions, alterations or improvements amounting to greater than Twenty-Five Thousand Dollars (\$25,000) during any fiscal year, shall not be made by the Board without the approval of a majority of the Unit Owners. No Unit Owner or Occupant shall have the right to make any improvement, addition or alteration to any portion of the Common Elements, except as authorized in writing by the Board of Directors. Notwithstanding the foregoing, if, in the opinion of a majority of the members of the Board of Directors, such additions, alterations or improvements are exclusively or substantially exclusively for the benefit of the Unit Owner or Unit Owners requesting the same, such requesting Unit Owners shall be assessed therefor in such proportion as they jointly approve or, if they are unable to agree thereon, in such proportions as may be determined by the Board of Directors.

**8.10. Conformity With Law.**

Any maintenance, repair, renovations, replacements, restoration, improvements or alterations to the Condominium Property shall be of first class quality and shall conform with all applicable laws, ordinances, regulations, rules, codes or policies of any governmental agency, authority, body or entity having jurisdiction thereof. The responsibility for meeting such requirements shall be the same as the responsibility for maintenance and repair of the property concerned.

**8.11. Notice Of Need For Repairs.**

Each Unit Owner shall promptly report to the Association any defect or need for repairs for which the Association is responsible.

## ARTICLE 9. RESTRICTIONS ON USE AND OCCUPANCY

### 9.1. Use.

#### 9.1.1. General.

No persons shall use the Condominium Property or any part thereof in any manner that is contrary to the condominium instruments. No improper, offensive or unlawful use shall be made of the Condominium Property or any part thereof.

#### 9.1.2. Residential.

All Units shall be used only for single-family residential purposes by the Resident thereof. At no time may any Unit be inhabited by more persons than the number for which it is intended. The Board may permit reasonable, temporary non-residential uses from time to time.

### 9.2. Leasing.

The maximum number of Units that may be rented at any one time shall not exceed 12, which is approximately 10% of the number of units in the Condominium (the "Rental Ceiling"). The leasing of Units shall be subject to reasonable rules and regulations as may be promulgated from time to time by the Board of Directors. There shall be no right, however, to restrict, regulate or determine the term, amount of rent or tenants of any lease of a Unit, except that no Unit may be leased for transient or hotel purposes or for an initial period of less than one (1) year in duration. If a person or persons acquire a Unit through inheritance, that person or persons shall be deemed to have owned and occupied that Unit during the period which their decedent owned and occupied the Unit.

#### 9.2.1. Writing and Approval Required.

No Lease for a Unit shall be valid or enforceable unless it shall be by means of a written instrument or agreement between the Unit Owner(s) and the Tenant(s) ("Lease"). No Lease entered into after the date of recording of this instrument shall be valid unless it has been approved by the Board of Directors prior to the occupancy of the Tenant. The Association may provide a suggested standard form lease for use by the Unit Owners. The occupancy of a Unit in the Condominium and every Lease shall be subject to the Condominium Instruments and any rules and regulations and resolutions promulgated by the Board pursuant thereto, as the same may be amended.

#### 9.2.2. Lease Subject to Documents.

All tenants and Occupants of a Unit shall be subject in all respects to the provisions of the condominium instruments and any and all rules and regulations and resolutions promulgated by the Board pursuant thereto, whether or not the Lease provides for same. No tenant or Occupant of a Unit shall be excused from the obligation to comply with the condominium instruments or the Rules and Regulations, or any violation thereof, because his lease does not provide for or require compliance with same.

**9.2.3. Leasing Defined.**

For purposes of the provisions of this section 9.2 hereof, the term "renting," "rental," "rent," "lease" or "leasing" of a Unit means the granting of a right to use or occupy a Unit, for a specified term, or an indefinite term with rent reserved on a periodic basis, in exchange for the payment of rent (that is money, property or other goods or services of value), and the occupancy of a Unit solely by a person or persons other than the Unit Owner, his family or non-business-related guests, whether or not rent is paid; but does not mean and include joint ownership of a Unit by means of joint tenancy, tenancy-in-common or other forms of co-ownership, or the occupancy of a Unit by any person who resides in a Unit with the Unit Owner, whether or not rent is charged therefore, or any first deed of trust holder in possession of a Unit following a default under a first deed of trust, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure. The provisions of section 9.2 hereof shall apply to any Tenant who subleases a Unit or enters into an assignment of a Lease for a Unit.

**9.3. No Increase in Liability.**

No Unit Owner or Resident shall permit anything to be done or kept upon the Property that will increase the rate or result in cancellation of insurance on the Condominium.

**9.4. Rules and Regulations.**

All Unit Owners, Residents and other persons who use or occupy the Property shall be subject to any and all rules and regulations and resolutions adopted by the Board of Directors concerning the use of the Property.

**9.5. Use Of Units Owned By Entities.**

Any Unit Owner that is a corporation, trust or partnership shall annually execute and deliver to the Association a written statement designating the name(s) of those persons entitled to use the Unit, together with a written covenant from those persons in favor of the Association stating that there will be full compliance with all the terms and provisions of the Condominium Instruments the Articles and Bylaws and all rules and resolutions enacted by the Board of Directors of the Association, as the same may be amended. In the event that such covenants are violated, the aforesaid owner shall cause person(s) to vacate the Unit and in the event such person(s) do not vacate, the Association shall take whatever measures are necessary to have the person(s) removed from the Unit and shall assess the owner for any costs or attorney's fees caused by such measures.

**9.6. No Nuisance Or Interference.**

No Unit Owner shall obstruct or interfere with the rights of other Occupants of the Condominium, which will be a nuisance to those Occupants, or which will interfere with the peaceful possession or proper use of any Unit or other property on the Condominium.

**9.7. Common Elements.**

The Common Element lobbies, hallways and stairways shall be used for no purpose other than normal transit, except as otherwise provided by the Condominium Instruments. No Unit Owner shall obstruct any of the Common Elements nor shall any Unit owner store anything upon any of the Common Elements (except those areas designated for such storage by the Board of Directors) without the approval of the Board of Directors. No Unit Owner shall place or cause to be placed in or

on the Common Element hallways, lobbies, stairways or other Common Element (except storage as set forth above) any furniture, decorative or personal items of any kind except in accordance with guidelines established by the Board of Directors. Vehicular parking upon the Common Elements may be regulated or assigned by the Board of Directors. Nothing shall be altered or constructed in or removed from the Common Elements except upon the prior written consent of the Board of Directors or the Covenants Committee, as appropriate. The Common Elements shall be used only for the furnishing of the services and facilities and for which the same are reasonably suited and which are incident to the use and occupancy of the Units. No waste will be permitted on the Common Elements.

**9.8. Parking.**

Parking on the Property shall be governed by such rules and regulations as the Board may adopt or amend from time to time. Trailers, campers, recreational vehicles or boats may be parked on the Property only in such parking areas as may be designated exclusively for such purposes by the Board of Directors. No junk or derelict vehicle or other vehicle on which current registration plates are not displayed shall be kept upon any of the Common Elements.

**9.9. Pets.**

No animals, birds or reptiles of any kind will be allowed in or on the Condominium Property, except those approved by the Board as may be required to reasonably accommodate an Occupant under any applicable law. Any such animals so approved shall be subject to reasonable rules and regulations adopted by the Board.

**9.10. Signs.**

No signs of any character shall be erected, posted or displayed upon, in, from or about any Unit or Common Elements without the prior written approval of the Board of Directors.

**ARTICLE 10.       INSURANCE**

**10.1. Coverage Required.**

The Association shall obtain and maintain policies of insurance to protect the Association and the Condominium and that conform to any minimum requirements provided by the Act and as set forth herein as market conditions permit.

**10.1.1. Property Damage.**

The Association shall obtain and maintain in full force and effect property damage insurance on the buildings and structures upon the Property, in an amount equal to the full replacement value thereof (i.e. 100% of the current replacement cost), exclusive of land, excavations, foundations and finished surfaces (such as carpet, tile, vinyl, parquet flooring, wallpaper or other wallcoverings and paint), furnishings, furniture and personal property supplied or installed by the Unit Owners that are not usually insured, with such deductibles and coverages in such kinds and amounts as may be determined annually by the Board of Directors with the assistance of the Manager, insurance professional, the insurance company affording coverage and, if the Board so decides, a qualified appraiser of real estate, as may be required by First Mortgagees and such other professionals as determined

by the Board and as may be available at reasonable cost. This coverage shall afford protection against loss or damage by fire and other hazards, as may be determined by the Board of Directors with the assistance of the Manager, insurance agent or broker and the insurance company affording coverage, and as shall customarily be served with respect to properties similar in construction, location and use as the Condominium, including without limitation, vandalism, malicious mischief, hail, windstorm, debris removal, cost of demolition, ordinance and law and water damage endorsements. The purpose of this coverage is to assure there are sufficient funds for reconstruction and replacement of the Condominium in the event of catastrophic loss, such as destruction by fire, hurricane or vandalism. This coverage is not intended to insure losses related to maintenance of the Condominium, such as damage to Units from a leaking toilet, overflowing tub or burst ice machine line.

#### 10.1.2. Liability.

The Association shall obtain and maintain in full force and effect commercial general liability insurance (including without limitation bodily injury, libel, slander, false imprisonment, invasion of privacy coverage and errors and omissions) and property damage insurance with such limits and in such forms as the Board of Directors in consultation with the Manager, insurance professional and insurance company affording coverage may from time to time determine to be acceptable and reasonably prudent, but in no event shall such insurance be less than One Million Dollars (\$1,000,000) per occurrence for claim for bodily injury or property damage, insuring the Association, the officers and directors, volunteers, Manager and Unit Owners (and their tenants, guests, agents, invitees and employees) arising out of or incident to the ownership, use, existence, operation, management and maintenance of the Common Elements and any other areas under the control of the Association. Such comprehensive policy of public liability insurance shall include a cross liability endorsement under which the rights of the named insured under the policy shall not be prejudiced with respect to an action against another insured and a "severability of interest" endorsement which shall preclude the insurer from denying liability coverage to an Owner because of the negligent act of the Association or another Owner.

##### 10.1.2.1. Certificate.

A certificate evidencing coverage under any policy of property damage insurance, together with proof of payment of premiums and any notice issued under Section 10.6 herein, shall be delivered by the insurer to the Association and upon request, to any Owner or First Mortgagee.

#### 10.1.3. Flood.

If the Condominium is or shall be located in an area identified by the Secretary of Housing and Urban Development as an area having special flood hazards, a "blanket" policy of flood insurance on the Condominium Property shall be maintained in the lesser of the maximum insurable replacement value of all insurable structures on the submitted land or the maximum coverage available.

10.1.4. Fidelity.

The Association shall obtain and maintain fidelity insurance or fidelity bond coverage in such an amount and such form as required to protect the assets of the Association, but in no event shall such coverage be in an amount less than one and one-half times the maximum amount of funds in the Association's custody or control at any one time, including reserves held by the Association. Such coverage shall afford protection against dishonest acts on the part of any person or entity handling funds belonging to or to be administered by the Association, including without limitation, directors, officers, employees, volunteers, Board appointees or Manager, and shall contain waivers of any defense based upon the exclusion on persons who serve without compensation from any definition of "employee" or similar expression.

10.1.5. Officers and Directors Personal Liability.

To the extent available at a reasonable cost, appropriate officers' and directors' personal liability insurance shall be maintained by the Association to protect the officers and directors from personal liability and for defense costs in relation to their duties and responsibilities in acting as such officers and directors on behalf of the Association.

10.1.6. Other.

The Association shall obtain and maintain such other kinds of insurance coverage as may be required by law, such as workers' compensation, or the Board of Directors may determine necessary or prudent, such as change of ordinance.

10.2. Classification of and Responsibility to Purchase and Pay for Costs of Coverage Required By Association.

With the sole exception of any insurance that may be purchased by the individual Unit Owners, all insurance shall be purchased by and on behalf of the Association and the cost of obtaining all such coverage, including without limitation any fees or expenses incurred that are necessary or incidental to the procurement thereof, shall be a Common Expense. The Board or Manager shall not be liable for failure to obtain any coverage required by this Article for any loss or damage resulting from such failure if such failure is due to the unavailability of such coverage from reputable insurance companies, or if such coverage is available only at demonstrably unreasonable cost.

10.3. Additional Requirements.

Each policy of insurance purchased by the Association shall, to the extent reasonably available at reasonable rates, provide:

10.3.1. Named Insured.

That the named insured is the Association, as attorney-in-fact for the use and benefit of the Owners, or the authorized representative of the Association (including without limitation any "Insurance Trustee").

10.3.2. Waiver of Subrogation Rights.

That the insurer waives any right to claim by way of subrogation against the Unit Owners, the Manager, the Board or any of their respective agents, employees, tenants or invitees.

Each Unit Owner and the Association shall waive any claim against each other and against other Unit Owners for any loss or damage for which insurance is carried hereunder when the insurer has waived its rights of subrogation as aforesaid.

**10.3.3. Insurance Trustee.**

All policies shall be for the use and benefit of the Association, the Unit Owners and First Mortgagees, as their interests may appear, and shall provide that all proceeds of such policies shall be paid in trust to the Board of Directors as Insurance Trustee to be applied pursuant to the terms of Article 11 hereof.

**10.3.4. Underwriter Must Be Licensed In Virginia.**

Must be written by an insurance company licensed to do business in the Commonwealth of Virginia and who has a current rating by Best's Insurance Reports of B/VI or better. Hazard insurance policies are also acceptable from an insurance carrier which has a financial rating by Best's Insurance Reports of Class V, provided it has a general policy holder's rating of at least A.

**10.4. Unit Owner Responsibility.**

It is the responsibility of each Unit Owner to obtain, at such Owner's expense, insurance covering without limitation personal liability and his Unit, improvements made by him to his Unit, personal property, personal liability, living expenses, loss of use, loss assessment or otherwise as he deems advisable. All such insurance shall contain waivers of subrogation and shall waive any right to contribution. Insurance carried by the Unit Owner should be in an amount at least equal to the deductible(s) under the Association's master policy, including the deductible(s) under any special forms (e.g. water damage deductible). No Unit Owner shall be entitled to exercise his right to acquire or maintain such insurance coverage so as to decrease the amount that the Board on behalf of the Unit Owners may realize under any insurance policy maintained by the Board to be brought into contribution.

**10.4.1. Deductible.**

Any deductible under any policy of insurance maintained or required to be maintained by the Association, for which the cause of loss originated in or through a Unit or component thereof, shall be paid by the Unit Owner thereof, without regard to negligence of the Unit Owner.

**10.5. Association as Agent.**

The Association through its Board of Directors is irrevocably appointed as agent for the Association, each Unit Owner, each holder of a Mortgage upon a Unit and for each person having any other named insureds and beneficiaries of any interest in a Unit to negotiate losses and receive payments under any insurance policy purchased by the Association and to execute and deliver releases upon the payment of claims.

**10.6. Notice to Owners.**

As soon as reasonably practical after any policy of insurance has been obtained by or on behalf of the Association, written notice of the obtainment thereof and of any subsequent changes therein or termination thereof shall be promptly furnished to each unit owner, which notice shall be sent in accordance with the provisions of Section 55-79.75A of the Act.

## **ARTICLE 11.        DAMAGE OR DESTRUCTION**

### **11.1. Damage or Destruction.**

In the event any part of the Condominium Property is damaged by casualty, the repair or reconstruction shall be made as follows:

#### **11.1.1. Repair or Reconstruction Required; Supervision.**

Except as otherwise provided herein, in the event of damage to or destruction of any part of the Condominium, the same shall be repaired or reconstructed and the Board of Directors shall arrange for and supervise the prompt repair and restoration thereof (including any damaged Units therein, and portions thereof initially installed by the Declarant and replacements thereof, but not upgrades or any other furniture, furnishings, fixtures, equipment or other personal property supplied or installed by a Unit Owner or Occupant). Notwithstanding the foregoing, each Unit Owner shall have the right to supervise the redecorating of his Unit.

##### **11.1.1.1. Damage Restricted To Units Only.**

Notwithstanding the foregoing, if the damage or destruction is restricted to those parts of a Unit for which the responsibility for maintenance and repair belongs to the Unit Owner, then the Unit Owner shall be solely responsible for administering the repair or reconstruction after casualty.

#### **11.1.2. Cost Estimates and Plan of Repair.**

Except as otherwise excluded herein, as soon as practicable after an event causing damage to or destruction of any part of the Condominium, the Board of Directors shall obtain reliable and complete cost estimates and plan of repair and reconstruction. Such estimates or plans may include the appointment of an insurance trustee or other independent third party who may be given control of the construction fund (defined below) or other supervisory responsibilities, professional fees and premiums for such bonds as the Board may determine.

#### **11.1.3. Repair and Reconstruction.**

As soon as practical after the damage occurs and any required estimates have been obtained, the Association shall diligently pursue to complete such repair and reconstruction. Any reconstruction undertaken hereunder shall be substantially in accordance with the plats and plans as originally constructed or as the building(s) existed immediately prior to such event causing damage or destruction, subject to modification to conform with the then current laws, ordinances, regulations and codes, availability of materials, style or as may otherwise be agreed upon by the Association. The obligation to pay assessments shall not be abated during the period of insurance adjustments and repair and reconstruction.

#### **11.1.4. Encroachments.**

Encroachments upon or in favor of Units that may be created as a result of such reconstruction or repair shall not constitute a claim or basis for any proceeding or action by the Owner upon whose property such encroachment exists, provided that such construction is in accordance with the preceding paragraphs.

**11.2. Payment of Proceeds.**

In the event of any casualty loss, the proceeds of any insurance policy carried by the Association shall be applied to the cost of repair and reconstruction.

**11.2.1. Construction Fund.**

The proceeds of insurance collected on account of a casualty, any sum appropriated by the Board of Directors from reserves and any sums collected by the Association from any special assessments on account of such casualty shall constitute a construction fund, which shall be disbursed in payment of the cost of reconstruction and repair in the manner set forth in this Article.

**11.2.2. Priority of Payment.**

If the damage is to both Common Elements and Units, the insurance proceeds shall be applied first to the repair and restoration of the Common Elements that enclose and service the Units, then to the cost of repairing the other Common Elements and then to the repair and restoration of the Units and Limited Common Elements appertaining thereto.

**11.2.3. Proceeds Insufficient.**

In the event that said proceeds are not sufficient to pay the cost of repair or reconstruction, then the amount necessary to complete such repair and reconstruction may be obtained from the Replacement Reserves and/or special assessments levied against the Unit Owners either (1) in accordance with their percentage interest in the Common Elements if the damage is to the Common Elements or affects all of the Units or (2) in proportion to the damage sustained by the Unit Owners affected.

**11.2.4. Surplus.**

Any surplus of insurance proceeds not required for repair and replacement shall be paid into the Replacement Reserves.

**11.2.5. In Event of Termination.**

In the event that the Unit Owners agree to terminate the Condominium subsequent to a casualty loss, the proceeds of each insurance policy insuring the Common Elements shall be distributed to the Unit Owners prior to the recordation of the instrument terminating the Condominium. Distribution of insurance proceeds shall be made to each Unit Owner (and his mortgagee) in proportion to the percentage interest in the common elements appertaining to each Unit.

**ARTICLE 12.        TAKING**

**12.1. Eminent Domain or Condemnation.**

All matters of taking by eminent domain or condemnation of all or a portion of the Condominium shall be governed by Section 55-79.44 of the Condominium Act.

## **ARTICLE 13.        TERMINATION**

### **13.1. Procedure.**

The Condominium shall be terminated only by the agreement of Unit Owners to which at least four-fifths (4/5) of the aggregate Percentage Interests in the Association appertain, as evidenced by their execution of a termination agreement, or ratifications thereof, and the same shall become effective in the manner provided by Va. Code Section 55-79.72:1C.

### **13.2. Nature of Rights; Occupancy.**

Upon recordation of an instrument terminating this condominium, all of the property constituting the same shall be owned by the Unit Owners as tenants in common in proportion to their undivided percentage interest in the Common Elements immediately prior to such recordation. But so long as such tenancy in common lasts, each Unit Owner or his heirs, personal representatives, successors or assigns, shall have the exclusive right to occupy such portion of the property that formerly constituted his Unit and the Limited Common Elements appurtenant thereto. The members of the Board acting collectively as agent for the Unit Owners shall continue to have such powers as are necessary to administer the business and affairs of the Association notwithstanding the fact that the Association may have dissolved upon termination.

### **13.3. Owners Rights in Common Elements.**

Upon recordation of an instrument terminating this condominium, any rights the Unit Owners may have to the assets of the Association shall be according to their aggregate Percentage Interest in the Condominium immediately prior to such recordation, and Common Surplus shall be distributed in accordance with the aggregate Percentage Interest in the Condominium.

### **13.4. Right to Partition.**

In the event of termination of this condominium, any Unit Owner may maintain a suit for partition to sell the Property. The net proceeds of such sale, together with the assets of the Association, except Common Surplus, and insurance proceeds, shall be distributed pro rata to the Unit Owners in accordance with the aggregate Percentage Interests in the Condominium appertaining to each Unit.

### **13.5. No Bar.**

The termination provided for in this Article shall in no way bar the subsequent constitution of the Property into another condominium whenever so desired and upon the observance of the Condominium Act.

## **ARTICLE 14.        AMENDMENT**

### **14.1. Procedure.**

The Declaration may be amended only by agreement of Unit Owners to which two-thirds of the aggregate Percentage Interest in the Condominium appertain, except in cases where the Condominium Act or condominium instruments provides a different procedure or percentage. Any such amendment shall be evidenced and effective in the manner set forth in Va. Code Section 55-79.71D. In addition, the Association shall maintain as part of its books and records

for a period of at least one year from the recordation hereof the ballots and/or proxies evidencing the consent of the required number of Unit Owners.

**14.2. Unanimous Consent Actions.**

Except to the extent expressly permitted or expressly required by other provisions of the condominium instruments or of the Condominium Act, or agreed to by 100% of the aggregate Percentage Interests in the Condominium, no amendment to the condominium instruments shall change the boundaries of any Unit, the undivided interest in the Common Elements, the liability for Common Expenses or the number of votes in the Association that appertain to any Unit.

**14.3. Rights Affecting Mortgagees.**

(a) No amendment of any material provision hereof shall be effective without the written consent of the First Mortgagees affected. For purposes of this section, such consent shall be deemed to have been received by the Association if the Association sends notice in the manner provided in Va. Code Section 55-79.73:1(A) and receives no written objection to the adoption of the proposed amendment from the mortgagee within sixty (60) days of the date that the notice of amendment is sent by the Association, unless the Condominium Instruments provide otherwise. For purposes of this section, "material" shall be provisions affecting the following:

- i. the undivided percentage interest in the Common Elements appertaining to the Unit secured by the lien of such Mortgagee;
- ii. the number of votes in the Association appertaining to the Unit secured by the lien of such Mortgagee;
- iii. the liability for Common Expenses of the Unit secured by the lien of such Mortgagee;
- iv. abandonment, partition, sale, transfer or disposition of the Unit secured by the lien of such Mortgagee or the Common Elements;
- v. use of insurance proceeds for loss to any portion of the Condominium for any purpose other than the repair, replacement or reconstruction of such property, except as otherwise provided by statute in case of substantial loss to the Units and/or Common Elements or the condominium instruments;
- vi. termination of the Condominium;
- vii. a decision by the Association to establish self-management; and
- viii. condemnation of any portion of the Common Elements or the Unit secured by the lien of such Mortgagee.

(b) No provision of the Condominium Instruments shall be construed to grant to any Unit Owner, or to any other person, any priority over any rights of First Mortgagees of Units in the case of a distribution to such Unit Owner of any condemnation award for a taking of the Unit and/or the Common Elements appertaining thereto.

## **ARTICLE 15. ENFORCEMENT**

### **15.1. Applicability.**

The Association and each Unit Owner or Occupant and their tenants, guests, family members, agents, employees or invitees, shall comply with all provisions of the Condominium Instruments, any rules and resolutions adopted by the Board, applicable laws, regulations, codes or ordinances and the Condominium Act, as the same may be amended.

### **15.2. Remedies.**

Failure to comply with any provision of the Condominium Instruments or the Act, shall be grounds for an action to recover damages or for injunctive relief, or any combination thereof, or any other action available at law or in equity to cause any such violation to be remedied.

### **15.3. Who May Initiate Enforcement Action.**

Any action to enforce any provision of the Condominium Documents or the Act may be brought by the Association or the Board in the name of the Association, or one or more aggrieved Unit Owners, as appropriate.

### **15.4. Costs and Attorneys Fees.**

In the event the Association employs an attorney to enforce any provision of the condominium instruments, whether or not by suit, the Association shall be entitled to recover all costs incurred, including without limitation reasonable attorneys fees and costs.

### **15.5. Fines for Violations and Suspension of Services for Failure to Pay.**

In accordance with Va. Code Section 55-79.80:2A, the Association shall have the power to (1) suspend a Unit Owners' right to use facilities or services for nonpayment of assessments and (2) assess charges against any Unit Owner for any violation of the Condominium Instruments or rules and regulations promulgated pursuant thereto for which such Unit Owner or his family members, tenants, guests or other invitees are responsible.

#### **15.5.1. Due Process.**

Before any such suspension of services or fines shall be imposed, the Unit Owner shall be given notice and an opportunity to be heard and to be represented by counsel before the Board of Directors, or such other tribunal as the Board of Directors may establish for such purpose, in the manner provided in Va. Code Section 55-79.80:2B.

#### **15.5.2. Fines.**

The amount of any fines so imposed shall be that allowed by Va. Code Section 55-79.80:2B. Any fines so imposed shall be part of the assessments due, shall be a charge on and continuing lien upon the Unit.

### **15.6. Alternate Dispute Resolution.**

Any dispute arising out of or in connection with the Condominium Instruments or the Condominium may be resolved by means of arbitration or mediation as allowed by Section 55-79.53B of the Condominium Act.

**15.7. Rights Cumulative.**

All rights, remedies and privileges granted to the Association and the Unit Owners pursuant to the Condominium Instruments shall be cumulative and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party exercising any right from exercising such other or additional rights, remedies or privileges as may be available to such party at law or in equity.

**ARTICLE 16.      OTHER PROVISIONS**

**16.1. Rights of First Mortgagees.**

In addition to any rights set forth in the condominium instruments or otherwise by law, First Mortgagees shall have the following rights.

**16.1.1. Notice.**

First Mortgagees shall have the right to receive notice of the following:

(a) to the extent requested in writing, default in such Unit Owner's obligations under the condominium instruments that is not cured within thirty (30) days;

(b) condemnation or eminent domain proceedings;

(c) substantial damage to or destruction of the Common Elements or Unit secured thereby;

(d) to the extent requested in writing, notice of all meetings of the Association, for which each such holder shall be entitled to designate a representative to attend;

(e) to the extent requested in writing, amendments that affect the rights of the First Mortgages as set forth in the Articles on Termination and Amendment herein; and

(f) to the extent requested in writing, to receive the annual report filed pursuant to Va. Code Ann. Section 55-79.93 and to request submission of the annual financial report and other budgetary information.

**16.1.2. Inspection of Books and Records.**

First Mortgagees shall have the right to examine the books and records of the Association in accordance with the provisions of Va. Code Section 55-79.74:1.

**16.1.3. Responsibility of First Mortgagees.**

It is the responsibility of the First Mortgagee to provide notice, in writing, to the Association, through the Manager or the Association's Registered Agent, the identifying name of the Unit Owner and identification of each Unit address on which the First Mortgagee holds a first deed of trust. This notice should include the name, and address and telephone or other contact information of the representative of the First Mortgagee who is to receive any and all notices.

16.2. Restraints on Alienation.

No Unit shall be subject to any unreasonable restraints on alienation that would adversely affect the title or marketability of the Unit, or the ability of any Institutional Lender to foreclose a First Mortgage and thereafter sell or lease the Unit.

16.3. Binding Effect.

All of the provisions of the condominium instruments, as amended, and the Exhibits and Schedules attached thereto or incorporated by reference, the Articles of Incorporation, as amended and restated, shall be binding upon all Unit Owners and are enforceable covenants running with the land and existing in perpetuity until the Condominium is terminated. The burdens imposed and the benefits conferred hereby shall run with each Unit and shall be binding upon all Unit Owners and Occupants, their tenants, guests and invitees, grantees, devisees, mortgagees, heirs, personal representatives, successors and assigns, and all parties claiming by, through or under such persons.

16.4. Notice.

Any notice, demand or other communication required to be given hereunder may be provided as follows:

16.4.1. To Unit Owners.

Notice may be given to Unit Owners by hand delivery to the Unit, unless the Association has been advised in writing that the Owner is not the Resident of the Unit, or by first class U.S. mail, postage prepaid, to the Owner at such Owner's address of record. A Unit Owner's address of record shall be deemed to be the Unit address, unless the Owner or such Owner's duly authorized agent, notifies the Association in writing of another address of record to use for such mailing.

16.4.2. To the Association.

Notice may be given to the Association by hand delivery or first class U.S. mail, postage prepaid, to the Manager, to the Secretary of the Association or such other person or address as the Board may designate from time to time by notice provided in accordance with this Section.

16.5. No Waiver.

The failure of the Association, the Manager or any Unit Owner to enforce any right, provision, covenant or condition under the condominium instruments shall not constitute a waiver of the right of said person to enforce such right, provision, covenant or condition in the future.

16.6. Complementarity.

The condominium instruments shall be complementary and shall be construed together and shall be deemed to incorporate one another to the extent that any requirement of the 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 Act or the Condominium Instruments.

16.7. Severability.

If any term or provision of the condominium instruments, or the application thereof to any person or circumstance, shall, to any extent, be determined to be invalid or unenforceable, the remaining terms or provisions of the condominium instruments, or the application thereof to any person or circumstance, shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

16.8. Headings.

The headings used herein are intended for convenience only and shall not be deemed to be all inclusive as to matters contained therein nor shall such headings be considered in connection with the interpretation of any of the provision contained herein.

16.9. Plural; Gender; Liberal Construction.

Unless the context clearly indicates a specific intent, words in the plural shall include the singular and vice versa and words in the male gender shall include the female gender and neuter gender. The provisions of the Condominium Instruments shall be liberally construed to effectuate its purpose of creating a uniform plan of Condominium ownership.

16.10. Governing Law.

All provisions of the condominium instruments shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia. References to statutory provisions means those provisions as the same may be amended or replaced.

IN WITNESS WHEREOF, this Amended and Restated Declaration has been agreed to by Unit Owners to which at least two-thirds (2/3) of the votes in the Association appertain, as evidenced by the signature of the President of the Association this 19 day of October, 2005

THE ALGONQUIN ASSOCIATION

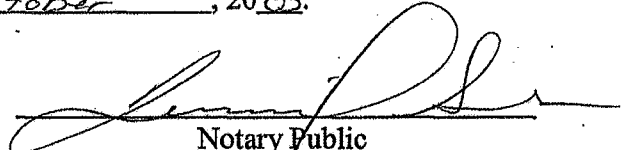
By Harry Carter  
Oct. 19, 2005, President  
Harry Carter

**CERTIFICATE PURSUANT TO  
VA. CODE ANN. SECTION 55-79.71D**

COMMONWEALTH OF VIRGINIA,  
CITY OF NORFOLK, to-wit:

The foregoing instrument was acknowledged before me, the undersigned Notary Public,  
by Harry Carter, President of The Algonquin Association, who did  
state that Unit Owners to which the requisite majority of Unit Owners have signed the foregoing  
or ratifications thereof.

Given under my hand this 19<sup>th</sup> day of October, 2005.

  
Notary Public

My commission expires: 11/30/06

GPIN#: See attached

This instrument prepared by:  
VANDEVENTER BLACK LLP  
500 World Trade Center  
Norfolk, VA 23510

**SCHEDULE A  
TO  
AMENDED AND RESTATED DECLARATION  
OF  
THE ALGONQUIN ASSOCIATION**

ALL THAT CERTAIN TRACT, piece or parcel of real estate, with the buildings and improvements thereon and appurtenances thereunto pertaining, lying, situate and being in the City of Norfolk, Virginia, and being more particularly described as follows:

Beginning at a point on the Southern side of North Shore Road (formerly Edwards Street) at the Southeast corner of its intersection with Glenroie Avenue and from said point beginning running thence S. 47° 30' E. along the South side of said North Shore Road a distance of 273 feet more or less to the waterfront side of a concrete bulkhead on the North bank of the Lafayette River; thence extending in a Southern or Southwestwardly direction along the waterfront side of said bulkhead 615 feet more or less to a point on the North side of a closed portion of Bayonne Street; thence N. 47° 30' W. along the Northern side of Bayonne Street, a distance of 273 feet more or less to the Southeast corner of the intersection of Glenroie Avenue and said closed portion of Bayonne Street; thence N. 42° 30' E. along the Eastern line of said Glenroie Avenue, a distance of 600 feet more or less to the point of beginning, all as more particularly shown on a plat of survey dated October 4, 1980 by Lewis & Owens, Inc., Consulting Engineers and Surveyors, Richmond, Virginia, entitled "Exhibit B, Algonquin House Condominium, Located Within the City of Norfolk, Va."

Together with all right, title and interest of the Grantor in and to a wooden dock extending from the above described real estate into the Lafayette River and all right, title and interest of the Grantor in and to any property adjacent to the above described bulkhead and lying East or Southeast of said bulkhead.

INSTRUMENT #050053159  
RECORDED IN THE CLERK'S OFFICE OF  
NORFOLK ON  
DECEMBER 15, 2005 AT 10:35AM  
GEORGE E. SCHAEFER, CLERK

RECORDED BY: DXJ



**CORRECTIVE AMENDMENT TO  
AMENDED AND RESTATED DECLARATION OF  
THE ALGONQUIN ASSOCIATION**

THIS CORRECTIVE AMENDMENT TO AMENDED AND RESTATED DECLARATION OF THE ALGONQUIN ASSOCIATION made as of April 11, 2014, by the President of THE ALGONQUIN ASSOCIATION (the "Association"), a Virginia non-stock corporation and condominium association composed of the unit owners owning units in The Algonquin Association (the "Condominium"), pursuant to Va. Code Section 55-79.71F (Association is Grantor and Grantee for recording purposes).

**WITNESSETH:**

WHEREAS, the Amended And Restated Declaration Of The Algonquin Association was recorded in the Clerk's Office of the Circuit Court of the City of Norfolk, Virginia ("Clerk's Office"), on December 15, 2005, as Instrument No. 050053159, as amended (the "Declaration");

WHEREAS, the vertical boundaries of the Units do not include the windows;

WHEREAS, Va. Code Section 55-79.50(e) provides in pertinent part that, except to the extent otherwise provided by the condominium instruments, all windows designed to serve a single unit but located outside the boundaries thereof are limited common elements appertaining to that unit;

WHEREAS, the scrivener misplaced certain language regarding the windows in Section 8.3;

WHEREAS, there is a typo in Section 8.4(a); and

WHEREAS, pursuant to Va. Code Section 55-79.71F, the President is authorized to execute and record this amendment to correct a scrivener's error.

NOW, THEREFORE, pursuant to the rights given to the Board of Directors pursuant to Va. Code Section 55-79.71F, the Declaration is hereby corrected as follows:

**GPIN #:** SEE ATTACHED

**PREPARED BY/**  
*Return to:* **VANDEVENTER BLACK LLP**  
**101 W. MAIN STREET, SUITE 500**  
**NORFOLK, VIRGINIA 23510**

1. The first sentence of Section 8.3 is corrected and restated in its entirety as follows:

8.3. Units and Limited Common Elements.

Each Unit Owner shall, at his own expense, be responsible for the maintenance, repair, renovation, restoration and replacement of all portions of his Unit (including but not limited to all equipment, appliances, appurtenances, such as refrigerators, dishwashers, plumbing fixtures, drains, lines and connections serving only that unit, all carpet, tile vinyl, parquet flooring, wallpaper, paint, plaster and all other finished surfaces of the walls, floor and ceilings, all electrical panels, wiring, outlets and fixtures) and Limited Common Elements appurtenant to his Unit (including but not limited to all windows, doors, jambs, hardware and frames, frame and casing), except to the extent assigned to the Association pursuant to paragraph 8.4 hereof.

2. Section 8.4(a) is corrected and restated as follows:

- (a) Making structural repairs and replacements to the Limited Common Elements, except for those which have been designated herein as the responsibility of the Unit Owner; and

Except as modified by this amendment, the Declaration, as amended, is expressly ratified, affirmed and shall remain in full force and effect.

The foregoing Corrective Amendment was agreed to by a vote of at least two-thirds of the members of the Board of Directors.

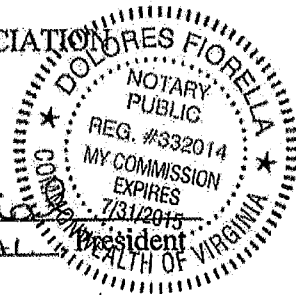
THE ALGONQUIN ASSOCIATION

Board of Directors

By Kathleen A. Dial

KATHLEEN A. DIAL

Print name



COMMONWEALTH OF VIRGINIA,  
CITY OF NORFOLK, to-wit:

The foregoing Corrective Amendment was acknowledged before me on the 12 day of August, 2014, by KATHLEEN A. DIAL, President of the Board of Directors, The Algonquin Association.

[Signature]

Notary Public

My Commission Expires: 07-31-2015  
Notary Registration No.: 332014

## The Algonquin Building

### TAX ID LIST

| <u>Unit #</u> | <u>Tax ID #</u> | <u>Unit #</u> | <u>Tax ID #</u> |
|---------------|-----------------|---------------|-----------------|
| 1A            | 44801000        | 4D            | 34802700        |
| 1B            | 22023100        | 4E            | 22023166        |
| 1C            | 22023103        | 4F            | 21098800        |
| 1D            | 22023106        | 4G            | 08304500        |
| 2A            | 22023109        | 4H            | 11412000        |
| 2B            | 22023112        | 4J            | 13407300        |
| 2C            | 20569000        | 4K            | 28855500        |
| 2D            | 22023115        | 4L            | 22023169        |
| 2E            | 22023118        | 5A            | 22023172        |
| 2F            | 08502500        | 5B            | 22023175        |
| 2G            | 22023121        | 5C            | 14281000        |
| 2H            | 22023124        | 5D            | 22023178        |
| 2J            | 13185000        | 5E            | 22023181        |
| 2K            | 22023127        | 5F            | 16234800        |
| 2L            | 25040000        | 5G            | 45198855        |
| 3A            | 22023130        | 5H            | 22023184        |
| 3B            | 26090000        | 5J            | 22023187        |
| 3C            | 22023133        | 5K            | 49496000        |
| 3D            | 22023136        | 5L            | 49335000        |
| 3E            | 22023139        | 6A            | 22023190        |
| 3F            | 37427500        | 6B            | 22023193        |
| 3G            | 22023142        | 6C            | 36556000        |
| 3H            | 22023145        | 6D            | 22023196        |
| 3J            | 22023148        | 6E            | 22023199        |
| 3K            | 22023151        | 6F            | 22023202        |
| 3L            | 22023154        | 6G            | 22023205        |
| 4A            | 22023157        | 6H            | 38647000        |
| 4B            | 22023160        | 6J            | 32102000        |
| 4C            | 22023163        | 6L            | 22023208        |

| <u>Unit #</u> | <u>Tax ID #</u> | <u>Unit #</u> | <u>Tax ID #</u> |
|---------------|-----------------|---------------|-----------------|
| 7A            | 44679900        | 9H            | 01776000        |
| 7B            | 44680000        | 9J            | 44736010        |
| 7C            | 31750500        | 9K            | 22902000        |
| 7D            | 22023211        | 9L            | 22023262        |
| 7E            | 16407500        | 10A           | 16628025        |
| 7F            | 22023214        | 10B           | 22023265        |
| 7G            | 22023217        | 10C           | 22023268        |
| 7H            | 22023220        | 10D           | 11763300        |
| 7J            | 22023223        | 10E           | 22023271        |
| 7K            | 15079600        | 10F           | 20574900        |
| 7L            | 40969800        | 10G           | 19313200        |
| 8A            | 22023226        | 10H           | 17598500        |
| 8B            | 22023229        | 10J           | 17944200        |
| 8C            | 22023232        | 10K           | 22023274        |
| 8D            | 48458650        | 10L           | 45803900        |
| 8E            | 38793000        | 11-A          | 22023277        |
| 8F            | 39387000        | 11B           | 36079500        |
| 8G            | 22023235        | 11C           | 22023280        |
| 8H            | 22023238        | 11D           | 49277000        |
| 8J            | 22023241        | 11E           | 17868000        |
| 8K            | 22023244        | 11F           | 22023283        |
| 8L            | 22023247        | 11G           | 15272000        |
| 9A            | 22023250        | 11H           | 12205200        |
| 9B            | 34060000        | 11J           | 37662000        |
| 9C            | 00312500        | 11K           | 24198000        |
| 9D            | 22023253        | 11L           | 22023286        |
| 9E            | 22023256        | 12A           | 35563000        |
| 9F            | 22023259        | 12C           | 22023292        |
| 9G            | 32463800        | 12D           | 03730000        |

INSTRUMENT #140017956  
RECORDED IN THE CLERK'S OFFICE OF  
NORFOLK ON  
SEPTEMBER 9, 2014 AT 04:04PM

GEORGE E. SCHAEFER, CLERK  
RECORDED BY: JJK



OFFICIAL RECEIPT  
NORFOLK CIRCUIT COURT  
100 ST. PAUL'S BLVD  
NORFOLK, VA 23510  
757-664-4580

DEED RECEIPT

DATE: 09/12/14 TIME: 12:28:31 ACCOUNT: 710CLR140017956 RECEIPT: 14000046197  
CASHIER: JJK REG: NU70 TYPE: AMEND PAYMENT: FULL PAYMENT  
INSTRUMENT : 140017956 BOOK: PAGE: RECORDED: 09/09/14 AT 16:04  
GRANTOR: THE ALGONQUIN ASSOCIATION, EX: N LOC: CI  
GRANTEE: THE ALGONQUIN ASSOCIATION, EX: N PCT: 100%  
AND ADDRESS : C/O VANDEVENTER BLACK LLP NORFOLK, VA. 23510  
RECEIVED OF : VANDEVENTER BLACK LLP DATE OF DEED: 09/09/14  
CHECK: \$21.00 1694  
DESCRIPTION 1: THE ALGONQUIN ASSOCIATION PAGES: 4 OP: 0  
2: NAMES: 0  
CONSIDERATION: .00 A/VAL: .00 MAP: SEE ATTACHED  
PIN: SEE ATTACHED  
301 DEEDS 14.50 145 VSLF 1.50  
106 TECHNOLOGY TRST FND 5.00  
TENDERED : 21.00  
AMOUNT PAID: 21.00  
CHANGE AMT : .00

CLERK OF COURT: GEORGE E. SCHAEFER

PAYOR'S COPY  
RECEIPT COPY 1 OF 2

Instrument Control Number

**Commonwealth of Virginia**  
**Land Record Instruments**  
**Cover Sheet - Form A**

140017956

2014 SEP -9 PM 4:04

[ILS VLR Cover Sheet Agent 1.0.66]

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Date of Instrument: [9/9/2014 ]

Instrument Type: [AMEND ]

Number of Parcels [ 1]

Number of Pages [ 4]

City ☒ County ☐ [City Of Norfolk ]

(Box for Deed Stamp Only)

## First and Second Grantors

| Last Name                   | First Name | Middle Name or Initial | Suffix |
|-----------------------------|------------|------------------------|--------|
| [The Algonquin Association] | [          | ][                     | ]      |
| [                           | ][         | ][                     | ]      |

## First and Second Grantees

| Last Name                   | First Name | Middle Name or Initial | Suffix |
|-----------------------------|------------|------------------------|--------|
| [The Algonquin Association] | [          | ][                     | ]      |
| [                           | ][         | ][                     | ]      |

Grantee Address (Name) [The Algonquin Association ]  
 (Address 1) [c/o Vandeventer Black LLP ]  
 (Address 2) [101 W. Main Street, Suite 500 ]  
 (City, State, Zip) [Norfolk ] [VA ] [23510 ]

Consideration [0.00 ] Existing Debt [0.00 ] Assumption Balance [0.00 ]

Prior Instr. Recorded at: City ☒ County ☐ [City Of Newport News ] Percent. in this Juris. [ 100]

Book [ ] Page [ ] Instr. No [ ]

Parcel Identification No (PIN) [See attached ]

Tax Map Num. (if different than PIN) [See attached ]

Short Property Description [The Algonquin Association ]

[ ]

Current Property Address (Address 1) [7320 Glenroie Avenue ]

(Address 2) [ ]

(City, State, Zip) [Norfolk ] [VA ] [23505 ]

Instrument Prepared by [Vandeventer Black LLP ]

Recording Paid for by [Vandeventer Black LLP ]

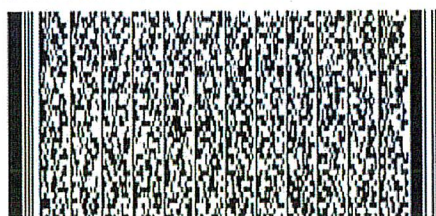
Return Recording to (Name) [Deborah M. Casey ]

(Address 1) [Vandeventer Black LLP ]

(Address 2) [101 W. Main Street, Suite 500 ]

(City, State, Zip) [Norfolk ] [VA ] [23510 ]

Customer Case ID [ ] [ ] [ ]





**AMENDMENT TO  
AMENDED AND RESTATED DECLARATION OF  
THE ALGONQUIN ASSOCIATION**

THIS AMENDMENT TO AMENDED AND RESTATED DECLARATION OF THE ALGONQUIN ASSOCIATION made as of October 21, 2015, by THE ALGONQUIN ASSOCIATION (the "Association"), a Virginia non-stock corporation and condominium association composed of the unit owners owning units in The Algonquin Association (the "Condominium") (Association is Grantor and Grantee for recording purposes).

**WITNESSETH:**

WHEREAS, the Amended And Restated Declaration Of The Algonquin Association was recorded in the Clerk's Office of the Circuit Court of the City of Norfolk, Virginia ("Clerk's Office"), on December 15, 2005, as Instrument No. 050053159, as amended (the "Declaration");

WHEREAS, the Declaration may be amended by agreement of Unit Owners to which two-thirds of the aggregate Percentage Interest in the Condominium appertain;

WHEREAS, it is the desire of the owners to amend the Declaration to shift from the Unit Owners to the Association the responsibility for replacement of the windows serving the Units and to specify other Unit and Limited Common Element components for which the Association will be responsible, as set forth herein; and

WHEREAS, notice having been given, a meeting having been duly called and held and the requisite approval of Unit Owners having been obtained.

NOW, THEREFORE, pursuant to the rights given to and reserved by the Association and the Unit Owners to amend the Declaration and in accordance with the Virginia Condominium Act, Va. Code Ann. Section 55-79.39 *et. seq.*, as amended (the "Act"), the Declaration is hereby amended as follows:

Section 8.4 is hereby amended and restated in its entirety as follows:

8.4. Association Responsibility for Units and Limited Common Elements.  
The Association shall, as a Common Expense, be responsible for the following portions of the Units and Limited Common Elements:

GPIN #: SEE ATTACHED

PREPARED BY: VANDEVENTER BLACK LLP  
101 W. MAIN STREET, SUITE 500  
NORFOLK, VIRGINIA 23510

- (a) making structural repairs to and replacement of the balconies, patios and cinderblock screen walls;
- (b) replacing the Limited Common Element windows (including the jambs, frames and casings) serving the Units, excluding hardware other than in connection with window replacement and glass breakage;
- (c) to the extent determined by the Board of Directors, maintenance of the heating and cooling equipment that is a part of each Unit; and
- (d) to the extent determined by the Board of Directors, structural repairs to and replacement of other Unit or Limited Common Element components;

Except as modified by this amendment, the Declaration, as amended, is expressly ratified, affirmed and shall remain in full force and effect.

THE ALGONQUIN ASSOCIATION

By *Glenda Greenhouse*  
Glenda Greenhouse, President  
 Print name

COMMONWEALTH OF VIRGINIA,  
 CITY OF NORFOLK, to-wit:

The foregoing instrument was acknowledged before me, the undersigned Notary Public, by Glenda Greenhouse, President of The Algonquin Association, who did state that unit owners to which 2/3 of the aggregate percentage interest in the Condominium appertain approved the foregoing amendment or ratifications thereof.

Given under my hand this 6<sup>th</sup> day of November, 2015.

*Nicole D. Wright*  
 Notary Public  
7550277  
 Notary Registration No.

My Commission Expires: 03/31/2017



# The Algonquin Association

## TAX ID LIST

| <u>Unit</u> | <u>Tax ID</u> | <u>Unit</u> | <u>Tax ID</u> | <u>Unit</u> | <u>Tax ID</u> | <u>Unit</u> | <u>Tax ID</u> |
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| 1B          | 22023100      | 4E          | 22023166      | 7B          | 44680000      | 9J          | 44736010      |
| 1C          | 22023103      | 4F          | 21098800      | 7C          | 31750500      | 9K          | 22902000      |
| 1D          | 22023106      | 4G          | 08304500      | 7D          | 22023211      | 9L          | 22023262      |
| 2A          | 22023109      | 4H          | 11412000      | 7E          | 16407500      | 10A         | 16628025      |
| 2B          | 22023112      | 4J          | 13407300      | 7F          | 22023214      | 10B         | 22023265      |
| 2C          | 20569000      | 4K          | 28855500      | 7G          | 22023217      | 10C         | 22023268      |
| 2D          | 22023115      | 4L          | 22023169      | 7H          | 22023220      | 10D         | 11763300      |
| 2E          | 22023118      | 5A          | 22023172      | 7J          | 22023223      | 10E         | 22023271      |
| 2F          | 08502500      | 5B          | 22023175      | 7K          | 15079600      | 10F         | 20574900      |
| 2G          | 22023121      | 5C          | 14281000      | 7L          | 40969800      | 10G         | 19313200      |
| 2H          | 22023124      | 5D          | 22023178      | 8A          | 22023226      | 10H         | 17598500      |
| 2J          | 13185000      | 5E          | 22023181      | 8B          | 22023229      | 10J         | 17944200      |
| 2K          | 22023127      | 5F          | 16234800      | 8C          | 22023232      | 10K         | 22023274      |
| 2L          | 25040000      | 5G          | 45198855      | 8D          | 48458650      | 10L         | 45803900      |
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| 3B          | 26090000      | 5J          | 22023187      | 8F          | 39387000      | 11B         | 36079500      |
| 3C          | 22023133      | 5K          | 49496000      | 8G          | 22023235      | 11C         | 22023280      |
| 3D          | 22023136      | 5L          | 49335000      | 8H          | 22023238      | 11D         | 49277000      |
| 3E          | 22023139      | 6A          | 22023190      | 8J          | 22023241      | 11E         | 17868000      |
| 3F          | 37427500      | 6B          | 22023193      | 8K          | 22023244      | 11F         | 22023283      |
| 3G          | 22023142      | 6C          | 36556000      | 8L          | 22023247      | 11G         | 15272000      |
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| 3J          | 22023148      | 6E          | 22023199      | 9B          | 34060000      | 11J         | 37662000      |
| 3K          | 22023151      | 6F          | 22023202      | 9C          | 00312500      | 11K         | 24198000      |
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| 4A          | 22023157      | 6H          | 38647000      | 9E          | 22023256      | 12A         | 35563000      |
| 4B          | 22023160      | 6J          | 32102000      | 9F          | 22023259      | 12C         | 22023292      |
| 4C          | 22023163      | 6L          | 22023208      | 9G          | 32463800      | 12D         | 03730000      |

INSTRUMENT #150025385  
RECORDED IN THE CLERK'S OFFICE OF  
NORFOLK ON  
NOVEMBER 13, 2015 AT 10:13AM

GEORGE E. SCHAEFER, CLERK  
RECORDED BY: JSV



OFFICIAL RECEIPT  
NORFOLK CIRCUIT COURT  
150 ST. PAUL'S BLVD 7TH FLOOR  
NORFOLK, VA 23510  
7576644580

DEED RECEIPT

DATE: 11/13/15 TIME: 11:26:05 ACCOUNT: 710CLR150025385 RECEIPT: 15000064175  
CASHIER: JSV REG: NU86 TYPE: CI PAYMENT: FULL PAYMENT  
INSTRUMENT : 150025385 BOOK: PAGE: RECORDED: 11/13/15 AT 10:13  
GRANTOR: THE ALGONQUIN ASSOCIATION, EX: N LOC: CI  
GRANTEE: THE ALGONQUIN ASSOCIATION, EX: N PCT: 100%  
AND ADDRESS : C/O VANDEVENTER BLACK LLP NORFOLK, VA. 23510  
RECEIVED OF : VANDEVENTER BLACK LLP DATE OF DEED: 11/12/15  
CHECK: \$21.00 9433  
DESCRIPTION 1: THE ALGONQUIN ASSOCIATION PAGES: 3 OP: 0  
2: NAMES: 0  
CONSIDERATION: .00 A/VAL: .00 MAP: SEE ATTACHED  
PIN: SEE ATTACHED

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|-------------------------|-------|-----|------|-------|
| 301 DEEDS               | 14.50 | 145 | VSLF | 1.50  |
| 106 TECHNOLOGY TRST FND | 5.00  |     |      |       |
| TENDERED :              |       |     |      | 21.00 |
| AMOUNT PAID:            |       |     |      | 21.00 |
| CHANGE AMT :            |       |     |      | .00   |

CLERK OF COURT: GEORGE E. SCHAEFER

PAYOR'S COPY  
RECEIPT COPY 1 OF 2

Instrument Control Number

**Commonwealth of Virginia**  
**Land Record Instruments**  
**Cover Sheet - Form A**

150025385

2015 NOV 13 AM 10:13

[ILS VLR Cover Sheet Agent 1.0.66]

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**CORP**  
Date of Instrument: [11/12/2015 ]

Instrument Type: [C] ]

Number of Parcels [ 1]

Number of Pages [ 3]

City ☒ County ☐ [City Of Norfolk ]

(Box for Deed Stamp Only)

**First and Second Grantors**

| Last Name                   | First Name | Middle Name or Initial | Suffix |
|-----------------------------|------------|------------------------|--------|
| [The Algonquin Association] | [ ]        | [ ]                    | [ ]    |
| [ ]                         | [ ]        | [ ]                    | [ ]    |

**First and Second Grantees**

| Last Name                   | First Name | Middle Name or Initial | Suffix |
|-----------------------------|------------|------------------------|--------|
| [The Algonquin Association] | [ ]        | [ ]                    | [ ]    |
| [ ]                         | [ ]        | [ ]                    | [ ]    |

Grantee Address (Name) [The Algonquin Association]  
(Address 1) [c/o Vandeventer Black LLP]  
(Address 2) [101 W. Main Street, Suite 500]  
(City, State, Zip) [Norfolk ] [VA ] [23510]

Consideration [0.00 ] Existing Debt [0.00 ] Assumption Balance [0.00 ]

Prior Instr. Recorded at: City ☒ County ☐ [City Of Norfolk ] Percent. in this Juris. [ 100]

Book [ ] Page [ ] Instr. No [ ]

Parcel Identification No (PIN) [See Attached ]

Tax Map Num. (if different than PIN) [See Attached ]

Short Property Description [The Algonquin Association ]

[ ]

Current Property Address (Address 1) [7320 Glenroie Avenue ]

(Address 2) [ ]

(City, State, Zip) [Norfolk ] [VA ] [23505]

Instrument Prepared by [Brandi N. Cushman, Paralegal ]

Recording Paid for by [Vandeventer Black LLP ]

Return Recording to (Name) [Deborah M. Casey, Esq. ]

(Address 1) [Vandeventer Black LLP ]

(Address 2) [101 W. Main Street, Suite 500 ]

(City, State, Zip) [Norfolk ] [VA ] [23510]

Customer Case ID [ ] [ ] [ ]

