

RECORDED AND VERIFIED
REBECCA P. HOLLER
REGISTER OF DEEDS
NEW HANOVER COUNTY, NC

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

Dec 31 9 24 AM '85

DECLARATION CREATING UNIT OWNERSHIP OF
PROPERTY UNDER THE PROVISIONS OF
CHAPTER 47A OF THE GENERAL STATUTES
OF THE STATE OF NORTH CAROLINA
SEAGATE OFFICE PARK

THIS DECLARATION, made this 30th day of December, 1985, by J.B. GERALD and ROBERT H. McDONALD, residents of New Hanover County, North Carolina, with its principal place of business located in the County of New Hanover, State of North Carolina, hereinafter referred to as "DECLARANT";

KNOW ALL BY THESE PRESENTS:

THAT, WHEREAS, the Declarant is the owner of record of the fee simple title of certain real property in the County of New Hanover, State of North Carolina, which is more particularly described in Exhibit "A" attached hereto and made a part hereof by reference; and

WHEREAS, the Declarant is the owner of the one multi-unit building and certain other improvements heretofore constructed upon the aforesaid property; and

WHEREAS, it is the desire and the intention of the Declarant to market, sell and convey interests in the property and the improvements thereon as a condominium project pursuant to the provisions of Chapter 47A of the North Carolina General Statutes, entitled "Unit Ownership Act"; and

WHEREAS, it is the desire and intention of the Declarant in the recordation of this DECLARATION in the Office of the Register of Deeds of New Hanover, North Carolina, to submit said condominium project to the provisions of the said Chapter 47A;

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NOW, THEREFORE, THE DECLARANT DOES HEREBY DECLARE THAT ALL OF THE REAL PROPERTY DESCRIBED IN EXHIBIT "A", ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, AS WELL AS ALL OF THE IMPROVEMENTS CONSTRUCTED THEREON, IS HELD AND SHALL BE HELD, CONVEYED, HYPOTHECATED, ENCUMBERED, USED, OCCUPIED, AND IMPROVED SUBJECT TO THE FOLLOWING ARTICLES OF COVENANTS, CONDITIONS, RESTRICTIONS, USES, LIMITATIONS AND OBLIGATIONS, ALL OF WHICH ARE DECLARED TO BE IN FURTHERANCE OF A PLAN FOR THE IMPROVEMENT OF SAID PROPERTY AND THE DIVISION THEREOF INTO CONDOMINIUM UNITS AND SHALL BE DEEMED TO RUN WITH THE LAND AND SHALL BE A BURDEN AND A BENEFIT TO THE DECLARANT, ITS SUCCESSORS AND ASSIGNS, AND ANY PERSON OR ENTITY ACQUIRING OR OWNING AN INTEREST IN THE REAL PROPERTY AND IMPROVEMENTS, OR ANY SUBDIVISION THEREOF, THEIR GRANTEEES, SUCCESSORS, HEIRS, EXECUTORS, ADMINISTRATORS, DEVISEES AND ASSIGNS.

ARTICLE I.

Submission of Property

Pursuant to the provisions of Chapter 47A of the North Carolina General Statutes, Section 47A-2, the Declarant does hereby submit all of the real property described in Exhibit "A", attached hereto and made a part hereof by reference, together with all improvements thereon and described herein, to the provisions of the "Unit Ownership Act" of the State of North Carolina, which is codified as Chapter 47A of the General Statutes of the State of North Carolina.

ARTICLE II.

Definitions

For the purposes of this Declaration and the By-Laws of the Corporation, hereinafter defined, the following definitions for the term used herein and therein shall apply unless otherwise defined by the context thereof:

(27 December 1985)

RETURNED TO B. Cheshire

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A. ACT shall mean and refer to the Unit Ownership Act, Chapter 47A of the General Statutes of the State of North Carolina, as such may be supplemented or amended from time to time.

B. ASSOCIATION OR CORPORATION shall mean and refer to SEAGATE OFFICE PARK UNIT OWNERS, INC., the mandatory association of all unit owners, as is more particularly described in Article VII hereinbelow.

C. ASSESSMENT shall mean and refer to a share of the funds required for the payment of the common expenses, hereinafter defined, of the Corporation which from time to time shall be levied or assessed against a unit owner by the Corporation, all as provided for hereinbelow.

D. BUILDING shall mean and refer to the single multi-unit building which the Declarant has constructed upon the real property described in Exhibit "A", to be used for business purposes, as hereinafter provided. Attached hereto and made a part hereof by reference is Exhibit "C" which consists of a full and exact copy of the plans of the building as well as a survey of the real property, drawn by John Stirewalt, AIA, and Jack Stocks, showing the location of the building thereon. Said building is more particularly described in the plans of said building, showing all particulars as required by law. In general, the building has two (2) stories built above a ground floor level situated on the finished grade. There are no basements. The building has a total of 7,600 gross square feet of area within the two levels or stories above ground level, with 3,420 gross square feet on first story and 4,180 gross square feet on the second. The building has been subdivided into five (5) units, hereinafter defined, as well as the common areas and facilities, also hereinafter defined, of the building. The building is principally of wood frame construction above the parking garage with reinforced concrete piling support.

E. BOARD shall mean and refer to the Board of Directors of the Corporation and DIRECTOR shall mean and refer to a member of said Board.

F. BOAT SLIP shall mean and refer to one of the spaces in the marina facility depicted on the map of the marina facility attached hereto as a part of Exhibit "C".

G. BY-LAWS shall mean and refer to those By-Laws of the Corporation providing for the government of the Corporation as they are duly adopted and amended from time to time by the Corporation. A copy of the initial By-Laws are attached hereto as Exhibit "D" and made a part hereof by reference.

H. COMMON AREAS AND FACILITIES generally shall mean and refer to all of the real property, described on Exhibit "A", and all of the improvements and facilities thereon which are neither limited common areas or units, as defined hereinafter, and which are not items of personal property owned, held, and maintained by unit owners. Without in any way limiting the generality of the foregoing, the common areas shall include, but not be limited to, the following:

1. All of the real property more particularly described in Exhibit "A" attached hereto, reference to which is hereby made for a more particular description thereof;
2. All foundations, columns, girders, beams, supports, roof, ventilation fans and vents, and all exterior walls;
3. The elevator and its components and the open passage ways which give access to the units;
4. All yard areas, parking and drive areas, all walkways, docks, piers, pilings and all marina related improvements;
5. All installations of and facilities, apparatus, conduits, and equipment for the provision of all utility services, including, but not limited to, all water and sewer service, electricity, heating, air conditioning, telephone, irrigation, trash disposal, if any, and cable TV, if any, supplied for the common use and convenience of the unit owners, and which are not defined as part of the units, hereinbelow;

6. All other portions of the real property and the improvements thereon which are neither limited common areas or specifically part of the units themselves, as hereinafter defined, or owned by unit owners as personal property, shall be common areas and facilities intended for the common and necessary or convenient use and enjoyment, existence, maintenance or safety of the condominium project.

7. The air space between units.

I. COMMON EXPENSES shall mean and refer to the total cost and expense incurred by the Corporation (as hereinafter provided) for the administration, maintenance, operation, enjoyment, safety, repair, and replacement (including a capital reserve for repair, maintenance, and replacement) of the common areas and facilities as well as any other expense incurred by the Corporation pursuant to the fulfillment of its obligations and purposes as stated herein and labeled as common expenses. Common expenses is additionally intended to mean and refer to any expense incurred by the Corporation as shall be hereinafter agreed upon by the Corporation of unit owners as common expenses of the Corporation.

J. COMMON SURPLUS shall mean and refer to the balance of all revenues of the Corporation remaining after the deduction of the common expenses. Any such common surplus shall be used to reduce the assessments for members for the following fiscal year of the Corporation, based upon the proposed budget for the Corporation for the following fiscal year, subject, however, to the terms of Article VIII, Paragraph C hereinafter set forth.

K. CONDOMINIUM shall mean and refer to the entire proposed development consisting of all the real property and the building, all improvements and structures thereon and all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for common use in connection therewith, which are intended to be submitted to the provisions of the act by this Declaration, and the supplements and amendments hereto, as are provided for hereinbelow.

L. DECLARANT shall mean and refer to J.B. GERALD and ROBERT H. McDONALD, their successors and assigns.

M. DECLARATION shall mean and refer to this instrument as it may from time to time be lawfully amended or supplemented.

N. LIMITED COMMON AREAS shall mean and refer to those common areas and facilities which are reserved for the use of a certain unit or units to the exclusion of any other unit or units, as more specifically defined herein.

O. MAJORITY or MAJORITY OF UNIT OWNERS shall mean and refer to the owners of sixty percent (60%) of the aggregate interest in the common areas and facilities, as established by this Declaration hereinbelow, assembled at a duly called meeting of the unit owners.

P. PERSON shall mean and refer to an individual, corporation, partnership, association, trustee, or other legal entity.

Q. REAL PROPERTY shall mean and refer to all of the real property described in Exhibit "A" attached hereto and made a part hereof.

R. SINGULAR, PLURAL GENDER whenever the context so permits the use of the plural shall include the singular, the singular shall include the plural, and the use of any gender shall be deemed to include all genders.

S. UNIT or CONDOMINIUM UNIT shall mean and refer to any one of those five subdivisions of enclosed space within the building, together with any additional areas or spaces accompanying the same as defined hereinbelow, and which are intended to or will be sold as business office units pursuant to the Act and this Declaration. The deed for any particular unit should convey such unit by its unit designation and the same shall be deemed to include all that is defined as a part of that unit as stated specifically in this definition, as

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well as the privileges and appurtenances accompanying any such unit and subject to the covenants, conditions, restrictions and obligations applicable to unit owners as all are more generally stated and described throughout this Declaration.

The five units of the building are and will be identified by their unit designations, which are Units 1 through 5 inclusive.

These units and their designations are shown upon the plans of the building attached hereto in Exhibit "C", which also shows graphically all particulars of the building and its five units, including, but not limited to, the layout, location, ceiling and floor elevations, dimensions of the units, and the layout and location of the common areas and facilities. Reference is hereby made to such plans for the purposes of identifying and locating each unit within the building, as well as identifying its dimensions, approximate areas, and number of rooms. No unit bears the same designation as any other. Any conflict between the plans and this definition shall be resolved by reference to the plans, which shall control.

The horizontal boundaries of each unit shall be its exterior walls and the exterior of its portion of the firewall separating it from its adjoining unit or units. The vertical boundaries of each unit run from the top of the concrete surface of the ground level to the bottom surface of the roof trusses.

All units are of substantially the same construction and material.

Each unit is hereby defined also to include:

1. All walls located entirely within the unit;
2. All materials, including, but not limited to, carpet, paint attached to, or on, the interior finished surfaces of the perimeter walls, floors and ceilings of the unit; and all window panes, frames, panes and exterior doors.
3. All air handling and condensing ducts and components, and all water, power, telephone, television and cable television, electricity, plumbing, gas and sewer lines, located within the unit; provided, however, that the portion of said lines located within a common compartment for, or installation of, such lines shall be common areas and facilities as defined hereinabove.
4. The mechanical and air conditioning compressor equipment, plumbing, electrical and other equipment within each unit.

Each unit is hereby defined to include all pipes, ducts, wires, conduits and other facilities for the furnishing of utility services and other services to the units up to and including the point of entry of such pipes, ducts, wires, conduits and other facilities through the exterior walls of the unit.

The definition stated hereinabove for "Unit" is complete and all other aspects of the condominium not hereinabove defined as a part of the unit is defined as a part of the common areas and facilities of the condominium.

The specifics, such as style and construction, of the building and its units are best described in the plans of the building which are shown in Exhibit "C", attached hereto and made a part hereof by reference, and which shall control in case of conflict with the provisions hereof.

T. UNIT DESIGNATION shall mean and refer to the number combination which designates a unit within the condominium as the same is shown upon the plans of the building in Exhibit "C" attached hereto.

U. UNIT OWNER shall mean and refer to a person, corporation, partnership, association, trust, other legal entity, or any combination thereof, in whose name or names the title to or an interest in the title to any unit is vested, excluding those who own or hold such title or interest under the terms

of any mortgage or deed of trust or other similar instrument for the purposes of securing the payment of an indebtedness or the performance of an obligation.

ARTICLE III.

Plan of Development and Scope of Declaration

The name by which this condominium project shall henceforth be known is SEAGATE OFFICE PARK. The Declarant has caused to be constructed upon the real property described in Exhibit "A" the multi-unit building, containing the five units of the building as well as the common areas and facilities of both the building and the real property, all as defined hereinabove and as shown upon the plans contained in Exhibit "C" attached hereto and made a part hereof by reference. The units of the building, together with their privileges and appurtenances, shall be offered for sale to the public by the Declarant as condominium units pursuant to the provisions of Chapter 47A of the General Statutes of the State of North Carolina, subject to the covenants, conditions, restrictions, and obligations stated in the Articles of this Declaration, the Articles of Incorporation of the Corporation, its duly adopted By-Laws and its Rules and Regulations.

It is understood and declared that the undivided fractional or percentage interest owned by each unit owner of units in SEAGATE OFFICE PARK, in the common areas and facilities of SEAGATE OFFICE PARK is as stated in Article IV hereunder.

Nothing herein shall be deemed to limit or alter the Declarant's right, hereby reserved, to vary the internal layout, size, configurations of any units hereafter constructed so long as the Declarant substantially conforms with the provisions of this Article.

ARTICLE IV.

The Nature and Incidents of Unit Ownership

A. Each unit shall be conveyed and treated as an individual real property capable of independent use and fee simple ownership, and the owner of each unit shall also own, as an appurtenance to the ownership of each said unit, an undivided interest in the common areas and facilities of SEAGATE OFFICE PARK. The undivided interest in the common areas and facilities of SEAGATE OFFICE PARK appurtenant to each of the five (5) units of SEAGATE OFFICE PARK, and the fair market value of each Unit on the date of this Declaration is shown on Exhibit "B" hereto attached and made a part hereof.

The proportional interest in the common areas and facilities that is appurtenant to each unit has been determined in a manner consistent with the Act.

B. No unit may be divided or subdivided into a smaller unit or units than as shown on Exhibit "C" hereto, nor shall any unit or portion thereof be added to or incorporated into any other unit. The undivided interest in the common areas and facilities declared to be an appurtenance to each unit shall not be conveyed, devised, encumbered, or otherwise dealt with separately from said unit, and the undivided interest in common areas and facilities appurtenant to each unit shall be deemed conveyed, devised, encumbered, or otherwise included with the unit even though such undivided interest is not expressly mentioned or described in the instrument conveying, devising, encumbering, or otherwise dealing with such unit. Any conveyance, mortgage, or other instrument which purports to grant any right, interest, or lien in, to or upon a unit, shall be null, void and of no effect insofar as the same purports to affect any interest in a unit and its appurtenant undivided interest in common areas and facilities, unless the same purports to convey, devise, encumber, or otherwise trade or deal with the entire unit. Any instrument conveying, devising, encumbering, or otherwise dealing with any unit, which described said unit by the letter/numerical designation assigned thereto in Exhibit "C" without limitation or exception, shall be deemed and construed to affect the entire unit and its appurtenant undivided interest in the common areas and facilities. Nothing herein contained shall be construed as limiting or preventing ownership of any unit and its appurtenant undivided interest in the common areas and

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facilities by more than one person or entity as tenants in common, joint tenants, or as tenants by the entirety.

C. The common areas and facilities shall be, and the same are hereby declared to be subject to a perpetual nonexclusive easement in favor of all of the owners of units in SEAGATE OFFICE PARK, for their use and the use of their immediate families, guests or invitees, for all proper and normal purposes, and for the furnishing of services and facilities for which the same are reasonably intended, for the enjoyment of said owners of units. Notwithstanding anything above provided in this Article, the Board of Directors shall have the exclusive right to establish the rules and regulations pursuant to which the owner of any unit, his family, guests and invitees, may be entitled to use the common areas and facilities, including the right to make permanent and temporary assignments of parking spaces and marina slip spaces and to establish regulations governing the use or non-use thereof.

D. All marina facilities, except finger docks 1, 2 and 3, shall be common areas; provided, however, that the owner or owners of each unit in SEAGATE OFFICE PARK shall be entitled to the exclusive use of at least one (1) boat slip in the marina. There are seven (7) boat slips. The rights to the exclusive use of the seven (7) boat slips are appurtenant to and shall remain with the five (5) units as follows:

Slips #1 and #7	appurtenant to Unit #1
Slips #2 and #3	appurtenant to Unit #2
Slip #4	appurtenant to Unit #3
Slip #5	appurtenant to Unit #4
Slip #6	appurtenant to Unit #5

Finger dock 1 shall be appurtenant to and a part of Unit #1; finger dock 2 shall be jointly appurtenant to and a part of Units #1 and #2; finger dock 3 shall be appurtenant to and a part of Unit #2. All costs and expenses for the maintenance and repair of those three (3) finger docks shall be borne by the owner(s) of the unit(s) to which each is appurtenant.

All other piers, docks, pilings and other marina facilities including the bulkhead and its dead-man and tie-back systems shall be common property.

E. Recognizing that the proper use of a unit by an owner or owners is dependent upon the use and enjoyment of the common areas and facilities in common with the owners of all other units, and that it is in the interest of all owners that the ownership of the common areas and facilities be retained in common by the owners, it is hereby declared that the proportional undivided interest in the common areas and facilities appurtenant to each unit shall remain undivided and no unit owner shall bring or have any right to bring any action for partition or division.

F. The limited common areas are hereby reserved, subject to the rights and obligations of the corporation for maintenance and repair of such areas, for the exclusive use and enjoyment of the owner(s) of the unit to which each such limited common area is attached and appurtenant.

ARTICLE V.

Use Restrictions

A. Each unit is hereby restricted to the business use by the owner hereof, his guests, invitees and lessees; it being intended that no unit shall be sold or conveyed as a "time-share" or "interval ownership" unit, nor shall the use and enjoyment of any unit be severed from its appurtenant boat slip.

B. No immoral, improper, offensive or unlawful use shall be made of any unit or of the common areas and facilities, nor any part thereof, and all laws, zoning ordinances and regulations of all governmental authorities having jurisdiction of the unit shall be observed. No owner of any unit shall permit or suffer anything to be done or kept in his unit, or on the common areas and facilities, which will increase the rate of insurance on the unit, or which will obstruct or interfere with the rights of other occupants of the other units or annoy them by unreasonable noises, nor shall any owner undertake any

use or practice which shall create and constitute a nuisance to any other owner of a unit, or which interferes with the peaceful possession and proper use of any other unit or the common areas and facilities.

C. The use of common areas and facilities, by the owner or owners of all units, and all other parties authorized to use the same, shall be at all times subject to such reasonable rules and regulations as may be prescribed and established governing such use, or which may be hereafter prescribed and established by the Corporation.

D. No owner of a unit shall permit any structural modification or alteration to be made to such unit without first obtaining the written consent of the Corporation, which consent may be withheld in the event that a majority of the Board of Directors of the Corporation shall determine, in their sole discretion, that such structural modifications or alterations would adversely affect or in any manner endanger the condominium in part or in its entirety. No owner shall cause any improvements or changes to be made on the exterior of the condominium (including painting or other decoration, or the installation of electrical wiring, television or radio antenna or any other objects, machines or air conditioning units which may protrude through the walls or roof of the condominium) or in any manner alter the appearance of the exterior portion of any building without the written consent of the Corporation being first had and obtained. No unit owner shall cause any object to be fixed to the common areas and facilities (including the location or construction of fences and the planting or growing of flowers, trees, shrubs, or any other vegetation) or in any manner change the appearance of the common areas and facilities or limited common areas and facilities without the written consent of the Corporation being first had and obtained.

E. So long as the Declarant shall retain ownership of any units in any phase, it may utilize any such unit or units for sales offices, models or other usage for the purpose of selling units within said project. The Declarant may assign this limited commercial usage right to any other person or entities as it may choose; provided, however, that when all units have been sold, this right by the Declarant, their successors and assigns shall immediately cease.

F. The use of the condominium may be further restricted under the By-Laws of the Corporation, or its Rules and Regulations.

ARTICLE VI.

Easements

In addition to easements and rights established and/or reserved elsewhere in this Declaration, the following easements and rights are hereby established as covenants and burdens running with the real property and the improvements thereon:

A. In case of any emergency originating in or threatening any unit, regardless of whether the owner is present at the time of such emergency, the Board of Directors of the Corporation, or any other person authorized by it, or the managing agent, shall have the right to enter such unit for the purpose of remedying or abating the cause of such emergency, and such right of entry shall be immediate.

B. Each unit owner shall have an easement in common with the other owners of all units to use all pipes, wires, ducts, cables, conduits, public utility lines and other common facilities located in any common area. The Board of Directors of the Corporation or their designee shall have the right of access to each unit to inspect the same, to remove violations therefrom and to maintain, repair, or replace the common facilities contained therein or elsewhere in the building.

C. The initial and subsequent Boards may grant or assume easements, leases, or licenses for utility purposes for the benefit of the condominium, including the right to install, lay, maintain, repair, and replace water lines, pipes, sewer lines, gas mains, telephone and television wires and equipment and electrical conduits and wires over, under, along and on any portion of the common areas and facilities and limited common areas and facilities; and, each

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unit owner hereby grants to the Board, or its designee, the irrevocable power of attorney to execute, acknowledge, and record for or in the name of the Corporation or each unit owner such instruments as may be necessary to effectuate the foregoing.

D. Ingress and egress is reserved for pedestrian traffic over, through and across sidewalks, paths, walks, and lanes as the same from time to time may exist upon the common areas and facilities; and, for vehicular traffic over, through and across such portions of the common areas and facilities as from time to time may be paved and intended for such purposes, for all unit owners of units in of SEAGATE OFFICE PARK, their invitees, lessees, the Corporation, the Declarant, its successors and assigns.

E. In the event that any unit shall encroach upon any of the common areas and facilities, or any other unit or units, for any reason not caused by the purposeful or negligent act of the unit owner, or agents of such owner, then an easement appurtenant to such unit shall exist for the continuance of such encroachment upon the common areas and facilities or upon a unit for so long as such encroachment shall naturally exist; and, in the event that any portion of the common areas and facilities shall encroach upon any unit, then an easement shall exist for the continuance of such encroachment of the common areas and facilities upon any unit for so long as such encroachment shall naturally exist. If any unit or common areas and facilities shall be partially or totally destroyed as a result of fire or other casualty, or as a result of condemnation or eminent domain proceedings, and if upon reconstruction of such unit and/or common areas and facilities in accordance with this Declaration, there exist encroachments of portions of the common areas and facilities upon any unit, or of any unit upon any other unit or upon any portion of the common areas and facilities, then such encroachments shall be permitted and a valid easement for the maintenance thereof shall exist so long as such encroachments shall naturally remain.

ARTICLE VII.

The Corporation

To efficiently and effectively provide for the administration and maintenance of SEAGATE OFFICE PARK by the unit owners, a nonprofit North Carolina corporation known and designated as SEAGATE OFFICE PARK UNIT OWNERS, INC. (hereinafter the "Corporation") has been organized, a true copy of its Articles of Incorporation having been recorded in Book 1313, at Page 1277, in the Office of the Register of Deeds of New Hanover County, North Carolina, and the provisions thereof are incorporated herein by reference. The Corporation shall administer the operation and management of the condominium, SEAGATE OFFICE PARK and shall undertake and perform all acts and duties incident thereto in accordance with the terms of its Articles of Incorporation and its duly adopted By-Laws. A true copy of the original By-Laws is attached hereto as Exhibit "D" and expressly made a part hereof by reference.

A. Declarant Control: Until December 31, 1986, or until such time as the fourth unit is deeded to a unit owner, whichever occurs first, the Board of Directors of the Corporation shall consist of those three (3) individuals appointed by the Declarant to the initial Board of Directors of the Corporation as stated in its Articles of Incorporation, or their successors or replacements, as provided for in the duly adopted By-Laws of the Corporation. Until said date, said Board shall exclusively be responsible for the total operation and management of the Corporation, exercising all powers, duties, and obligations thereof, free from interference or control by any and all unit owners; provided, however, that said Board shall manage and operate the Corporation in a manner consonant with the terms and conditions of this Declaration, any and all supplements or amendments hereto, the Corporation's Articles of Incorporation and its duly adopted By-Laws; provided, further, however, that Declarant may by written notice to each unit owner at any time prior to the above referenced date manifest its intention to cause the resignation of that Board of Directors at which time the initial meeting of the membership of the Corporation shall be called for the purpose of the election of a new Board of Directors of the Corporation from the membership thereof, who shall then become responsible for the operation and management of the Corporation.

Provided, however, that Declarant shall relinquish control of the corporation on December 31, 1986, or at the time the fourth unit is deeded to a unit owner, whichever first occurs.

B. Membership and Voting Rights: Membership and voting rights in the Corporation shall be as provided in Article VI of its Articles of Incorporation referred to and incorporated herein as stated hereinabove; membership being mandatory for all owners of each unit of SEAGATE OFFICE PARK.

C. Powers: The Corporation shall have all powers granted to it as stated in Article V of said Articles of Incorporation.

D. Common Expenses: The common expenses of the Corporation shall be shared by the unit owners in the same proportions that the undivided interest in the common areas and facilities appurtenant to each owner's unit bears to the total of all undivided interests in the common areas and facilities appurtenant to all units, and as assessment against the unit owners and their units as provided for hereinbelow.

E. Management and Maintenance:

1. The Corporation, as a common expense, shall be responsible for the maintenance, repair and replacement of all of the common areas and facilities, including those portions thereof which contribute to the support of the building or buildings, the facilities, the facilities for the furnishing of utility and other services to the units and all common areas, and should any incidental damage be caused to any unit by virtue of any work which may be done or caused to be done by the Corporation in the maintenance, repair, or replacement of any common areas and facilities, the Corporation shall, at its expense, repair such incidental damage. Whenever the maintenance, repair, and replacement of any item for which the Corporation is obligated to maintain, replace or repair at its expense is occasioned by any act of a unit owner, his immediate family, guests, or invitees, and such loss or damage may be covered by any insurance maintained in force by the Corporation, the proceeds of the insurance received by the Corporation shall be used for the purpose of making such maintenance, repair, or replacement, except that the unit owner who is responsible for the act causing the damage (whether done by himself or by his family, guests, or invitees) shall be required to pay such portion of the cost of such maintenance, repair, and replacement as shall, by reason of the applicability of any deductibility provision of such insurance, exceed the amount of the insurance proceeds applicable to such maintenance, repair, or replacement.
2. The Corporation shall have the right to make or cause to be made such alterations or improvements to the common areas and facilities which do not prejudice the rights of the owner of any unit in the use and enjoyment of his unit, provided the making of such alterations and improvements are approved by the Board of Directors of the Corporation, and the cost of such alterations or improvements shall be common expenses to be assessed and collected from all of the owners of units. However, where any alterations and improvements are exclusively or substantially for the benefit of the owner or owners of a certain unit or units requesting the same, then the cost of such alterations or improvements shall be assessed against and collected solely from the owner or owners of the unit or units exclusively or substantially benefited, the assessment to be levied in such proportion as may be determined by the Board of Directors of the Corporation.
3. The Corporation may enter into a contract with a management company or manager for the purposes of providing all elements of the operation, care, supervision, maintenance, and management of the property. All the powers and duties of the Corporation necessary or convenient for such maintenance and management may

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be delegated to and vested in the manager by the Board of Directors, except such as are specifically required by this Declaration, the By-Laws, or the Unit Ownership Act, to have the approval of the Board of Directors or the Corporation. The manager is hereby further authorized to recommend the annual budget, and, upon approval thereof by the Board of Directors, make assessments for common expenses, and collect such assessments as provided in this Declaration and the By-Laws, subject always to the supervision and right of approval of the Board of Directors.

4. Unit Owners Maintenance:

Every owner shall perform promptly all maintenance and repair work within his unit which, if omitted, would affect the condominium, either in its entirety or in a part belonging to other owners; every owner being expressly responsible for the damages and liability which his failure to do so may engender. The owner of each unit shall be liable and responsible for the maintenance, repair, and replacement, as the case may be, of all air conditioning and heating equipment, stoves, refrigerators, fans, or other appliances or equipment, including any fixtures and/or their connections required to provide water, light, power, telephone, sewage and sanitary service to his unit. Such owner shall further be responsible and liable for the maintenance, repair, and replacement of any and all walls, ceilings, and floors which are a part of his unit, including painting, decorating, and furnishings, and all other accessories which such owner may desire to place or maintain in his unit. Whenever the maintenance, repair, and replacement of any item for which the owner of a unit is obligated to maintain, replace, or repair at his own expense is occasioned by any loss or damage which may be covered by any insurance maintained in force by the Corporation, the proceeds of the insurance received by the Corporation shall be used for the purpose of making such maintenance, repair, or replacement except that the owner of such unit shall be, in said instance, required to pay such portion of the costs of such maintenance, repair, and replacement as shall, by reason of the applicability of any deductibility provision of such insurance, exceed the amount of the insurance proceeds applicable to such maintenance, repair, or replacement. All glass doors, window-frames, panes and screens are a part of the respective units and shall be maintained by the respective unit owners.

All parts of a unit shall be kept in good condition and repair by and at the expense of the owner. The unit shall be maintained by the owner in a clean and safe condition, free of nuisance. Each unit owner will promptly comply with any requirements of the insurance underwriters of the insurance for the common areas and facilities when so requested in writing by the Board or its designated agent. Any failure of an owner to repair, maintain, or replace as may be required pursuant to this Declaration, or a determination by the Board or its designated agent that such failure will endanger or impair the value of the common areas and facilities or any unit may be, upon written notice to the owner of the nature of the required repair, maintenance, or replacement, repaired or replaced by the Corporation at the expense of the unit owner, to be collected by special assessment as provided herein and in the By-Laws. Such assessment may include the cost to the Corporation incurred in the abatement of any nuisance maintained by the unit owner therein.

5. Limitation of Liability: Notwithstanding the duty of the Corporation to maintain and repair parts of the condominium property, the Corporation shall not be liable to unit owners for injury or damage caused by any latent condition of the property to be maintained and repaired by the Corporation, or caused by the elements or other owners or persons.

F. Insurance:

1. Acquisition: Insurance policies upon the condominium (other than title insurance) shall be purchased by the Corporation in the name of the Board of Directors of the Corporation, as Trustee for the unit owners and their respective mortgagees as their interests may appear, and shall provide for the issuance of certificates or mortgage endorsements to the holders of first mortgages on the units or any of them, and if the companies writing such policies will agree, the policies shall provide that the insurer waives its rights of subrogation as to any claims against unit owners, the Corporation and their respective servants, agents, and guests. Each unit owner may obtain insurance, at his own expense, affording coverage upon his unit, his personal property and for his personal liability and as may be permitted or required by law, but all such insurance shall contain the same waiver of subrogation as that referred to above if the same is available.
2. Coverage: All buildings and improvements upon the land, including the marina facilities, and all personal property included in the common areas and marina facilities shall be insured in an amount equal to the maximum insurable replacement value, excluding foundation and excavation costs, or by ninety percent co-insurance coverage or by such other form of policy as the Board of Directors annually determines will most reasonably provide the funds necessary to repair or reconstruct the insured improvements. Such coverage shall afford protection against (a) loss or damage by fire and other hazards covered by a standard extended coverage endorsement, and (b) such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location and use as the buildings on the real property, including, but not limited to, vandalism and malicious mischief.
3. Fidelity Bond Coverage: The corporation may purchase and maintain in effect such fidelity bond coverage as is specified in the FNMA Lending Guide, Chapter Three, Part 5, Insurance Requirements.
4. Public Liability Insurance: Public liability insurance may be secured by the Corporation in such amount and with such coverage as shall be deemed necessary by the Board of Directors, including, but not limited to, an endorsement to cover liability of the unit owners as a group or to a single unit owner. There shall also be obtained such other insurance coverage as the Board of Directors or manager shall determine from time to time to be desirable or necessary.
5. Premiums: Premiums upon insurance policies purchased by the Corporation shall be paid by the Corporation and chargeable to the Corporation as a common expense.
6. Proceeds: All insurance policies purchased by the Corporation shall be for the benefit of the Corporation and the unit owners and their mortgagees as their interests may appear, and shall provide that all proceeds thereof shall be payable to the Corporation as insurance trustee under this Declaration. The Board of Directors of the Corporation is hereby irrevocably appointed agent for each unit owner and his mortgagee as their interests may appear for the purpose of compromising and settling claims arising under insurance policies purchased by the Board of Directors for the benefit of the Corporation and the unit owners; said Board of Directors or its designee is hereby further empowered to execute and deliver releases to the insurance carrier upon the payment of claims. The Board of Directors' duty or its designee's duty upon receipt of such proceeds shall be to hold the same in trust for the purposes elsewhere stated herein or in the By-Laws for the benefit of the Corporation and

the unit owners and their mortgagees, as their interests may appear.

7. Distribution of Insurance Proceeds: Proceeds of insurance policies shall be payable to the Board of Directors of SEAGATE OFFICE PARK UNIT OWNERS, INC., as insurance trustee and shall be distributed to or for the benefit of the beneficial owners in the following manner:

- (a) Expense of the Trust: All expenses of the insurance trustee shall be first paid or provision made therefor, if any;
- (b) Reconstruction or Repair: If the damage for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost thereof as determined in Paragraph F(7) hereof. Any proceeds remaining after defraying such cost shall be distributed as surpluses to the beneficial owners of the damaged units pursuant to Paragraph H hereof;
- (c) Failure to Reconstruct or Repair: If it is determined, as provided in Paragraph F(7) hereof, that the damage for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed as surpluses to the beneficial owners of the damaged units thereof pursuant to Paragraph H hereof;
- (d) Mortgagees: In the event a mortgagee endorsement has been issued as to a unit, the share of the unit owner shall be held in trust for the mortgagee and the unit owner as their interests may appear; provided, however, that no mortgagee shall have any right to determine or participate in the determination as to whether any damaged property shall be reconstructed or repaired.

8. Damage and Destruction:

Determination to Reconstruct or Repair: If any part of the condominium property shall be damaged by casualty, whether it shall be reconstructed or repaired shall be determined in the following manner:

- (a) Common Areas and Facilities: If the damaged improvement is a common area or facility, the damaged property shall be reconstructed or repaired, unless it is determined in the manner elsewhere provided that the condominium shall be terminated;
- (b) Units:
- (i) Partial Destruction: If the damaged improvement is a unit, and if termination as provided in subparagraph (ii) below does not take place, the damaged property shall be reconstructed or repaired unless within sixty (60) days after the casualty it is determined by agreement in the manner elsewhere provided that the condominium shall be terminated;
- (ii) Total Destruction: If more than two (2) of the units are destroyed and the owners of four (4) of the units in the entire condominium should determine not to proceed with repair or restoration, then the procedure set forth in Section 47A-25 of the North Carolina Statutes, and any amendments thereto, shall take place. A complete destruction of the marina facilities shall not cause the termination of the condominium.

Plans and Specifications: Any reconstruction or repair must be

substantially in accordance with the plans and specifications for the original building, portions of which are attached hereto as exhibits; or if not, then according to plans and specifications approved by the Board of Directors of the Corporation, and if the damaged property is a unit, by the owners of all damaged units therein which approvals shall not be unreasonably withheld.

Responsibility: If the damage is only to those parts of one unit for which the responsibility of maintenance and repair is that of the unit owner, then the unit owner shall be responsible for reconstruction and repair after casualty. In all other instances the responsibility of reconstruction and repair after casualty shall be that of the Corporation.

Estimate of Costs: Immediately after a determination to rebuild or repair damage to property for which the Corporation has the responsibility of reconstruction and repair, the Corporation shall obtain reliable and detailed estimates of the costs to rebuild or repair.

Assessments: If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Corporation, or if at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for the payment of the costs thereof are insufficient, assessments shall be made against the unit owners who own the damaged units, and against all unit owners in the case of damage to common areas and facilities, in sufficient amounts to provide funds for the payment of such costs. Such assessments against unit owners for damage to units shall be in proportion to the cost of reconstruction and repair of their respective units. Such assessments on account of damage to common areas and facilities shall be in proportion to the unit owner's share in the common areas and facilities.

G. Corporation to Maintain Register of Owners and Mortgagees: The Corporation shall at all times maintain a Register setting forth the names of the owners of all of the units. In the event of the sale or transfer of any unit to a third party, the purchaser or transferee shall notify the Corporation in writing of his interest in such unit together with such recording information as shall be pertinent to identify the instrument by which such purchaser or transferee has acquired his interest in any unit. Further, the owner of each unit shall notify the Corporation of the names of the parties holding any mortgage or mortgages on any unit, the amount of such mortgage or mortgages and the recording information which shall be pertinent to identify the mortgage or mortgages. The holder of any mortgage or mortgages upon any unit may, if he so desires, notify the Corporation of the existence of any mortgage or mortgages held by such party on any unit and, upon receipt of such notice, the Corporation shall register in its records all pertinent information relating thereto.

H. Assessments: Liability, Lien and Enforcement: The Corporation has been given the authority to administer the operation and management of the condominium, it being recognized that the delegation of such duties to one entity is in the best interest of the owners of all units. To properly administer the operation and management of the condominium, the Corporation will incur for the mutual benefit of all of the owners of units, costs and expenses which are sometimes herein referred to as "common expense". To provide the funds necessary for such proper operation, management, and capital improvement, the Corporation has heretofore been granted the right to make, levy and collect assessments against the unit owners and their units. In furtherance of this grant of authority to the Corporation to make, levy and collect assessments to pay the costs and expenses for the operation, management of and capital improvements to the condominium, the following provisions shall be operative and binding upon all the owners of all units:

1. All assessments levied against the unit owners and their units shall be uniform and, unless specifically otherwise provided for in this Declaration, all assessments made by the Corporation

- shall be in such an amount that any assessment levied against a unit owner and his unit shall bear the same ratio to the total assessment made against all unit owners and their units as the undivided interest in common areas and facilities appurtenant to each condominium unit bears to the total undivided interest in common areas and facilities appurtenant to all units. Should the Corporation be the owner of a unit or units, the assessment which would otherwise be due and payable to the Corporation by the owner of such unit or units, reduced by the amount of income which may be derived from the leasing of such unit or units by the Corporation, shall be apportioned and the assessment therefor levied ratably among the owners of all units which are not owned by the Corporation, based upon their proportionate interests in common areas and facilities exclusive of the interests therein appurtenant to any unit or units owned by the Corporation.
2. Assessments provided for herein shall be payable in annual, quarterly or monthly installments, or in such other installments and at such times as may be determined by the Board of Directors of the Corporation. Such assessments shall commence for each unit on the day of the recordation of the deed for such unit in the New Hanover County, North Carolina Registry from the Declarant to such unit owner. After the recording of a deed to the first unit owner, the Declarant will pay and be levied for any assessments for any units it may own as of the first day of the following month.
 3. The Board of Directors of the Corporation shall establish an annual budget in advance for each fiscal year (which shall correspond to the calendar year, except that in the initial year of operation of the condominium, the fiscal year shall commence with the closing of the sale of the first condominium unit). Such budget shall project all expenses for the forthcoming year which may be required for the proper operation, management, and maintenance of the condominium, including a reasonable allowance for contingencies and reserves, such budget to take into account projected anticipated income which is to be applied in reduction of the amounts required to be collected as an assessment each year. The Board of Directors shall keep separate, in accordance with Paragraph 4 hereof, items relating to operation and maintenance from items relating to capital improvements. Upon adoption of such annual budget by the Board of Directors of the Corporation, copies of said budget shall be delivered to each owner of a unit and the assessment for said year shall be established based upon such budget, although the delivery of a copy of said budget to each owner shall not affect the liability of any owner for such assessment. Should the Board of Directors at any time determine, in its sole discretion, that the assessments levied are, or may prove to be, insufficient to pay the costs of operation and management of the condominium, or in the event of emergencies, the Board of Directors shall have the authority to levy such additional assessment or assessments it may deem to be necessary.
 4. The Board of Directors of the Corporation, in establishing the annual budget for operation, management, and maintenance of the condominium, may designate therein a sum to be collected and maintained as a reserve fund for replacement of and capital improvements to the common areas and facilities, which capital improvement and replacement fund (capital improvement fund) shall be for the purpose of enabling the Corporation to replace structural elements and mechanical equipment constituting a part of the common areas and facilities, as well as the replacement of personal property which may constitute a portion of the common areas and facilities held for the joint use and benefit of the owners of units. The amount to be allocated to the capital improvement fund may be established by said Board of

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Directors so as to collect and maintain a sum reasonably necessary to anticipate the need for replacement of common areas and facilities. The amount collected for the capital improvement fund shall be maintained in a separate account by the Corporation and such monies shall be used only to make capital improvements to common areas and facilities. Any interest earned on monies in the capital improvement fund may, in the discretion of the Board of Directors of the Corporation, be expended for current operation and maintenance.

5. All monies collected by the Corporation shall be treated as the separate property of the Corporation, and such monies may be applied by the Corporation to the payment of any expense of operating and managing the condominium, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, the Articles of Incorporation and the By-Laws of the Corporation. As monies for any assessment are paid unto the Corporation by any owner of a unit, the same may be co-mingled with monies paid to the Corporation by the other owners of units. Although all funds and common surplus, including other assets of the Corporation, and any increments thereto or profits derived therefrom or from the leasing or use of common areas and facilities, shall be held for the benefit of the members of the Corporation, no member of the Corporation shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his unit. When the owner of a unit shall cease to be a member of the Corporation by reason of his divestment of ownership of such unit, by whatever means, the Corporation shall not be required to account to such owner for any share of the funds or assets of the Corporation, or which may have been paid to the Corporation by such owner, as all monies which any owner has paid to the Corporation shall be and constitute an asset of the Corporation which may be used in the operation and management of the condominium.
6. The payment of any assessment or installment thereof shall be in default if such assessment or installment is not paid to the Corporation within thirty (30) days of the due date for such payment. When in default, the delinquent assessment or delinquent installment thereof due to the Corporation shall bear interest at eighteen percent (18%) per annum until such delinquent assessment or installment thereof, and all interest due thereon, has been paid in full to the Corporation. All monies owing to the Corporation shall be due and payable at the main office of the Corporation in the State of North Carolina.
7. The owner or owners of each unit shall be personally liable, jointly and severally, to the Corporation for the payment of all assessments, regular or special, which may be levied by the Corporation against such unit while such party or parties are owner or owners of a unit. In the event that any unit owner or owners are in default in payment of any assessment or installment thereof owed to the Corporation, such unit owner or owners shall be personally liable, jointly and severally, for interest on such delinquent assessment or installment thereof as above provided, and for all costs of collecting such assessment or installment thereof and interest thereon, including a reasonable attorney's fee, whether suit be brought or not.
8. No owner of a unit may exempt himself from liability for any assessment levied against him or his unit by waiver of the use of enjoyment of any of the common areas and facilities, or by abandonment of the unit or in any other way.
9. Recognizing that proper operation and management of the condominium requires the continuing payment of costs and expenses therefor, and that such proper operation and maintenance results in benefit to all of the owners of units, and that the payment