

DECLARATION ESTABLISHING A HORIZONTAL PROPERTY REGIME
TO BE KNOWN AS SCHOONER BAY CONDOMINIUM

THIS DECLARATION is made this 13 day of February, 1987, by ANTILLES INVESTMENT CORPORATION, a U.S. Virgin Islands corporation, hereinafter called "Developer".

WHEREAS, Developer holds the fee simple title to the land hereinafter described and desires to subject said land, together with the buildings and improvements erected thereon, and all rights, alleys, ways, waters, privileges, appurtenances and advantages thereunto belonging, or in anywise appertaining, including the hereinafter described rights-of-ways, to a condominium regime, as provided for in the Condominium Act, and hereby to establish for the property, a condominium regime to be known as "SCHOONER BAY CONDOMINIUM".

NOW, THEREFORE, THIS DECLARATION WITNESSETH: That Developer, for itself, its successors and assigns, does hereby expressly establish and declare the following:

ARTICLE I

DEFINITIONS

As used in this Declaration, and the By-laws annexed hereto, except to the extent otherwise expressly provided, or otherwise resulting from necessary implication, the following terms shall have the meanings herein ascribed thereto. The terms herein defined are:

(a) Condominium Act. Condominium Act means and refers to Title 28, Chapter 33, Section 901, et seq. of the Virgin Islands Code Annotated, as heretofore and hereafter amended.

(b) Land.

(i) (A) Land means and includes all of those two plots of ground, known as Plots 52-A and Remainder of 64-A, Estate Mount Welcome, located on the island of St. Croix in the U.S. Virgin Islands, and more particularly described as follows:

Beginning at the southwest corner of Plot 64-A of the Estate Mount Welcome, proceed in a north-easterly direction on a bearing N 79°14'31" E, 119.72 feet; thence N 10°45'29" W, 114.00 feet; thence N 71°14'31" E, 60.00 feet; thence S 15°26'39" E, 70.75 feet; thence N 11°29' E, 71.00 feet; thence N 33°45' E, 80.40 feet; thence N 68°08' E, 7.30 feet; thence N 10°43' W, 20.00 feet; thence N 10°43' W, 128.90 feet, thence N 10°43' W, 20.00 feet;

thence S 81°05' W, 63.00 feet; thence S 32°32' W, 68.13 feet; thence N 62°01'38" W, 117.75 feet; thence S 31°09' W, 35.35 feet, thence S 31°59' W, 147.70 feet; thence S 33°35' W, 48.10 feet; thence N 70°23' E, 53.20 feet, thence N 70°23' E, 30.40 feet; thence S 11°01' E, 20.00 feet; thence S 11°01' E, 195.00 feet, to the point of beginning; containing 1.7422 acres of land, more or less, being the parcel shown and designated as "Parcel 1" on Sheet 1 of the hereinafter described condominium plat. Said parcel is herein called "Parcel 1".

(B) TOGETHER with the following rights and easements:

(1) The right, in common with the Developer, of forever using the 2nd and 3rd Right of Way Areas (as shown on Sheet 1 of the condominium plat) as rights-of-way and means of vehicular and pedestrian access between the building named "Courageous" and the parking areas and service road located to the east of, and serving, said building, on the one hand, and the roadway (approximately 16 feet wide) upon which the 1st Right of Way Area (as shown on Sheet 1 of the condominium plat) is located, on the other hand.

(2) The exclusive right to maintain and use the 1st Maintenance Area (as shown on Sheet 1 of the condominium plat) and all improvements now or hereafter located within, upon or below the 1st Maintenance Area, including without limitation, the Maintenance Building (as shown on Sheet 1 of the condominium plat) and all water, sanitary sewer and other utility lines, mains, facilities and installations located below the 1st Maintenance Area.

(3) The right, in common with the Developer, to: (aa) maintain and use all water lines, mains, facilities and installations constructed, installed, maintained or operated in, under or through the hereinafter described 3rd and 4th Utility Easement Areas; (bb) take water from said lines, mains, facilities and installations for use on all ground within the 1st Maintenance Area and all improvements now or hereafter located thereon, upon payment for such water at the rate charged by the governmental agency or public utility supplying such water; and (cc) construct, install, maintain and operate other water lines, mains, facilities and installations in, under or through the 3rd and 4th Utility Easement Areas.

The above-mentioned 3rd Utility Easement Area is described as follows: The portions of Parcel 2 and of the 1st Recreational Parcel shown and designated as the "3rd Utility Easement Area" on Sheet 1 of the condominium plat.

The above-mentioned 4th Utility Easement Area is described as follows: All the land located within the 1st Recreational Parcel.

(4) The right, in common with the Developer, to: (aa) maintain and use all sanitary sewer lines, mains, facilities and installations constructed, installed, maintained or operated in, under or through the 3rd Utility Easement Area; (bb) discharge into said lines, mains, facilities and installations, sewage from the 1st Maintenance Area and all improvements now or hereafter located thereon; and (cc) construct, install, maintain and operate other sanitary sewer lines, mains, facilities and installations, in, under or through the 3rd Utility Easement Area.

(5) The right, in common with the Developer, to discharge and drain onto and across Parcel 2 surface water flowing on, over and from Parcel 1.

(C) SUBJECT to the following rights and easements:

(1) The right of the Developer, in common with the unit owners, of forever using the 1st Right of Way Area (as shown on Sheet 1 of the condominium plat) as a right-of-way and means of vehicular and pedestrian access between Parcel 2, and all buildings and other improvements now or hereafter located thereon, on the one hand, and the public road located to the west of Parcel 1, on the other hand.

(2) The right of the Developer, in common with the unit owners, to: (aa) maintain and use all water lines, mains, facilities and installations constructed, installed, maintained or operated in, under or through the hereinafter described 1st Utility Easement Area; (bb) take water from said lines, mains, facilities and installations for use on all ground within Parcel 2, and in and for the dwellings, vegetation, walkways, parking areas and other improvements now or hereafter located thereon, upon payment for such water at the rate charged by the governmental agency or public utility supplying such water; and (cc) construct, install, maintain and operate other water lines, mains, facilities and installations in, under or through the 1st Utility Easement Area.

The above-mentioned 1st Utility Easement Area is described as follows: All the land located within Parcel 1.

(3) The right of the Developer, in common with the unit owners, to: (aa) maintain and use all sanitary sewer lines, mains, facilities and installations constructed, installed, maintained or operated in, under or through the 2nd Utility Easement Area (as shown on Sheet 1 of the condominium

plat); (bb) discharge into said lines, mains, facilities and installations, sewage from Parcel 2 and the dwellings and other improvements now or hereafter located therein; and (cc) construct, install, maintain and operate other sanitary sewer lines, mains, facilities and installations, in, under or through the 2nd Utility Easement Area.

(4) The right of the Developer, in common with the unit owners, to discharge and drain onto and across Parcel 1 surface water flowing on, over and from Parcel 2.

(5) The right of the Developer to grant blanket and location specific easements upon, across, over, in, under and through the general common elements for the installation, operation, inspection, cleaning, repair and replacement of telephone, electric, gas, cable TV and other utility lines, mains, facilities and installations, all for the benefit of the remaining property of the Developer, whether or not included within any subsequent stage.

(6) The right of the Developer to grant blanket and location specific easements upon, across, over, in, under and through the general common elements for the installation, operation, inspection, cleaning, repair and replacement of roads and parking areas, and water, sanitary sewer, storm water drainage, telephone, electric, gas, cable TV and other utility lines, mains, facilities and installations, all for the benefit of the Recreational Parcel(s).

(D) For the better regulation of the mutual interests of the unit owners, as one of the parties, and the Developer, as the other party, in and to the rights and easements set forth in Subparagraphs (b)(i)(B) and (C) of this Article I, the following shall apply:

(1) Each of the parties shall have the right and privilege of utilizing the 1st, 2nd, 3rd and 4th Utility Easement Areas and the 1st, 2nd and 3rd Right of Way Areas and of entering upon the same (and the council of unit owners shall have the exclusive right and privilege of utilizing the 1st Maintenance Area and of entering upon the same), whenever it may be necessary to make openings and excavations and to construct, install, maintain or operate utilities, roadways, parking spaces, or other permitted improvements therein, thereunder or thereon, provided, however, that in each case the ground and any paving or other improvement disturbed by such work shall be promptly restored and left in good condition.

(2) No building or similar structure of any kind shall be constructed, installed, maintained or operated in, on or over any portion of the 2nd, 3rd or 4th Utility Easement Area or the 1st, 2nd or 3rd Right of Way Area; except that (aa) roadways, sidewalks, fences, walls and other screening

devices, light poles and standards, directional signs and sign posts, and curbs and other similar barriers may be constructed, installed, maintained and operated in, on and over the 2nd, 3rd and 4th Utility Easement Areas and the 1st, 2nd and 3rd Right of Way Areas, so long as not impeding the free flow of vehicular traffic along the roadways within the 1st, 2nd and 3rd Right of Way Areas; (bb) parking spaces may be constructed, installed, maintained and operated in, on and over the 2nd, 3rd and 4th Utility Easement Areas; and (cc) swimming pools, pool pavilions and other recreational improvements may be constructed, installed, maintained and operated in, on and over the 3rd and 4th Utility Easement Areas.

(3) So long as the Schooner Bay development area (as hereinafter defined) consists of two or more tracts (as hereinafter defined) under separate ownership, all unit owners to be deemed a single owner of the land located within the condominium, the out-of-pocket cost (not including the administration or other overhead of the council of unit owners or any tract owners) of the operation and maintenance (including, but not limited to, the inspection, cleaning, repair and replacement) of all roadways, parking areas, and appurtenant facilities and installations, all water, sanitary sewer and storm water drainage lines, mains, facilities and installations, located in, on, or through each such easement area or right of way area, and all maintenance facilities and other improvements located within, upon or below the 1st Maintenance Area, and the cost of all water furnished by the governmental agency or public utility supplying such water to any of the ground located within the Schooner Bay development area, or any dwelling unit or improvement located or to be located thereon, shall be divided between or among the owners of the various tracts within the Schooner Bay development area, as follows:

(aa) The owner, from time to time, of each tract in the Schooner Bay development area shall pay a proportionate share of the cost of the operation and maintenance of the roadways, and appurtenant facilities and installations, such as light poles and standards, directional signs and sign posts, and curbs and sidewalks, located within the 1st and 3rd Right of Way Areas, which share shall be determined on a pro rata basis, in accordance with the proportion that the number of dwelling units erected on its tract bears to the total number of dwelling units erected on all tracts in the Schooner Bay development area.

(bb) The council of unit owners shall pay the entire cost of the operation and maintenance of the roadway, and appurtenant facilities and installations, such as light poles and standards, directional signs and sign posts, and curbs and sidewalks, located within the 2nd Right of Way Area.

(cc) The owner, from time to time, of each tract in the Schooner Bay development area shall pay a proportionate share of the cost of all water taken from pipes used in common, which share shall be determined on a pro rata basis, in accordance with the proportion that the number of dwelling units erected on its tract, and connected to such pipes, bears to the total number of dwelling units erected within the Schooner Bay development area which are connected to such pipes, except that the council of unit owners shall pay the entire cost of all water taken from said pipes for the benefit of the 1st Maintenance Area, and the owner of the 1st Recreational Parcel shall pay the entire cost of all water taken from said pipes for the benefit of the 1st Recreational Parcel.

(dd) The owner, from time to time, of each tract in the Schooner Bay development area shall pay a proportionate share of the cost of the operation and maintenance of any water line, main, facility or installation located within the 1st Utility Easement Area, which share shall be determined on a pro rata basis in accordance with the proportion that the number of dwelling units erected on its tract, and served by such water line, main, facility or installation, bears to the total number of dwelling units erected within the Schooner Bay development area which are served by such water line, main, facility or installation.

(ee) The owner, from time to time, of each tract in the Schooner Bay development area shall pay a proportionate share of the cost of the operation and maintenance of any sanitary sewer line, main, facility or installation located within the 2nd Utility Easement Area, which share shall be determined on a pro rata basis, in accordance with the proportion that the number of dwelling units erected on its tract, and served by such sanitary sewer line, main, facility or installation, bears to the total number of dwelling units erected within the Schooner Bay development area which are served by such sanitary sewer line, main, facility or installation.

(ff) The council of unit owners shall pay the entire cost of the operation and maintenance of all water and sanitary sewer lines, mains, facilities and installations located within the 3rd and 4th Utility Easement Areas, except that the owner of the 1st Recreational Parcel shall pay the entire cost of the operation and maintenance of all swimming pools, pool pavilions and other recreational facilities located within the 3rd and 4th Utility Easement Areas.

(gg) The council of unit owners shall pay the entire cost of the operation and maintenance of the 1st Maintenance Area and all improvements located within, upon or below the 1st Maintenance Area.

(hh) Notwithstanding the provisions of items (aa), (bb), (dd), (ee), (ff) and (gg) of this Subparagraph (3), if the owner of any tract dirties, damages or destroys any fully or partially constructed paving, utility or other improvement located within any such right of way area, easement area or maintenance area, said owner shall, at its sole cost and expense, clean, repair and/or replace the dirtied, damaged or destroyed paving, utility or other improvement.

(ii) For the purposes of this Subparagraph (3), (i) a dwelling unit shall be deemed erected immediately after same is substantially complete and available for occupancy, without regard to the fact that the dwelling unit may not yet be occupied, and (ii) a dwelling unit may, but need not, consist of a condominium unit.

(jj) All expenses allocated to the unit owners (as unit owners) under this Subparagraph (3) shall be common expenses of the condominium.

(E) Except as otherwise expressly set forth in this Paragraph (b) of Article I of this Declaration, it is understood and agreed that the rights and easements hereinabove set forth shall inure to the benefit of the unit owners, or the Developer, as the case may be, their respective personal representatives, heirs, successors and assigns, forever, as appurtenances running with the units or ground involved, but not to the benefit of any tenant or licensee of either of said parties, or to any other person, firm, corporation or legal entity, having no legal or equitable interest in the units or ground to which such rights and easements appertain, it being the intent hereof that any right or easement of any tenant, licensee or other person shall be dependent upon and derived solely from the rights and easements of the unit owners holding an interest in the condominium regime, or of the Developer, holding those rights and easements excluded and reserved from the condominium regime, as legal or equitable owners of the units or ground involved, to which each such right and easement shall be deemed appurtenant, same to run with said units or ground.

(ii) The term "land" also means and includes each parcel of ground, if any, hereafter subjected to this condominium regime as provided in Article VIII hereof.

(c) Building

(i) Building means and includes each of the three (3) two-story residential structures, having a loft level but no basement and constructed principally of concrete block perimeter walls (with a concrete plaster exterior finish) and a standing seam metal roof, that is constructed on Parcel 1 in accordance with the drawings and specifications prepared therefor by Cape Architects, Kings Alley, Christiansted, St. Croix, U.S. Virgin

Islands 00820, identified as follows: (A) architectural, mechanical and other drawings, entitled "Schooner Bay, Plot Nos. 64 and 52A, Estate Mt. Welcome", dated April 30, 1986, as heretofore and hereafter amended by or on behalf of the Developer; and (B) specifications entitled "Specifications for Schooner Bay, Estate Mt. Welcome, Christiansted, St. Croix", dated April 30, 1986, as heretofore and hereafter amended by or on behalf of the Developer. The aforesaid drawings and specifications for the buildings are filed, forever to be maintained, at the principal office of the condominium.

(ii) Diagrammatic floor plans of each building in Stage 1, showing the dimensions, floor area and location of each unit in each building, are contained on the condominium plat. The buildings in Stage 1 are designated on the condominium plat as follows:

(A) "America" consists of four (4) units known as Units 101, 102, 201 and 202, respectively.

(B) "Courageous" consists of twelve (12) units known as Units 103, 104, 105, 106, 107, 108, 203, 204, 205, 206, 207 and 208, respectively.

(C) "Defender" consists of ten (10) units known as Units 109, 110, 111, 112, 113, 209, 210, 211, 212 and 213, respectively.

(iii) The term "building" also means and includes each building, if any, hereafter subjected to the condominium regime as provided in Article VIII hereof.

(iv) Except with respect to any structural addition, alteration or improvement made by the Developer in conjunction with Article IX hereof, no unit owner or other person or entity may make any structural addition, alteration or improvement in or to any building in the condominium after such building is completed by the Developer (as evidenced by the issuance of a certificate of occupancy) and is incorporated into the condominium, unless effected pursuant to (A) a revised or supplemental drawing, which shall be described in an amendment of this Paragraph (c), and (B) if appropriate, an amendment to the condominium plat.

(d) Property, Condominium, or Condominium Project. Property, condominium, or condominium project means and includes the land and buildings, together with all improvements, fixtures, and structures erected thereon or therein, and all rights, ways, easements, privileges and appurtenances thereunto belonging, or in anywise appertaining, including all space in, or below the foregoing, all, however, subject to the following:

(i) All covenants, conditions, restrictions and other encumbrances of record.

(ii) All zoning and other governmental laws and regulations applicable to the Property.

(iii) The Agreement For Sharing Road Maintenance Costs dated February 13, 1987 among the Unit Owners of Fort Augusta Condominiums and the Association of Apartment Owners of Fort Augusta Condominiums (collectively the "Fort Augusta Owners"), and the Developer, pertaining to (A) the use by the unit owners of Schooner Bay Condominium and the Unit Owners of Ft. Augusta Condominiums of the road running across Parcel 1 to the southeast of the building designated "America", and providing access between Fort Augusta Condominiums and the public road to the west of Plot 52-A, (B) the sharing by the Schooner Bay Condominium Association and the Association of Apartment Owners of Ft. Augusta Condominiums of the cost of maintaining said road, and (C) related issues.

~~(iv) The Pool Agreement dated _____, 1987 between the Developer and the Ft. Augusta Owners, pertaining to (A) the temporary use of the swimming pool in Ft. Augusta Condominiums by the unit owners of Schooner Bay Condominium, (B) the sharing by the Schooner Bay Condominium Association and the Association of Apartment Owners of Ft. Augusta Condominiums of the cost of maintaining said swimming pool, and (C) related issues.~~

(e) Condominium Plat. Condominium plat means and includes the plat prepared by D. A. Williams, Architect, entitled "Condominium Plat of Schooner Bay Condominium", dated February 4, 1987, recorded in the Office of the Recorder of Deeds for the District of St. Croix as Document No. attached, and comprised of the following three (3) sheets: Sheet 1 (Site Plan - Stage 1); Sheet 2 (Floor Plans - Stage 1), and Sheet 3 (Survey Map of Estate Mount Welcome, showing Schooner Bay development area).

(f) Unit or Condominium Unit.

(i) With respect to Stage 1 of the condominium, unit or condominium unit means and includes the three dimensional area lying, vertically, (A) between the top surface of the concrete slab under the first floor of the building and the bottom surface of the concrete slab above the first floor of the building, with respect to first floor units, or (B) between the top surface of the concrete slab under the second floor of the building and the horizontal plane formed by the bottom edges of the horizontal wood or metal roof truss chords (also known as thrust beams) above each portion of such unit, with respect to second floor units, except that where (near the front and rear walls of those portions of the building not having a loft level) the diagonal rafters extend below the horizontal plane formed by

the bottom edges of the horizontal roof truss chords, the vertical boundary of the unit shall consist of the diagonal plane formed by the bottom edges of the diagonal rafters, it being understood that (1) the air space between each gypsum board drop ceiling and the horizontal roof truss chords or diagonal rafters from which such drop ceiling is suspended shall in all cases be deemed part of the unit, and (2) the gypsum board ceiling above each loft level and above the portion of the second floor behind each loft (on the inland side of the unit) is attached directly to the horizontal roof truss chords, rather than being suspended as a drop ceiling; and, horizontally, between the innermost surface (unit side) of the concrete masonry layer of each "boundary wall" of such unit, except that with respect to any boundary wall which does not contain a layer of concrete masonry, the horizontal boundary of such unit shall be the outermost (nonexposed) surface of the gypsum board component of such boundary wall, and except that with respect to all windows and doors furnishing access between such unit and the common elements, the horizontal boundary of such unit shall consist of the various innermost surfaces (unit side) of each such window or door; furthermore, such unit shall not include any bearing walls, columns or other facilities located within such unit but designated common elements under the provisions of Paragraph (g) of this Article I. The term "concrete slab" includes, without limitation, the concrete topping or concrete leveling coat, if any, applied upon the concrete slab. The term "boundary wall" means each exterior, partition or other wall presently enclosing such unit and separating or partitioning such unit from the exterior of the building, from another unit, or from any walkway, stairway, gallery or other common element, as shown on the condominium plat. The mention of any concrete masonry wall in this subparagraph is designed to refer to the unfinished and unpainted surface of the wall, so that any paint, paper or other finish on the masonry wall is part of the unit. All thru-the-wall air conditioners located within the exterior walls enclosing the unit shall be deemed part of the unit.

(ii) The term "unit" or "condominium unit" also means and includes each portion of any subsequent stage that the Developer may designate as a unit in the Declaration amendment adding such subsequent stage to the condominium.

(g) Common Element(s).

(i) Common element(s) means and includes all the property except the units. Said common elements include particularly, but not by way of limitation, the following:
 (A) the land, and all yards, lawns, gardens, plantings, walkways, and parking and driveway areas thereon or appurtenant thereto;
 (B) all foundations, pilings, columns, girders, beams, planks, slabs, roofs, partitions, supports, and other structural elements or improvements of the buildings, including all exterior walls and partition walls, all bearing walls and columns located within a unit, all windows, doors and doorways furnishing access between a

unit and the common elements, including the casings, seals, glass and screens of such windows and doors, and the concrete slab under the loft level, if any, of each unit; (C) all exterior walkways, communication ways, stairs, stairways, and all entrances and exits to and from the buildings; (D) all central and appurtenant installations for utilities and services, including power, light, electricity, telephone, water, sewerage, ventilation, and plumbing, together with all pipes, lines, ducts, wires, cables, conduits, cisterns, fixtures, facilities, equipment and installations used in connection with the foregoing, including those located within a condominium unit for the service of two or more units or for the service of a unit other than the one in which located; (E) easements running (1) between the gypsum board drop ceiling of each unit and the upper vertical boundary of such unit above such drop ceiling, and (2) between the gypsum board drop ceiling under each loft and the bottom surface of the concrete slab under such loft; (F) all tanks, pumps, generators, motors, fans, controls, devices, installations, machinery, equipment, apparatus, and facilities required or deemed advisable for use in operation of the condominium project or for the care and maintenance of the land or buildings; (G) the gallery or galleries serving each unit; (H) the vestibule located at the entrance to each unit; and (I) all other parts of the property necessary or convenient to the maintenance, care, safety and operation of the condominium project or to the use of the property by the unit owners in common. Common elements are "common areas and facilities", as the latter term is used in the Condominium Act.

(ii) The term "general common elements" means and includes all of the common elements except the limited common elements. The general common elements include, without limitation, (A) the facility (on the ground floor of the building "America") shown and designated as the "Community Room" on Sheet 1 of the condominium plat, which facility may be used as a meeting room and as a staging area for the provision of housekeeping services to the units, and/or for such other purposes as the board of directors may designate from time to time, and (B) the facility shown and designated as the "Hospitality Pavilion" on Sheet 1 of the condominium plat, which facility may be used as an office for the management and maintenance of the condominium, and/or for such other purposes as the board of directors may designate from time to time.

(iii) The term "limited common elements" means and includes only those common elements (such as (A) the windows, doors, doorways, gates and gateways furnishing access between each unit and the common elements, (B) the vestibule at the entrance to each unit, the stairway landing adjacent to said vestibule, and the stairway running from said landing to the land on the inland side of said unit, (C) the gallery or galleries serving each unit, and (D) certain water lines and electrical wires that exist for the exclusive use of each unit) which are identified herein as reserved for the exclusive use of one or more, but less than all,

of the unit owners. Limited common elements are "limited common areas and facilities", as the latter term is used in the Condominium Act.

(h) Developer. Developer means and includes only Antilles Investment Corporation, its successors, and any assignee to whom the Developer specifically assigns in writing its rights as Developer under this Declaration.

(i) Unit Owner. Unit owner means any person, firm, corporation, trust or other legal entity, or any combination thereof, holding legal title to a condominium unit, and, without regard to the number or gender thereof, is referred to by the singular pronoun of the masculine gender. However, no mortgagee, as such, shall be deemed a unit owner. If more than one person, firm, corporation, trustee or other legal entity, or any combination thereof, holds the legal title to any one unit, whether in a real property tenancy, partnership relationship, or otherwise, all of same shall be deemed a single unit owner and a single member of the council of unit owners by virtue of ownership of such unit. If any single membership in the council of unit owners is comprised of two or more persons, firms, corporations, trustees or other legal entities, or any combination thereof, then each constituent may cast such portion of the vote of the member as the several constituents may mutually determine, provided, however, that in the absence of such a determination, (i) each constituent may cast such portion of the vote of the member as shall equal his, her or its proportionate interest in the unit or units held by the member, and (ii) if only one votes, he, she or it may cast the entire vote of the member and such act shall bind all. In no event may such constituents cast, in the aggregate, more than the number of votes appurtenant to the units owned by the member. Each unit owner is an "apartment owner", as the latter term is used in the Condominium Act.

(j) Council of Unit Owners. Council of unit owners means the unincorporated legal entity that is comprised of all unit owners, and is charged with the government and administration of the affairs of the condominium. The council of unit owners shall be known as the "Schooner Bay Condominium Association", and is sometimes referred to as the "association" in this Declaration and the By-laws. The council of unit owners is an "Association of Apartment Owners", as the latter term is used in the Condominium Act.

(k) Percentage Interest Factor. Percentage interest factor means and refers to the proportionate interest of each unit owner in the common elements and in the common profits and common expenses, expressed as a percentage, the percentage interest in the common elements and the percentage interest in the common profits and common expenses being identical. The particular percentage interest factor of each unit owner, referred to in this Declaration as "such unit owner's percentage interest factor", or

"his percentage interest factor", equals the percentage interest factor of the unit owned by the unit owner, as specified in Article III hereof.

(l) Mortgage, Mortgagee, Eligible Mortgagee and Construction Mortgagee.

(i) Mortgage shall mean and include a mortgage, deed of trust and other conveyance in the nature of a mortgage.

(ii) Mortgagee shall mean and include the holder of any recorded mortgage, the beneficiary of any recorded deed of trust, or the grantee (including personal representatives, successors and assigns of such grantee) named in any recorded conveyance in the nature of a mortgage, encumbering one or more units.

(iii) Eligible mortgagee shall mean and include each mortgagee who (A) holds a first mortgage on a unit and (B) is eligible to receive the notices and information provided by Section 2(a) of Article XVII of the By-laws.

(iv) Construction mortgagee shall mean and include the holder of any recorded mortgage, the beneficiary of any recorded deed of trust, or the grantee (including personal representatives, successors and assigns of such grantee) named in any recorded conveyance in the nature of a mortgage (A) encumbering (1) all or any portion of the Schooner Bay development area, and/or (2) one or more units, and (B) securing one or more loans to the Developer (whether or not the recreation association also assumes liability thereon) for the express purpose, so stated in the loan documents, of financing the construction upon any portion of the Schooner Bay development area of (1) residential improvements which may be or have been placed within the condominium, and/or (2) recreational improvements which may be or have been conveyed by the Developer to the recreation association.

(m) Common Expense or Common Expenses. Common expense or common expenses means and includes the expenses of the council of unit owners, including particularly, but not by way of limitation, the following: the cost and expense of administration, operation, care, maintenance, repair or replacement of the common elements; payment into a reserve or repair and replacement fund established for the foregoing; premiums on any policy of insurance, indemnity or bond required to be procured or maintained under the Declaration or By-laws, or deemed necessary or advisable by the council of unit owners or board of directors; compensation for accountants, attorneys, engineers, financial experts, superintendents, managers, and such other employees and agents as may be deemed necessary or advisable for the operation of the condominium project; all other costs and expenses declared to be a common expense by any provision of the

Condominium Act, Declaration, or By-laws, or by the council of unit owners or board of directors; and all sums properly assessed against the unit owners by the council of unit owners or board of directors.

(n) Manager. Manager means and includes the person, firm or corporation from time to time employed by the council of unit owners or the board of directors to administer or supervise the condominium project. If there be no person, firm or corporation employed by the council of unit owners or board of directors to administer or supervise the project, then the board of directors shall be deemed the manager. However, if there be no board of directors elected by the unit owners, then the council of unit owners shall be deemed the manager. Manager is referred to in this Declaration, without regard to the number or sex thereof, or of those comprising same, by the singular pronoun of the neuter gender.

(o) Declaration and By-laws. Declaration means and refers to this Declaration, as same may, from time to time, be amended; and By-laws means and refers to the By-laws annexed to this Declaration, as said By-laws may, from time to time, be amended.

(p) Majority of the Unit Owners. Majority of the unit owners means unit owners holding more than fifty percent (50%) of the votes appurtenant to all units in the condominium.

(q) Majority of the Unit Owners Present and Voting. Majority of the unit owners present and voting means unit owners casting more than fifty percent (50%) of the votes cast on any matter by unit owners present, in person or by proxy, at a meeting of the council of unit owners.

(r) Stage 1 Of The Condominium, Stage 1 Property, Stage 1. Stage 1 of the condominium, Stage 1 property or Stage 1 means and includes Parcel 1 and the buildings located thereon, together with all structures, fixtures and other improvements erected thereon or therein, and all rights, ways, easements, privileges and appurtenances thereunto belonging, or in anywise appertaining.

(s) Developer Control Period. Developer control period means and includes the period beginning at the creation of the condominium and ending on the earlier of (i) sixty (60) months after the first conveyance by the Developer of legal title (excluding legal title granted as security for a loan) to any unit to any person or entity not affiliated with the Developer, or (ii) three (3) months after the Developer has conveyed to persons or entities not affiliated with the Developer legal title (excluding legal title granted as security for a loan) to units constituting at least seventy-five percent (75%) of the maximum number of units permitted in the condominium pursuant to

Article VIII. The maximum number of units permitted in the condominium shall initially equal ninety-four (94), but if all of the land in Parcel 2 is added to the condominium in one or more subsequent stages, and the subsequent stage(s) so added contain less than sixty-eight (68) units in the aggregate, then, following the addition of the last such subsequent stage, the maximum number of units permitted in the condominium shall be deemed to equal the sum of twenty-six (26) plus the number of units actually added to the condominium in the subsequent stage(s).

(t) Schooner Bay Development Area. Schooner Bay development area means and includes the area consisting of Parcel 1, the 1st Recreational Parcel (as hereinafter defined), and Parcel 2 (as hereinafter defined).

(u) Subsequent Stage. Subsequent stage means and includes each stage hereafter added to the condominium pursuant to Article VIII hereof.

(v) Tract. Tract means and includes each parcel or lot, or group of parcels or lots (within the Schooner Bay development area) as to which any particular owner or group of owners holds legal title (other than as security for a loan). All land located within the condominium from time to time shall be deemed a single tract, in that such land is owned in common by all unit owners.

(w) Recreation Association. Recreation association means Schooner Bay Recreation Association, Inc., and its successors and assigns.

(x) Recreational Parcel.

(i) Recreational parcel means and includes those two plots of ground, located on the island of St. Croix in the U.S. Virgin Islands, and more particularly described as follows:

Beginning for the first plot at the southeast corner of Plot 64-A of Estate Mount Welcome, proceed in a north-easterly direction on a bearing N 11°29' E, 38.00 feet; thence N 11°29' E, 18.00 feet; thence N 15°26'39" W, 70.75 feet; thence S 71°14'31" W, 60.00 feet; thence S 10°45'29" E, 114.00 feet; thence N 79°14'31" E, 44.00 feet, to the point of beginning; containing 0.1602 acres, more or less, being the plot shown and designated as "Plot 64-AA" on Sheet 1 of the condominium plat.

Beginning for the second plot at a point at the beginning of the first line of Plot 64-AA of Estate Mount Welcome, proceed in a south-westerly direction on a bearing S

79°14'31" W, 44.00 feet; thence S 10°45'29" E, 5.78 feet, thence S 78°31' E, 38.54 feet; thence N 11°29' E, 22.00 feet to the point of beginning; containing 0.0126 acres, more or less, being the plot shown and designated as "Plot 64-C" on Sheet 1 of the condominium plat.

Plots 64-AA and 64-C are herein collectively called the "1st Recreational Parcel".

(ii) The term "Recreational Parcel" also means and includes each portion, if any, of Parcel 2 that the Developer hereafter conveys to the recreation association.

(y) Recreational Facilities Declaration. Recreational facilities declaration shall mean the Declaration of Covenants, Conditions and Restrictions executed by the Developer, dated February 13, 1987, and recorded in the Office of the Recorder of Deeds for St. Croix as Document No. 634/87.

ARTICLE II

CREATION OF CONDOMINIUM REGIME

(a) The Developer hereby subjects the Stage 1 property to the regime established by the Condominium Act and establishes a condominium regime therefor to be known as "Schooner Bay Condominium" to the end and intent that: in each unit owner shall vest the exclusive fee simple ownership of his unit and, as set forth in Article IV hereof, an undivided fee simple interest in the common elements, and each condominium unit, together with the undivided interest in the common elements appurtenant thereto, may be purchased, leased, optioned or otherwise acquired, held, developed, improved, mortgaged, sold, exchanged, rented, conveyed, devised, inherited, or in any manner encumbered, dealt with, disposed of, or transferred as fee simple real estate, all as fully, and to the same extent, as though each unit were entirely independent of all other units and of the building in which such unit is located and constituted a single, independent, fee simple, improved lot or parcel of ground.

(b) A condominium unit may be held or owned by more than one person, firm or corporation, as joint tenants, tenants in common, or in any other real property tenancy relationship recognized under the laws of the U.S. Virgin Islands, including, in the case of husband and wife, tenants by the entirety.

ARTICLE III

CONDOMINIUM UNITS

(a) The Stage 1 property is hereby subdivided into a total of twenty-six (26) condominium units. Each unit shall be

designated by the unit number specified for it on the condominium plat, as follows:

Units 100 through 113, inclusive; and
Units 201 through 213, inclusive.

Each such unit number is an "apartment number", as the latter term is used in the Condominium Act.

(b) The owner of each unit shall own an undivided percentage interest in the common elements and a percentage interest in the common profits and common expenses of the council of unit owners. The percentage interest factor appurtenant to each of the units, identical for the percentage interest in the common elements and the percentage interest in the common profits and common expenses, is the proportion (calculated as a percentage) which the designated value of the unit bears to the total designated value of all units in the condominium. The designated value of each two-bedroom unit in each stage shall equal One Hundred Sixty-Five Thousand Dollars (\$165,000), and the designated value of each three-bedroom unit in each stage shall equal One Hundred Ninety-Eight Thousand Dollars (\$198,000). The number of bedrooms contained within each unit shall be conclusively determined in accordance with the condominium plat, notwithstanding the actual uses of the rooms contained within such unit. The designated value of each unit shall always equal the designated value stated herein, regardless of (i) the current difference, if any, between the unit's designated value and its actual fair market value, and (ii) future changes in the unit's actual fair market value. Furthermore, the designated values set forth above shall apply to units in all stages, even though differences in design, location and other factors affecting actual fair market value may occur between units in Stage 1, on the one hand, and units in the subsequent stage(s), on the other hand. Each percentage calculated by means of the above-specified formula shall be rounded to the nearest one ten-thousandth of one percent (0.0001%), except that the resulting percentage interest factors of one or more units shall be adjusted upwards or downwards by one ten-thousandth of one percent (0.0001%) in order to cause the total percentage interest factor of all units to equal one hundred percent (100.0000%). (Such adjustments, if necessary while the condominium consists only of Stage 1, are already reflected in the table of percentage interest factors set forth below. The Developer reserves the right to make such adjustments again if and when each subsequent stage is added to the condominium.) The number of bedrooms in each unit in Stage 1 is set forth on Sheet 2 of the condominium plat. While the condominium consists only of Stage 1, the number of bedrooms, designated value and percentage interest factor appurtenant to each unit in Stage 1 shall be as follows:

<u>Unit Number</u>	<u>Number of Bedrooms</u>	<u>Designated Value</u>	<u>Percentage Interest Factor (%)</u>
101	2	\$165,000	3.7037
102	2	\$165,000	3.7037
103	2	\$165,000	3.7037
104	2	\$165,000	3.7037
105	2	\$165,000	3.7037
106	2	\$165,000	3.7037
107	2	\$165,000	3.7037
108	2	\$165,000	3.7037
109	2	\$165,000	3.7037
110	2	\$165,000	3.7037
111	2	\$165,000	3.7037
112	2	\$165,000	3.7037
113	2	\$165,000	3.7037
201	3	\$198,000	4.4444
202	2	\$165,000	3.7037
203	3	\$198,000	4.4444
204	2	\$165,000	3.7037
205	2	\$165,000	3.7037
206	2	\$165,000	3.7037
207	2	\$165,000	3.7037
208	3	\$198,000	4.4445
209	3	\$198,000	4.4445
210	2	\$165,000	3.7037
211	2	\$165,000	3.7037
212	2	\$165,000	3.7037
213	3	\$198,000	4.4445
Total		\$4,455,000	100.0000

The percentage interest factor of each unit hereafter added to the condominium as part of a subsequent stage, and the revised percentage interest factor of each unit contained in the condominium immediately prior to the addition of such subsequent stage, shall be set forth in the Declaration amendment adding such subsequent stage to the condominium.

(c) The number of votes at meetings of the council of unit owners appurtenant to each unit contained in the condominium from time to time shall equal the product resulting from the multiplication of the percentage interest factor then appurtenant to such unit times one hundred (100). The total number of votes allocated among all unit owners shall always equal ten thousand (10,000).

(d) Neither the percentage interest factor nor voting rights shall be separated from the unit to which they appertain. Accordingly, any instrument, matter, circumstance, action, occurrence, or proceeding in any manner affecting a condominium

unit shall also affect, in like manner, the percentage interest factor and voting rights appurtenant to the unit. Except as otherwise provided in Article VIII hereof with respect to the expansion of the condominium by the Developer, in Paragraph (c) of Article X hereof with respect to a failure to rebuild a unit following a casualty, or in Paragraph (e) of Article X hereof with respect to a condemnation of part of the condominium, neither the percentage interest factor nor the voting rights appurtenant to any unit shall be changed without the written consent of all the unit owners and mortgagees. Any change in such percentage interests or voting rights shall be evidenced by an amendment to this Declaration recorded among the Land Records of St. Croix.

(e) Each condominium unit is a freehold estate. No condominium unit shall be subdivided into two or more units, nor shall any part of a unit be sold, leased, mortgaged, rented, conveyed, devised, or in any manner encumbered, disposed of or transferred; and each condominium unit shall forever contain the minimum area shown therefor on the aforesaid condominium plat. Further, the conveyance or other disposition of a condominium unit by any unit owner shall be deemed to include and convey the entire undivided interest of the unit owner in the common elements, general and limited, together with all rights and easements appertaining to his unit, without specific or particular reference to such undivided interest in the common elements or the appurtenances to the condominium unit. Following the dissolution (if any) of the recreation association, the recreation association's Remaining Assets (as defined in the recreational facilities declaration) shall be conveyed to the unit owners to be held by them as tenants in common, and thenceforth the rights appurtenant to, and automatically running with, each unit shall include, among other things, an undivided percentage interest in the Remaining Assets equal to the unit owner's percentage interest in the common elements.

ARTICLE IV

COMMON ELEMENTS AND COMMON EXPENSES

(a) The fee simple title to the common elements is vested in the unit owners, each unit owner having the proportionate undivided interest therein equal to his percentage interest factor. No percentage interest in the common elements shall be separated from the unit to which such percentage interest appertains. Further, the common elements shall remain undivided, and, except as provided in Section 915 or 925 (or any successor section) of the Act, no unit owner or group of unit owners, or anyone claiming by, through or under him or them, shall bring any action for the partition or division of the co-ownership of the common elements. Except as otherwise expressly provided in Article V hereof, each unit owner may use the common elements for the purposes for which intended, without, however, hindering or