

# ARTICLES OF INCORPORATION

FOR

WINDSOR MEWS OWNERS ASSOCIATION, INC.

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## ARTICLES OF INCORPORATION

FOR

WINDSOR MEWS OWNERS ASSOCIATION, INC.

### ARTICLE 1

#### NAME

The name of this corporation is Windsor Mews Owners Association, Inc., which is hereby incorporated as a nonstock corporation pursuant to Chapter 10 of Title 13.1 of the Code of Virginia (1950), as amended ("Act"). The duration of the corporation is perpetual.

### ARTICLE 2

#### INTERPRETIVE PROVISIONS

Section 2.1. Definitions. Terms used herein without definition shall have the meanings specified for such terms in Section 13.1-803 of the Act. Capitalized terms used herein or in the Bylaws shall have the meanings specified for such terms below.

(1) "Approval of Secondary Mortgage Agencies or Mortgagees" means: (i) written approval; (ii) any written waiver of approval rights; (iii) a formal letter stating no objection; or (iv) presumptive approval if a Secondary Mortgage Agency or Mortgagee does not respond to a notice by certified or registered United States mail, return receipt requested, within thirty days after the date the request for approval is transmitted in accordance with the notice requirements of Article 11 of the Bylaws and Sections 13.2 and 14.4 of the Declaration.

(2) "Articles of Incorporation" means these Articles of Incorporation filed with the Virginia State Corporation Commission, as amended from time to time.

(3) "Assessments" means the sums levied against the Lots to pay Common Expenses as provided in Article 6 of the Declaration. Assessments include Annual Assessments, Additional Assessments and Individual Assessments and Special Assessments (levied pursuant to Section 55-514 of the POA Act).

(4) "Association" means the corporation formed by these Articles and, with respect to the rights and obligations of the Association set forth in the Declaration, its successors and assigns.

(5) "Association Documents" means collectively these Articles of Incorporation, the Declaration, Supplementary Declarations and the Bylaws, all as amended from time to time.

Any exhibit, schedule, certification or amendment to an Association Document is an integral part of that document.

(6) "Board of Directors" or "Board" means the executive and administrative entity established by Article 5 of these Articles of Incorporation as the governing body of the Association.

(7) "Builder" means a Person who purchases a portion of the Submitted Land for the purpose of constructing improvements for resale or rental.

(8) "Bylaws" means the Bylaws of the Association, as amended from time to time.

(9) "Common Area" means, at any given time, all of the Property then owned by the Association and available to the Association for the benefit, use and enjoyment of the Owners.

(10) "Common Expenses" means all expenditures made by or on behalf of the Association, together with all funds determined by the Board of Directors to be reasonably necessary for the creation and maintenance of reserves pursuant to the provisions of the Association Documents. Except when the context clearly requires otherwise, any reference to Common Expenses includes Limited Common Expenses. "Limited Common Expenses" means all expenditures made by or on behalf of the Association and benefiting one or more but less than all of the Owners and assessed against the Lots owned by the Owners benefited pursuant to Subsection 6.2(a)(2) of the Declaration.

(11) "Covenants Committee" means the committee established by Article 9 of the Declaration to assure that the Property will be maintained in a manner consistent with the purposes and intents of the Declaration.

(12) "Declarant" means Trafalgar House Property, Inc., a Delaware corporation. Following recordation of an instrument assigning to another Person all or some of the rights reserved to the Declarant under the Association Documents pursuant to Section 5.2 of the Declaration, the term "Declarant" shall mean or include that assignee.

(13) "Declarant Control Period" means the period ending on the earliest of: (i) the seventh anniversary of the date of recordation of the Declaration; (ii) the date the number of votes of the Class A members other than Builders equals the number of votes of the Class B member; or (iii) the date specified by the Declarant in a written notice to the Association that the Declarant Control Period is to terminate on that date.

(14) "Declaration" means the Declaration for Windsor Mews made by the Declarant and recorded among the Land Records. The

term Declaration shall include all amendments thereto and, except when the context clearly requires otherwise, all Supplementary Declarations. "Supplementary Declaration" means any declaration: (i) submitting land to the terms of the Declaration and subjecting such land to the jurisdiction of the Association, whether or not such Supplementary Declaration contains additional provisions reflecting the unique characteristics of the land being submitted; or (ii) submitting a portion of the Property to such supplementary covenants in accordance with the provisions of Article 4 of the Declaration. A Supplementary Declaration may be part of a deed of subdivision.

(15) "Development Period" means the period of time that the Declarant or Builders are engaged in development or sales or activities relating thereto, anywhere on the Property and the Declarant is entitled to exercise certain special declarant rights under the Association Documents. When all the Submitted Land has been conveyed to Owners other than the Declarant or a Builder, and all bonds held by a governmental agency with respect to the Property have been released; then the Development Period shall end.

(16) "Land Records" means the land records of Fairfax County, Virginia, the jurisdiction in which the Property is located.

(17) "Lot" means a portion of the Property which is a separate subdivided lot of record or any other parcel of Submitted Land held in separate ownership (but not including the land designated as Common Area and owned by the Association or dedicated for public street purposes) together with any improvements now or hereafter appurtenant thereto.

(18) "Majority Vote" means a simple majority (more than fifty percent) of the votes entitled to be cast by members present in person or by proxy at a duly held meeting of the members at which a quorum is present. Any vote of a specified percentage of members means that percentage with respect to the total number of votes actually cast by members present in person or by proxy at a duly held meeting at which a quorum is present. Any vote by a specified percentage of the Board of Directors (or committee) means that percentage with respect to votes entitled to be cast by directors (or committee members) present at a duly held meeting of the Board of Directors (or committee) at which a quorum is present. Any vote of or approval by a specified percentage of the Mortgagees means a vote or approval (whether actual or presumed) by the Mortgagees calculated based on one vote for each Lot on which a Mortgage is held by a Mortgagee.

(19) "Mortgagee" means an institutional lender (one or more commercial or savings banks, savings and loan associations, trust companies, credit unions, industrial loan associations, insurance



companies, pension funds or business trusts, including but not limited to real estate investment trusts, any other lender regularly engaged in financing the purchase, construction or improvement of real estate, or any assignee of loans made by such lender, or any combination of any of the foregoing entities) holding a first mortgage or first deed of trust ("Mortgage") encumbering a Lot which has notified the Board of Directors of its status in writing pursuant to Section 13.2 of the Declaration and has requested all rights under the Association Documents. Only for purposes of the notice and inspection rights in Articles 13, 14 and 15 of the Declaration, the term "Mortgagee" shall also include the Federal Housing Administration (FHA), the Federal Home Loan Mortgage Corporation (FHLMC), the Federal National Mortgage Association (FNMA), the Department of Veterans Affairs (VA), the Government National Mortgage Association (GNMA) and any other public or private secondary mortgage market entity participating in purchasing, guarantying or insuring Mortgages which has notified the Board of Directors of such participation in writing ("Secondary Mortgage Agencies").

(20) "Officer" means any Person holding office pursuant to Article 6 of the Bylaws.

(21) "Owner" means one or more Persons who own a Lot in fee simple, but does not mean a Person having an interest in a Lot solely by virtue of a contract or as security for an obligation.

(22) "Person" means a natural person, corporation, partnership, association, trust or other entity capable of holding title or any combination thereof.

(23) "Property" means, at any given time, the Submitted Land together with all improvements and appurtenances thereto now or hereafter existing.

(24) "Rules and Regulations" means the rules and regulations governing the use, occupancy, operation and physical appearance of the Property adopted from time to time by the Board of Directors.

(25) "Submitted Land" means the land designated as such in Exhibit A to the Declaration and all land which is from time to time submitted to the Declaration.

(26) "Upkeep" means care, inspection, maintenance, operation, repair, repainting, remodeling, restoration, improvement, renovation, alteration, replacement and reconstruction.

## Section 2.2. Construction of Association Documents.

(a) Captions. The captions are inserted only for reference, and in no way define, limit or describe the scope of any provision.

(b) Pronouns. The use of the masculine gender shall be deemed to include the feminine and neuter genders, and the use of the singular shall be deemed to include the plural and vice versa, whenever the context so requires.

(c) Severability. Each provision of an Association Document is severable from every other provision, and the invalidity of any one or more provisions shall not change the meaning of or otherwise affect any other provision. To the extent that any provision of the Association Documents is found to be overly broad or unenforceable and a narrower or partially enforceable construction may be given to such provision, then the narrower or partially enforceable construction shall be applied and, to the extent practicable, the provision shall be enforced.

(d) Interpretation. If there is any conflict among the Association Documents, the Declaration, and thereafter the applicable Supplementary Declaration shall control, except as to matters of compliance with the Act, in which case the Articles of Incorporation shall control. Particular provisions shall control general provisions, except that a construction consistent with the Act shall in all cases control over any construction inconsistent therewith. The provisions of the Bylaws shall control over any conflicting provision of any rule, regulation or other resolution adopted pursuant to any of the Association Documents. The Association Documents shall be construed together and shall be deemed to incorporate one another in full. Any requirements as to the content of one shall be deemed satisfied if the deficiency can be cured by reference to any of the others.

### ARTICLE 3

#### PURPOSES AND LIMITATIONS

The Association does not contemplate pecuniary gain or profit to its members. No part of any net earnings shall be paid to any director, Officer or member, and as such they will have no interest in or any title to any of the property or assets of the Association except in accordance with the provision herein relating to dissolution. Nothing shall prohibit the Association from reimbursing its directors and Officers for services performed or for all reasonable expenses incurred in performing services for the Association. The purposes for which the Association is organized are to:

(1) provide for the Upkeep of the Common Area and, to the extent provided in the Association Documents, of the Lots;

(2) establish and administer the architectural, landscaping and maintenance standards governing the Property;

(3) promote and provide for the health, safety, convenience, comfort and the general welfare of the Owners of the Lots and the occupants of the Property;

(4) impose, collect and disburse dues and Assessments in accordance with the provisions of the Declaration;

(5) exercise all other powers and perform all duties and obligations of the Association as set forth in the Association Documents with respect to all or any portion of the Property; and

(6) exercise the powers now or hereafter conferred by law on Virginia corporations as may be necessary or desirable to accomplish the purposes set forth above.

#### ARTICLE 4

##### MEMBERSHIP AND VOTING

Section 4.1. Membership. Members of the Association shall at all times be, and be limited to, the Declarant (during the Development Period) and the Persons who constitute Owners of the Lots. If more than one Person owns a Lot, then all of the Persons who own such Lot shall collectively constitute one Owner and be one member of the Association. Each such Person is entitled to attend all meetings of the Association. Membership in the Association is mandatory and automatic.

##### Section 4.2. Classes of Members; Voting Rights.

(a) Classes; Voting Rights. The Association shall have the following classes of members:

The Class A members shall be the Owners of Lots other than the Declarant. A Class A member shall have one vote for each Lot owned.

The Class B member shall be the Declarant. The Class B member shall have 195 votes less the number of votes held by the Class A members other than Builders when a vote is taken.

After the Declarant Control Period expires, the Declarant as the Class B member shall be entitled to one vote for each Lot owned by the Declarant. After the Development Period ends, the Class B membership shall cease to exist.

(b) Additional Provisions Governing Voting. Additional provisions governing voting rights and procedures shall be as set forth in Article 3 of the Bylaws.

Section 4.3. Required Vote. A Majority Vote of the members shall be necessary for the adoption of any matter voted upon, except as otherwise provided herein. The Bylaws shall be amended only in accordance with the terms thereof. The Association is also bound by the requirements set forth in the Declaration and shall not take any action in violation thereof. Voting shall not be conducted by class, unless specifically stated otherwise.

Section 4.4. Cumulative Voting. There shall be no cumulative voting.

## ARTICLE 5

### BOARD OF DIRECTORS

Section 5.1. Initial Directors. The three initial directors of the Association are Douglas W. Macleod, Mark D. Simms and Stephen D. Palmer whose business addresses are: c/o Trafalgar House Property, Inc., 8300 Greensboro Drive, Suite 200, McLean, Virginia 22102. The initial directors shall serve until their successors are elected in accordance with Section 5.2 hereof. The Declarant shall be entitled to remove and replace the initial directors at will.

### Section 5.2. Election of Directors and Term of Office.

(a) Declarant-Controlled Board of Directors. The initial Board of Directors consists of three Persons; thereafter, the number of directors may be increased to not more than five directors pursuant to this section and Section 4.2 of the Bylaws. Except as provided in this section, all directors shall be elected by the Class B member who shall elect, remove and replace such directors at will, and designate the terms thereof, until the meeting described in Subsection 5.2(b) at which all members with voting rights are entitled to elect a majority of the directors. The term of office of at least one but less than three of the directors elected by the Class B member at the first election of directors shall expire at the third annual meeting following their election, the term of office of at least one but less than three of the directors shall expire at the second annual meeting and the term of office of at least one but less than three of the directors shall expire at the first annual meeting following their election. The actual number of directors whose term of office expires at each of the three annual meetings described in the preceding sentence shall be one-third (or a number as near to one-third as possible) of the total number of directors. Thereafter, each director shall serve for a three-year term. If the aggregate number of directors is changed,



terms shall be established so that one-third (or a number as near to one-third as possible) of the total number of directors is elected each year.

(b) Owner-Controlled Board of Directors. At the first annual meeting of the Association following the end of the Declarant Control Period or at any special meeting called by the Class B member to transfer control of the Board of Directors, the number of directors may be increased to five and the number of directors elected by the Class B member shall resign, if necessary, so that a majority of directors shall have been elected by the Class A members. At such meeting and at every annual meeting thereafter during the Development Period, three members of the Board of Directors whose terms have expired or who have resigned shall be replaced by a vote of the Class A members and two members shall be elected by the Class B member. After the Development Period expires, all directors shall be elected by the Class A members.

Persons elected shall serve for the remainder of the terms of the directors replaced, or if no resignation was required, for the terms of office necessary so that the term of office of one-third (or a number as near to one-third as possible) of the directors shall expire at the first three annual meetings after their election. The directors receiving the greatest vote shall be elected for the longest available terms. All successor directors shall be elected to serve for staggered terms of three years unless elected to fill a vacancy in which case such director shall serve as provided in Section 5.6 hereof. Except for death, resignation or removal, the directors shall hold office until their respective successors shall have been elected. If an election is not held when required, the directors holding over shall have the authority and power to manage the business of the Association until their successors are duly elected.

### Section 5.3. Qualifications; Election Procedures.

(a) Qualifications. No person shall be eligible for election as a member of the Board of Directors unless such person is an Owner, an Owner's spouse, the Declarant (or a designee of the Declarant) or a Mortgagee in possession (or a designee of a Mortgagee in possession). No Owner or representative of such Owner shall be elected as a director or continue to serve as a director if such Owner is more than sixty days delinquent in meeting financial obligations to the Association.

(b) Nominations. Persons qualified to be directors may be nominated for election only by a nominating petition submitted to the Secretary at least twenty-five days before the meeting at which the election is to be held. The nominating petition must be signed by three other Owners and either signed

by the nominee or accompanied by a document signed by the nominee indicating the willingness to serve as a director; provided, however, that additional nominations may be made from the floor at the meeting at which the election is held for each vacancy on the Board of Directors for which no more than one Person has been nominated by petition. The nominee must either be present and consent to the nomination or have indicated in writing the willingness to serve. Notwithstanding any other provision of this section, during the Declarant Control Period, the Board of Directors may waive or modify any requirements under this section.

(c) Elections Committee. At least forty-five days prior to each meeting of the Association at which the directors are elected by members other than the Class B member, the Board of Directors shall appoint an Elections Committee consisting of a member of the Board whose term is not then expiring and at least two other persons who are not members of the Board. The Elections Committee shall develop election procedures and administer such procedures as are approved by the Board providing for election of directors by ballot of the members at annual meetings and, where appropriate, special meetings.

(d) Declarant Control Period. The Declarant may waive the foregoing procedures during the period of time that the Declarant has the right to elect all the directors.

Section 5.4. Action by Board of Directors. At all meetings of the Board of Directors a majority of the total number of directors shall constitute a quorum for the transaction of business and a Majority Vote of the directors while a quorum is present shall constitute a decision of the Board of Directors, unless otherwise provided in the Act, these Articles of Incorporation or the Bylaws. Except pursuant to Section 2.2 of the Declaration, the Board of Directors may not mortgage, pledge or dedicate to the repayment of indebtedness or otherwise transfer, convey or encumber any or all of the Association property without the approval of the members and Mortgagees as required by Section 14.4 of the Declaration.

Section 5.5. Removal or Resignation of Directors. Except with respect to initial directors and directors elected by the Class B member and replacements thereof, at any regular or special meeting of the Association duly called, any one or more of the directors may be removed with or without cause by members entitled to cast a majority of the total number of votes and a successor may then and there be elected to fill the vacancy thus created. Any director whose removal has been proposed by the members shall be given at least ten days notice of the time, place and purpose of the meeting and shall be given an opportunity to be heard at the meeting. The notice given to members of such meeting shall state that one of the purposes of

the meeting is to remove such director. The Class B member may remove and replace any initial director or any director elected or a replacement thereof at will, pursuant to Section 5.2 hereof. A director may resign at any time by giving notice to the Board of Directors, the President or the Secretary. Unless otherwise specified, such resignation shall take effect upon the receipt thereof and the acceptance of such resignation shall not be necessary to make it effective. Except for initial directors and directors elected by the Class B member or replacements thereof, a director shall be deemed to have resigned upon disposition by the Owner of the Lot which made such person eligible to be a director, or if such director is not in attendance at three consecutive regular meetings of the Board without approval for such absence, and the minutes reflect the director's resignation pursuant to this section. No director need be a resident of the Property, but beginning at such time as the directors are elected by all members (rather than elected solely by the Class B member) and at all times thereafter, if any director was a resident when elected, except for a director elected by the Class B Member, such director shall be deemed to have resigned when such director ceases to be such a resident.

Section 5.6. Vacancies. Vacancies on the Board of Directors caused by any reason other than: (1) the removal of a director by the members or by the Class B member or (2) resignation of a director elected by the Class B member shall be filled by a Majority Vote of the remaining directors at the meeting of the Board held for such purpose promptly after the occurrence of such vacancy or, if the directors remaining in office do not constitute a quorum, an affirmative vote of a majority of the directors remaining in office. Each person so elected shall be a director until a successor shall be elected at the next annual meeting of the Association. Vacancies caused by removal of a director by the members shall be filled by a vote of the members, pursuant to Sections 4.2 and 5.5 hereof, and the successor director shall serve the remainder of the term of the director being replaced. The Class B member shall replace any initial director or director elected solely by the Class B member.

## ARTICLE 6

### INITIAL REGISTERED OFFICE AND AGENT

The initial registered office of agent for the Association is located in the County of Fairfax at 8300 Greensboro Drive, Suite 200, McLean, Virginia 22102, at which office the initial registered agent of the Association is Stephen D. Palmer, who meets the requirements of Section 13.1-833 of the Act by reason of the fact that he is a resident of Virginia and a member of the Board of Directors whose business address is identical with that of the registered office.

## ARTICLE 7

### AMENDMENT

These Articles may be amended if the amendment is adopted by members entitled to cast at least sixty-seven percent of the total number of votes. No amendment to these Articles may diminish or impair the rights of the Declarant without the prior written consent of the Declarant. The Association shall take no action to amend the Articles of Incorporation in violation of Section 14.4 of the Declaration.

## ARTICLE 8

### DISSOLUTION

The Association may be dissolved if the resolution to dissolve is adopted by members entitled to cast at least sixty-seven percent of the total number of votes of each class of the members. Further, the Association may not be dissolved without the prior written approval of the Declarant during the Development Period. Upon termination of the Declaration and the dissolution of the Association other than incident to a merger or consolidation, the assets of the Association shall be granted, conveyed and assigned to another nonprofit corporation, association, trust or other organization or governmental agency devoted to purposes similar to those for which the Association was created or offered for dedication to Fairfax County, Virginia; provided, however, that if a site plan is approved for the Property, or any portion thereof containing Common Area, which changes the design, layout or use of the Property in such a manner that the Common Area is no longer necessary to the new design, layout or use, and the County refuses to accept a dedication then such Common Area and other associated assets of the Association may be distributed as agreed upon by Owners entitled to cast at least sixty-seven percent of the total number of votes of the members. The Association shall take no action to dissolve the Association or transfer Common Area except in accordance with Section 14.4 of the Declaration. This Article



may not be amended without the prior written approval of Fifty-one Percent of the Mortgagees.

IN WITNESS WHEREOF, the incorporator of the Association has signed these Articles of Incorporation on AN 3 1995 1994. *dm*

*Douglas W. Maden*  
Incorporator