

**AMENDED AND RESTATED DECLARATION
OF
WHISPERING SANDS CONDOMINIUM**

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**CERTIFICATE OF ADOPTION OF THE
Amended and Restated Declaration and Bylaws**

of

WHISPERING SANDS CONDOMINIUM ASSOCIATION

Old Orchard Beach, Maine

The undersigned officers of the **WHISPERING SANDS CONDOMINIUM ASSOCIATION**, a Maine nonprofit corporation (the "Association") being the association of Unit Owners for the **WHISPERING SANDS CONDOMINIUM**, (the "Condominium") located in the Town of Old Orchard Beach, County of York and State of Maine originally established under a Declaration dated June 14, 1988 and recorded in the York County Registry of Deeds in Book 4735, Page 153, as amended of record (collectively the "Original Declaration") hereby certify that this **AMENDED AND RESTATED DECLARATION OF WHISPERING SANDS CONDOMINIUM** and accompanying **AMENDED AND RESTATED BYLAWS** set forth below were duly adopted by the Unit Owners by a sixty-seven percent (67%) or greater in interest vote effective as of _____, 2024 pursuant to the Maine Condominium Act, chapter 31 of Title 33 of the Maine Revised Statutes of 1964, as amended ("Condominium Act"), and the Maine Nonprofit Corporation Act, Title 13-B of the Maine Revised Statutes, there being no Eligible Mortgage Holders, and that copies of this Amended and Restated Declaration and Bylaws have been sent to all Unit Owners.

**ARTICLE 1
DECLARATION OF CONDOMINIUM PROPERTY**

§1.1 The Condominium Property. The Condominium Property consists of the land located in the Town of Old Orchard Beach, County of York and State of Maine described in **Exhibit A** with the buildings and improvements located thereon and subject to and together with all easements, rights, covenants, privileges and appurtenances thereto (collectively the "Property"), which shall be governed by the Maine Condominium Act in accordance with this Declaration. This Declaration further ratifies the establishment of the condominium as defined in Section 1601-103(7) of the Condominium Act ("Condominium") known as Whispering Sands Condominium previously established under the Maine Condominium Act. The name of the Unit Owners association is the Whispering Sands Condominium Association, a Maine nonprofit corporation (the "Association").

The Condominium consists of the Property, including forty-two (42) Units, located within 8 buildings, all as shown on the recorded plat. See **Exhibit B**.

Additionally, there is a common element clubhouse, pool, and tennis court.

§1.2 Applicability. This Declaration governs the Property. All present and future owners, occupants and tenants, their guests, licensees, invitees, employees, agents, and any other person entering on the Property shall be subject to this Declaration, the Bylaws of the Association and the Rules and Regulations of the Association, all of which shall be deemed to be covenants running with the land, and shall bind any person having at any time any interest in or entering upon the Property.

§1.3 Defined Terms. Capitalized terms not otherwise defined in this Declaration, the Plat and Plans, the Bylaws and the Rules and Regulations shall have the meanings specified in the Condominium Act.

§1.4 Interpretation. In the event of any conflict or discrepancy between this Declaration, the Plat and Plans, the Bylaws, and the Rules and Regulations, the foregoing documents shall control in accordance with the order of priority in which they are listed. If any provision of this Declaration, the Plat and Plans, the Bylaws or the Rules and Regulations conflicts with any applicable laws, including, but not limited to, the Condominium Act, then the Condominium Act shall be deemed controlling. In the event of any such conflict, the validity of the remainder of this Declaration, the Plat and Plans, the Bylaws and Rules and Regulations, and the application of any such provision, section, clause, phrase, or word in other circumstances shall not be affected thereby.

ARTICLE 2 DESCRIPTION OF PROPERTY

§2.1 Description of the Property – Recorded Plat. A legal description of the Property included in the Condominium is set forth in **Exhibit A**.

The location and dimensions of the Property included in the Condominium are depicted on the Condominium Plat, which is shown on a plat entitled “Whispering Sands, A Condominium,” Old Orchard Beach, Maine recorded in the York County Registry of Deeds in Condo File 351, Sheets 1-3 (collectively, the “Plat”). See **Exhibit B-1**.

§2.2 Location and Dimensions of Buildings and Units – Recorded Floor Plans. The term "Building" means any building erected on the Property containing one or more Units, as well as other improvements comprising a part of a building or intended to be used for purposes incidental to the use of a building.

The location and dimensions of the Buildings and other improvements erected on the Property, including Common Elements, are shown on the Floor Plans of Whispering Sands Condominium which are prepared by Robert Knight Architect, LTD and are recorded in the York County Registry of Deeds in Condo File 351, Sheets 4-10 (collectively the "Plans"). See **Exhibit B-2**.

§2.3 Recorded Plat and Plans. The Plat and Plans are recorded in said Registry of Deeds and are incorporated by reference herein. See **Exhibit B-1** & **Exhibit B-2**.

§2.4 Condominium Documents. "Condominium Documents" means this Declaration, the Plat, the Plans, the Bylaws of the Association, and the Rules and Regulations heretofore or hereafter

adopted by the Board of Directors, and any amendments to any of the foregoing adopted from time to time.

ARTICLE 3 CONDOMINIUM UNITS

§3.1 Units. The forty-two (42) Units identified and known as Units 1-42 have been created and the Allocated Interests of each Unit, as well as the identifying number and type, are set forth in **Exhibit C**. No additional Units will be created. Each Unit's identifying designation, the locations and dimensions of each Unit, the Common Elements to which the Unit has direct access, and any other information necessary to identify the Unit are shown on the Plat and Plans.

§3.2 General Description of the Units. "Unit" means a part of the Property designated for separate ownership or occupancy which has a direct exit to the Limited Common Elements and/or Common Elements. The identification designation and approximate area of each Unit are shown on the Plat and Plans of the Property. Any internal room configuration shown on the Plans is illustrative only, and is not binding on an owner except that the structural support of the Building must be preserved.

A. The boundaries of each Unit are generally shown on the Condominium Plat and Plans, and each Unit generally includes the following items:

(1) *General Horizontal Boundaries:* The general upper and lower horizontal boundaries of each Unit are generally the following boundaries extended to an intersection with the vertical (perimeter) boundaries:

- (a) Upper Horizontal Boundaries: The upper horizontal Unit boundaries are the horizontal or sloping plane or planes of the unfinished lower surfaces of the ceiling bearing structure surfaces, beams, joists, or rafters; and
- (b) Lower Horizontal Boundaries: The lower Unit boundaries are the horizontal plane(s) of the top surface of the undecorated subflooring of the Unit.

(2) *Vertical (Perimetric) Boundaries:* The vertical boundaries of each Unit shall be the vertical planes defined by the inner surfaces of the studs and framing of the perimeter walls; the unfinished surfaces of the interior trim, fireplaces, and thresholds along perimeter walls and floors; the unfinished interior surfaces of closed windows and closed perimeter doors; and the innermost unfinished planes of all interior bearing studs and framing of bearing walls, columns, bearing partitions, and partition walls between separate Units, extended to the intersections with each other and with the upper and lower Unit boundaries.

B. *Interior Finishes.* The Unit shall include all wallboard, plasterboard, drywall, plaster, paneling, lath, furring, tiles, wallpaper, paint, carpeting, finished flooring, paint, varnish, stain, tile, window and door trim, and any other materials constituting any part of the finished surfaces thereon located within or on the boundaries of the Unit.

C. *Interior and other Unit Components and Spaces.* Except for those interior partitions identified as limited common elements pursuant to Section 4.2 below, all other spaces, interior partitions, interior stairways, and other fixtures and improvements within the boundaries of a Unit are a part of the Unit together with the specific Unit components identified in this Declaration.

D. *Relocation and Subdivision.* Relocation of boundaries between Units is permitted by amendment to the Declaration in compliance with the provisions of the Condominium Act. Subject to applicable provisions of this Declaration and the Bylaws and of law and environmental and land-use ordinances and regulations, the subdivision of Units horizontally or vertically and relocation of horizontal or vertical boundaries between Units will be permitted at the expense of the Unit Owners of the Unit or Units to be so subdivided and the boundaries of which are to be so relocated, subject to compliance with the provisions therefor stated in Section 1602-113 and Section 1602-112 of the Act.

§3.3 Specific Components of the Units. The following building components are considered to be part of the Units:

- (i) Finish flooring, floor coverings, carpeting, tile, wall and ceiling coverings (including paint wallpaper, and tile), lath, furring, wallboard, plaster, paneling, moldings, and any other materials constituting any part of the finished surfaces thereof are a part of the Unit;
- (ii) Except for those interior partitions identified as limited common elements pursuant to Section 4.2 below, all spaces, interior partitions and other fixtures and improvements within the boundaries of a Unit are a part of the Unit;
- (iii) All electrical switches, wiring, conduits, smoke detector system and television, telephone and electrical receptacles and light fixtures and boxes serving that Unit exclusively, the surface of the foregoing being the boundaries of such Unit, whether or not the spaces are contiguous;
- (iv) Any chimney, stove or wood burning stove installed in the Unit by Declarant and the portions of the flue, piping, chimney apparatus and duct serving the stove, wood burning stove or chimney located entirely within the Unit boundaries.
- (v) Plumbing, kitchen and bathroom pipes, lines and fixtures, the heating and ventilating equipment, fans, ducts, vents, controls and air intakes, hot water heaters and apparatus, kitchen appliances and cabinets, air conditioning systems if any, and components thereof serving only a single Unit, if any, even if located outside of a Unit's general boundaries and whether or not the spaces are contiguous.

A Unit generally does not include the exterior walls, balconies, patios, decks and porches, the roof, joists, studs, rafters, and other structural components of load-bearing walls, thermal insulation, foundation walls and footings, land, and any pipes, wires, conduits, meters, flues, ducts, or other utility lines running through a Unit which serve more than one Unit or which serve the Common Elements or which serve another Unit.

Each Unit and the Common Elements shall have an easement for lateral and subjacent support from every other Unit and the Common Elements, and shall have the benefit of the

easement for encroachments established under Section 1602-114 of the Condominium Act. In addition, each Unit Owner has an unrestricted, perpetual right of ingress and egress to his or her Unit across the Common Elements, which automatically transfers with a transfer of title to the Unit. Any conveyance, encumbrance, judicial sale, or other transfer (whether voluntary or involuntary) of an interest in the Common Elements shall be void unless the Unit to which that Common Element interest is allocated is also transferred.

Any internal room configuration shown on the Plans is illustrative only, and is not binding on an owner except that the structural support of the Building must be preserved

Responsibilities for the maintenance of the Unit and Common Elements are governed by Article 7 below.

§3.4 Allocated Interests. The term "Allocated Interests" means the Common Element Interest, the Common Expense Liability, and the voting rights in the Association allocated to each Unit pursuant to this Declaration. The term "Common Element Interest" means the percentage of undivided interest in the Common Elements appurtenant to each Unit. The term "Common Expense Liability" means the allocation to each Unit of the respective liability for Common Expenses and is generally a percentage equal to the Common Element Interest appurtenant to a Unit. Each Unit is allocated a portion of the vote of the Association equal to such Unit's Common Element Interest and Common Expense Liability. The Common Element Interest, Common Expense Liability and voting rights of each Unit are allocated among all Units as set forth in Exhibit C, which shall prevail in any event.

The Association shall have the express power to separately assess "Service Charges" against a Unit and the Owner thereof for services rendered by the Association to or for the benefit of that Unit and to assess and allocate "Limited Common Expenses" as set forth below.

§3.5 Interior Unit Alterations and Improvements. Subject to this Declaration, the Bylaws and the Rules and Regulations of the Association as amended from time to time, a Unit Owner may make nonstructural improvements and alterations within the interior of the Unit.

However, no Unit Owner may make any improvements or alterations or do any work whatsoever which would impair the structural integrity or mechanical systems, the walls separating Units, or the life safety systems of a Building, lessen the support of any portion of the Condominium, or jeopardize the soundness or safety of the Property.

No Unit Owner shall make any structural addition, alteration, or improvement in or to his or her Unit without the prior written consent thereto of the Board of Directors. The consent of the Board of Directors shall not be unreasonably withheld so long as such addition, alteration or improvement shall be in keeping with the integrity of the Condominium and shall not adversely affect the structural or mechanical systems of the Unit as certified by a licensed architect or engineer, retained by the Unit Owner at his or her cost. The Board of Directors, in its discretion, may retain its own licensed architect or engineer, at the expense of the Unit Owner applying for such permission, to review the application and advise the Board of Directors. Any application to any department or to any other governmental authority for a permit to make such an addition, alteration or improvement shall be at the Unit Owner's expense.

No Unit Owner shall alter any of the Common Elements or paint or otherwise change the appearance of the Common Elements (including without limitation the Limited Common Elements) or paint or otherwise change the exterior appearance of the Unit or any Building (including, but not limited to, the exterior surfaces of doors or windows) or any other portion of the Condominium, without the prior written approval of the Board of Directors. All exterior improvements and improvements to Limited Common Elements, including without limitation any patio/deck/porch areas and any other Limited Common Elements are subject to Board approval and compliance with Section 4.4 below.

ARTICLE 4 COMMON ELEMENTS, LIMITED COMMON ELEMENTS

§4.1 Common Elements. The term "Common Elements" means the entire Property other than the Units, and includes:

- i. The land together with the benefit of and subject to the rights and easements described in **Exhibit A** and the parking areas, walkways and paths, lawns, landscaping, trees, vegetation, and any privately owned water, sewer and utility improvements;
- ii. The clubhouse, exercise room, tennis courts and pool.
- iii. The foundations, floor slab, subfloors, concrete floors, structural, load bearing wall studs, framing, joists, rafters, roof, exterior walls, exterior steps, decks, patios, and all structural and load bearing portions of the buildings;
- iv. The utility lines, pipes, wires, electrical and transmission wires and conduits, any life safety systems including permanent hard wired smoke and carbon monoxide detectors, sprinklers, distribution pipes, storm water retention systems, and water and sewer utility lines, which serve more than one Unit or the Common Elements (excepting lines and equipment owned by public and municipal utilities or which form portions of the Unit as defined above);
- v. All the Limited Common Elements as identified below; and
- vi. All other parts of the Property necessary or convenient to its existence, maintenance, and safety or normally in common use, except as otherwise expressly provided in this Declaration.

§4.2 Limited Common Elements. The term "Limited Common Elements" means those portions of the Common Elements where the exclusive use is reserved to one or more, but fewer than all, of the Units in accordance with this Declaration. The following portions of the Property serving a single Unit, but located outside that Unit's boundaries are each allocated as a Limited Common Element to the Unit which it serves:

- i. Any functional decks, arbors and outside storage areas, patios and outside storage areas adjacent to the Unit as shown on the Plats and Plans;
- ii. Any parking spaces designated by the Unit's identifying number as depicted on the Plats and Plans, and any mail boxes designed by the Unit's identifying number;

- iii. Doors leading from Units to porches, balconies, decks or patios, and their related frames, sills and hardware;
- iv. Doors leading from the Unit to the Common Elements and any associated door paneling, frames, glass-ware, buck, trim, sills and hardware including lock and chime assembly, hinges and closure.
- v. Any shutters, awnings, window boxes, doorsteps, and stoops which are not part of the Unit but which are adjacent to and serve only such Unit;
- vi. Windows and any skylights, except for the interior surfaces thereof;
- vii. The portion of the flue, piping, chimney apparatus and duct serving any stove, wood burning stove or chimney identified as part of the Unit pursuant to Section 3.3 above but located outside of the boundaries of the Unit;
- viii. Subject to the provisions of Section 3.3 above, if any chute, flue, duct, wire, conduit, bearing wall, bearing column, stairway, or any other fixture lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving only the Unit is a Limited Common Element allocated solely to that Unit, and any portion thereof serving more than one Unit or any portion of the Common Elements is a part of the Common Elements; and
- ix. The portions of the Property shown on the Plat and Plans or as described as Limited Common Elements pursuant to Section 1602-102(2) and (4) of the Condominium Act.

In addition to the above Limited Common Elements assigned to a single Unit, the stairway in each Building leading from the first story to the second story and the hallways, landings, foyers and doors leading to and from those stairways, as depicted on the Plats and Plans, are Limited Common Elements allocated to the Units adjacent to such stairway, hallway, landing, foyer and door.

The allocation of Limited Common Elements may not be altered except in compliance with the Condominium Act, and with the written consent of the Owners and Mortgagees of record of the Units affected by the reallocation of Limited Common Elements.

Generally the Limited Common Elements shall be maintained and repaired as necessary by the Association as hereinafter set forth; except to the extent that the same are necessitated by the negligence, misuse, abuse or neglect of the Unit Owner, his agents, lessees or invitees, in which event such expense shall be charged to such Unit Owner individually and the Unit Owner shall be personally liable therefor. Limited Common Expenses may be charged to Unit Owners as set forth in Articles VI and VII and except as otherwise set forth in Article VII and Exhibit "D" hereto.

§4.3 Common Elements to Remain Undivided. The Common Element Interest of a Unit shall be inseparable from each Unit, and any conveyance, lease, devise or other disposition and any mortgage or other encumbrance of any Unit shall include the Common Element Interest,

whether or not expressly referred to in the instrument making such transfer. Except as set forth in Section 4.2 above, the Common Elements shall remain undivided and no action for partition or division of any party shall be permitted, unless otherwise provided by law and permitted by this Declaration.

§4.4 Improvements and Alterations Located Outside of a Unit. No Unit Owner shall alter any of the Common Elements or paint or otherwise change the appearance of the Common Elements (including without limitation the Limited Common Elements) or paint or otherwise change the exterior appearance of the Unit (including, but not limited to, the exterior surfaces of doors or windows abutting the Common Elements or a Limited Common Element) or any other portion of the Condominium, without the prior written approval of the Board of Directors of the Association.

If the record owner(s) of the subject Unit(s) affirmatively elect, upon application to and subject to the written approval of the Board of Directors of the Association in its sole discretion and based on each owner's compliance with the standards set forth hereinafter, with prior notice to any abutting Units, all of which may be evidenced by a recorded instrument duly executed and acknowledged setting forth the requirements itemized below and which shall automatically apply to all such improvements and alterations, then:

- (i) that portion of the Common Elements located between the boundary lines of adjoining Units or located between a Unit and an adjoining Limited Common Element (with the consent of any other Units sharing the same, if any), may be thereby subjected to an easement in favor of each such Unit respectively running to the midpoint of the space between each Unit or to the Limited Common Element for the removal and alteration of any intervening partition and the creation of apertures therein for passage back and forth between the two Units or to the Limited Common Element and construction of improvements on the Limited Common Element area;

subject to the following limitations and requirements, compliance with the following, and as specified and approved by the Board of Directors in their discretion prior to construction of new improvements:

- (a) The alterations and improvements shall be of first quality, permanent construction and shall be compatible with the architectural design of existing buildings and structures;
- (b) Each application shall include detailed plans prepared by a licensed architect or engineer of the proposed construction and a copy of any agreement between the Unit Owner and contractors for the proposed project;
- (c) Exterior alterations and improvements may be built only in the Limited Common Element locations or between the Unit and its allocated Limited Common Elements;
- (d) The Unit Owner shall preserve and maintain the structural integrity and architectural style, the mechanical and utility systems, and the support of all portions of the Property, shall construct such alterations and improvements in a good and workmanlike manner and strictly comply with all fire, building code and other governmental laws, ordinances

and requirements and shall provide the Board of Directors with plans and evidence that the proposed construction complies with such requirements prior to starting any work;

- (e) The Unit Owner shall be responsible for the construction of the alterations and improvements in accordance with the Plans, this Declaration, and the Bylaws and shall preserve and maintain the structural integrity and architectural style, the mechanical and utility systems, and the support of all portions of the Property; and shall strictly comply with all fire, building code and other governmental laws, ordinances and requirements;
- (f) The Unit Owner shall be solely responsible for any contractual obligations and charges incurred to any installers, workmen or suppliers, and shall advise said persons of Unit Owner's responsibilities;
- (g) The Unit Owner shall be responsible for arranging and shall provide the Association with evidence that all contractors have general liability and automobile insurance, and worker's compensation if applicable, in an amount satisfactory to and naming the Association as an additional insured;
- (h) The Unit Owner shall indemnify and hold the Association harmless from any mechanic's or materialman's liens and to perform all work hereunder at the sole cost and expense of Unit Owner in a good and workmanlike manner and so as to minimize any inconvenience to other Unit Owners;
- (i) Unit Owner shall pay such expenses as may be determined by the Association in reviewing any application under and enforcing this Section, including any expenses and legal costs incurred by the Association in correcting any defective work or in enforcing compliance with this Agreement;
- (j) Unit Owner shall indemnify and hold harmless the Association, its Board of Directors and officers, other Unit Owners, their guests, invitees and family members from any loss or damage which may be incurred on account of the installation of the alterations and improvements in violation of this Section even if not due to the negligence and fault of Owner, including reasonable attorney's fees and expenses; and
- (k) The Unit owner shall be fully responsible for costs of the maintenance, repair, and replacement of such alterations and improvements in good condition and repair at the Unit Owner's expense in a neat and attractive appearance, which maintenance, repair, and replacement may be conducted by the Association and charged to the Unit owner as a Limited Common Expense or Service Charge based on such methodology as the Board may approve.

The Board shall determine whether the abutting Unit Owners approve or disapprove of the proposed construction. The Board shall fully consider the position of the majority of abutting Unit Owners. However, the Board may approve or disapprove a particular application notwithstanding the majority's position based upon a full consideration of the application and the impact that the proposed construction will have upon the entire Property.

The Board may require a cash bond or other assurances of compliance with the foregoing standards. During construction the Unit Owner shall provide builder's risk insurance at the cost of the Owner and shall name the Association as an additional insured. Generally once completed the Association shall provide maintenance, repairs and replacement of the exterior of such improvements and the expenses thereof shall be governed by Articles 6 and 7, unless otherwise set forth in a separate recorded Agreement between the Owner and the Association which agreement shall control in the event of any conflict with this Section that cannot be otherwise resolved. Insurance on the improvements shall be governed by Article 10.

The Owners of the Unit, their successors and assigns, shall be strictly liable for any defective construction and any resulting damage for failure to comply with the foregoing standards, including without limitation subsequent rot and water damage to the Unit and other Common Elements. At all times after such election, each Unit Owner shall preserve and maintain the structural integrity and architectural style, the mechanical and utility systems, and the support of all portions of the Property, and shall strictly comply with all fire, building code and other governmental laws, ordinances, and requirements.

Notwithstanding any other provision of this Declaration, any improvements made at any time by current or prior Owner in any below grade areas are at the sole risk of the Owner; the Association shall have no responsibility for the insurance, maintenance and repair of such improvements or for mold, water intrusion or damage to such improvements.

Upon completion of construction of the improvements, the Unit Owner shall maintain the interior thereof at the Owner's expense and the cost of exterior maintenance and repairs incurred by the Association shall be assessed to the Unit Owner as a Limited Common Expense or Service Charge based on such methodology as the Board may approve in accordance with Article 6 of this Declaration, or as the maintenance responsibilities and allocation of costs therefore may be set forth in a separate recorded Agreement between the Owner and the Association which agreement shall control in the event of any conflict with this Section that cannot be otherwise resolved. Insurance and any incremental costs of insurance of the improvement shall be governed in accordance with Article 10.

Notwithstanding any other provision of this Section, no enclosed or roofed over improvements are permitted in the deck/balcony/patio Limited Common Element areas without the prior written consent of the Board in its sole discretion.

Any such Unit Owner or his or her respective heirs, mortgagees or assigns, may at any time revoke such election by instrument duly executed and acknowledged served on the other such owners and duly recorded, and thereafter may remove the improvements, seal up passageways and/or remove the stairs, doors and their frames, and/or install a permanent wall, floor, ceiling or other partitions, at all times preserving the structural integrity, the mechanical and utility systems and support of all portions of the Property. Nothing contained herein shall be deemed to merge or otherwise affect the separate identity, configuration or the boundaries of said Units.

ARTICLE 5 CONDOMINIUM ASSOCIATION

§5.1 The Association. The term "Association" means Whispering Sands Condominium Association, the association of the Unit Owners organized pursuant to Section 1603-101 of the Condominium Act as a nonprofit corporation under the Maine Non Profit Corporation Act. The membership of the Association at all times shall consist exclusively of all Unit Owners, or in the event of a termination of the Condominium as provided in the Condominium Act, of all former Unit Owners entitled to distributions of proceeds, or their heirs, successors, or assigns. Persons having an interest in a Unit solely as security for an obligation shall not be considered Members.

The Association shall have all the powers granted pursuant to its Bylaws, this Declaration, the Condominium Act, and the Maine Nonprofit Corporation Act.

Each Unit Owner shall automatically become a Member of the Association, which membership shall continue as long as she or he continues as a Unit Owner, and upon the termination of the interest in the Condominium, his or her membership and any interest in the assets of the Association shall be automatically transferred and inure to the next Unit Owner or Owners succeeding him or her in interest.

§5.2 Board of Directors Powers. The affairs of the Association shall be governed by a Board of Directors, the exact number and qualifications of which shall be established as set forth in the Bylaws of the Association. Except as otherwise provided in Section 1603-103(b) of the Condominium Act, or in this Declaration, the Board of Directors may act on behalf of the Association and shall have all of the powers necessary or appropriate for the administration of Association.

§5.3 Bylaws. The Amended and Restated Bylaws of the Association are attached hereto as **Exhibit E**.

§5.4 Rules and Regulations. The Board of Directors shall have the power from time to time to adopt, amend and enforce Rules and Regulations relative to the operation, use and occupancy of the Units and the Common Elements, consistent with the provisions of this Declaration, Bylaws and the Condominium Act including, but not limited to, the use of heaters and other appliances, the use and appearance of the Common Elements and Limited Common Elements and any portions of the Units which can be seen from outside the building or from any Common or Limited Common Elements, requirements for smoke and carbon monoxide detectors, mandatory water heater replacements, washing machine hoses, smoking and the use of tobacco on the Common Element areas, hours of use for any recreational areas, the appointment of such committees and the enactment and enforcement of such enforcement procedures and penalties for violations as the Board of Directors shall deem appropriate. Any such Rules and Regulations shall be adopted or amended, by means of appropriate resolutions duly approved by the Board of Directors. Notice of such Rules and Regulations and any amendment thereto shall be sent to each Owner or occupant of a Unit promptly after the adoption thereof, and they shall bind all Unit Owners, their heirs and assigns, any all tenants, invitees, guests and other persons entering upon the Property.

Any Rule and Regulation adopted by the Board of Directors may be amended or revoked and new Rules and Regulations may be adopted at a duly called meeting of the members of the Association by vote of a two-thirds (2/3) in percentage interest of all Unit Owners, which vote shall be binding on the Association and the Board of Directors.

ARTICLE 6 FINANCIAL MATTERS

§6.1 Common Expenses, Limited Common Expenses and Service Charges. The term “Common Expenses” include, but are not limited to, such costs and expenses established by the Condominium Act, by this Declaration, by the Bylaws, or by the Board of Directors in connection with the administration, operation, maintenance and repair of the Condominium and the Property, the supply of utility services, the establishment of reserves, and the rendering to Unit Owners of all related services, as assessments for Common Expenses, Limited Common Expenses, Special Assessments, and Service Charges and all amounts due to the Association.

The term "Limited Common Expenses" means the Common Expenses associated with the maintenance, repair or replacement of a Limited Common Element, which may be assessed against the Unit(s) to which the appurtenant Limited Common Element is assigned in proportion to the relative Common Expense Liabilities of such Unit(s), all as the Board of Directors may periodically establish and determine. If all Units have substantially similar Limited Common Elements, then the Board of Directors may determine that all Units shall pay such expenses in accordance with their liability for Common Expenses.

The term “Service Charges” shall mean any charges levied pursuant to Sections 1603-102(a)(10) and 1603-115(c)(2) or (c)(3) of the Condominium Act for services or common expenses benefiting fewer than all the Units, which may be assessed exclusively against the Unit or Units benefited in accordance with the use of such services or benefit received as permitted by Section 1603-115(c) and Section 1603-102(a)(10) of the Condominium Act, this Declaration and the Bylaws. The term “Service Charges” shall also include all items listed in Section 6.3 hereof.

All expenses for the administration, operation, maintenance and repair of the Condominium and the Property shall be borne by the Unit Owners by means of assessments as set forth herein and by all other persons liable in accordance with this Declaration.

§6.2 Allocation and Payment of Assessments for Common Expenses. The total amount of Common Expenses shall be assessed to the Units as follows.

(a) *General Common Expenses.* The Common Expenses that are not otherwise assessed as Limited Common Expenses or Service Charges shall be assessed against all the Units in proportion to the relative Common Expense Liabilities as set forth herein.

(b) *Limited Common Expenses.* If the Board of Directors determines that a Limited Common Expense uniquely and disproportionately benefits a single Unit or multiple Units in a manner which is not approximately in accordance with the general relative Common Expense Liabilities among all Units, then such Limited Common Expense may then be assessed solely against the benefited Unit(s) benefited in proportion to the relative Common Expense Liabilities of such Units as among themselves, all as the Board of Directors may periodically determine in its discretion. If a Limited

Common Expense only benefits a single Unit as the Board of Directors may periodically determine in its discretion from time to time, that Limited Common Expense may then be assessed solely against the Unit benefited.

(c) *Utility Expenses.* Any electricity, water, sewer serving the Common Elements and the expenses for the maintenance, repair, and replacement of these systems, if any, shall be assessed to each Unit as a Common Expense.

For electricity and fuel services, water and sewer serving each Unit if separately metered, each Unit Owner shall promptly pay the bills for such services consumed or used in his or her Unit. The expenses of water and sewer provided to each Unit if not separately metered shall be assessed as a Common Expense, subject of the option of the Association to sub-meter and then separately charge for water and sewer services and fuel centrally supplied to the Units as Service Charges. At the election of the Board of Directors, the expense of capital improvements, major repairs or renovations to the water and sewer supply systems and/or heating systems may be assessed either as a Common Expense or as a Service Charge.

(d) *Liens and Enforcement.* Each Unit is subject to a lien in favor of the Association for the unpaid Common Expenses, Limited Common Expenses, Special Assessments, Service Charges and penalties, fines, interest and costs of collection and enforcement including reasonable attorneys' fees, all as provided in the Condominium Act, Declaration, Bylaws and the Rules and Regulations.

(e) *Emergency Assessments.* Upon determining that emergency circumstances exist which requires an immediate assessment of the Unit Owners, the Board of Directors may, make an additional Common Expense assessment, not to exceed an amount equal to two (2) current months of regular Common Expense assessment for each Unit unless a greater amount is ratified by the Unit Owners in accordance with normal budget procedures, which shall be due and payable when delivered to the Unit Owners unless otherwise provided by the Board.

(f) *Special Assessments.* As further set forth in Section 6.4(C) of the Bylaws and with the approval of a majority in interest (more than 50%) of all Unit Owners, the Board may adopt a Special Assessment in order to fund or refinance the costs of restoration, renovations, repairs, and/or improvements to the Common Elements and related costs, or for other reasons, which shall be a lien on each Unit in accordance with its Allocated Interest and may be paid by the members of the Association either in a lump sum following the adoption of the special assessments or over time in installments over a period of months or years with interest at such rate and on such further terms and conditions as may be established by the Board of Directors and as further set forth in the Bylaws ("Special Assessments"). The Board may adopt Revised Assessments without a majority in interest vote pursuant to the procedure set forth in 6.4(A) of the Bylaws.

§6.3 Service Charges. The Association shall have the express power to separately assess a Unit and the owner thereof as a "Service Charge" for services rendered to that Unit or its Limited Common Elements or to improvements to the Common Elements made by a Unit Owner, whether previously or hereafter made. Such Service Charge assessments shall constitute a lien on the Unit with the same status as a lien for Common Expense Liability assessments under the Condominium Act, this Declaration and Bylaws, which lien for Service Charges may be foreclosed in like manner as

a mortgage on real estate. The recordation of this Declaration constitutes record notice of the lien. Service Charges shall include without limitation:

- (i) If a Unit Owner, members of his or her family, guests or tenants requests the Association or its agent to perform repair and maintenance work on his or her Unit or its Limited Common Elements, or damages the Common Elements or safety systems or fails to perform maintenance and repair work required, the expense thereof as determined by the Board of Directors or its designee may be assessed as a Service Charge;
- (ii) Fees, if any, which may be established by the Board of Directors for the use and maintenance of water, sewer, cable television, internet, natural gas, and/or other utility services and equipment, if not separately metered and billed by the public utility supplier, may be measured separately by such methods and systems established by the Board of Directors in their discretion. The expense of any utility charges for water and sewer services and of associated equipment maintenance and repair and reasonable reserve allowances, if not separately metered and billed by the public utility supplier, may also be calculated by the Board of Directors in their discretion and assessed monthly as a service charge to each Unit. For budgeting and working capital purposes, the Board of Directors may charge Unit Owners monthly in advance for such expenses based on its reasonable estimate thereof, subject, however, to such periodic reconciliation as the Board in its discretion may deem appropriate based on the measuring system adopted by the Board. At the election of the Board of Directors, the expense of capital improvements, major repairs or renovations to the water and sewer supply systems may be assessed either as a common expense or as a service charge;
- (iii) Increases in the Association's insurance premiums for permanent building improvements and betterments to Units or the Limited Common Elements installed by Unit Owners and insured at the request of a Unit Owner with the Association's hazard insurance carrier, as determined by the Board of Directors;
- (iv) Fees, if any, which are established by the Board of Directors for the use of the club house, pool or tennis court (the "Recreational Facilities");
- (v) Any common expense caused by the misconduct of a Unit Owner or such Unit Owner's family, guests, tenants, invitees, contractors, employees, agents, or pets, which may be assessed back to the responsible Unit Owner's Unit pursuant to Section 1603-115(e) of the Condominium Act; and
- (vi) Service charges as established pursuant to other provisions of this Declaration or the Bylaws.

§6.4 Borrowing and Pledge. The Board of Directors shall have the authority to borrow and to pledge, assign and grant a security interest covering all Association revenues and assets including Assessments for Common Expenses, Limited Common Expenses, Special Assessments, and Service Charges in order to raise funds for repairs, renovations, improvements and associated costs and expenses with respect to the Common Elements and related charges, subject to approval by a majority in interest vote of the Unit Owners as required by the Maine Condominium Act and the Association's Bylaws.

§6.5 Payment of and Lien for Assessments, Service Charges, Fines, Etc.

(a) Each Unit Owner shall pay to the Association or its designee the following amounts: (i) on the first day of each month or on such other date and intervals that the Board of Directors may determine, one-twelfth (1/12th) of the common charges for Common Expenses, Limited Common Expenses, and Service Charges, and provided that revised Common Expenses including revised Limited Common Expenses shall be paid over such intervals over the remainder of the fiscal year as determined by the Board and Special Assessments shall be paid in accordance with the terms of the approval of Special Assessments; (ii) all Special Assessments and any other sums duly levied against the Unit pursuant to this Declaration, the Bylaws, the Rules and Regulations or the Condominium Act which are assessed against Unit Owners; and (iii) fines, penalties and fees as provided by this Declaration, the Bylaws, the Rules and Regulations or the Condominium Act, all interest and late charges and legal fees and other costs of collection thereof.

Each member shall pay the foregoing amounts without setoff or deduction.

All amounts levied against each Unit for Common Expense assessments, Limited Common Expenses, Service Charges, any Special Assessments, other sums duly levied against the Unit pursuant to this Declaration, the Bylaws, the Rules and Regulations, or the Act, all interest and late charges, all legal fees and other costs of collection, enforcement and foreclosure thereof, and all fines, penalties and fees as provided in this Declaration or the Bylaws or the Rules and Regulations: (i) shall constitute the personal liability of the Owner of the Unit so assessed; and (ii) shall, until fully paid, constitute a lien against the Unit in favor of the Association as provided in Section 1603-116 of the Condominium Act.

Recording of the Declaration constitutes record notice and perfection of the lien for Common Expense assessments, Limited Common Expense assessments, Special Assessments, and Services Charges, other sums duly levied against the Unit Owners pursuant to this Declaration, the Bylaws, the Rules and Regulations, or the Act, including penalties, fines, late charges, interest and costs of collection, enforcement and foreclosure. The Association may record a notice from time to time stating the amount and nature of the lien signed by an officer or director of the Association or by an agent authorized by the Board of Directors but such recorded notice is not necessary to establish or perfect the lien. The lien is extinguished unless action to enforce the lien is started within six (6) years after the full amount becomes due if so limited by the Condominium Act, but the Unit Owner shall remain personally liable.

Such lien is prior to all other liens and encumbrances on a Unit except (a) liens and encumbrances recorded before the recordation of this Declaration, (b) to the extent required by the Maine Condominium Act, a first priority mortgage recorded before or after the date on which the assessment sought to be enforced becomes delinquent, and (c) statutory liens for real estate taxes and other governmental assessments or charges against the Units; provided, however, that such lien is not subject to the provisions of 14 M.R.S.A. Section 4651 and 18-A M.R.S.A. Section 2-201, et seq., as they or their equivalents may be amended or modified from time to time.

(b) If any Unit Owner shall fail or refuse to pay to the Association when due his or her share of the Common Expense assessments, Limited Common Expense assessments, Special Assessments, and Services Charges, user fees, fines or penalties, thereafter the amount thereof shall

bear interest at the rate of Eighteen percent (18%) per annum or such other rate as may be set by vote of the Board prior to the date on which the payment came due. Such amounts with such late charges in such amount as may be determined by the Board of Directors, interest and all costs of collection, including reasonable attorneys' fees, shall constitute a lien on the Unit. Unless otherwise determined by the Board, a late charge in the amount established by the Board under the Rules and Regulations as amended, which Rules and Regulations may provide for increasing late charges upon subsequent failures to pay, shall apply when any payment due to the Association is past due as provided in the Rules and Regulations, which late charge shall be immediately due and payable. If such late charges and Common Expenses, Limited Common Expenses, Special Assessments and Services Charges are not paid when they were due, then interest shall be charged on all past due amount calculated retroactively back to the date when originally due.

(c) If such payments are not received within sixty (60) days after they become due, the Board shall have the power to exercise and enforce any and all rights and remedies provided in the Maine Condominium Act, this Declaration or these Bylaws or otherwise available at law or in equity for the collection of all unpaid amounts and, if available, all possessory remedies against the delinquent owner's Unit under the Forcible Entry and Detainer Laws of Maine, as amended from time to time; in such event the Association may also suspend any right or privilege appurtenant to the Unit including without limitation parking (including in any Limited Common Element parking space) and voting rights and prohibit the other use of the Common Elements, including Recreational Facilities, but the Association may not deny a means of access to the Unit or withhold services provided to a Unit or a Unit Owner by the Association if the effect of withholding the service would be to endanger the health, safety or property of any person.

(d) In any action to foreclose the lien for Common Expense assessments, Limited Common Expense assessments, Special Assessments, and Services Charges, other sums duly levied against the Unit pursuant to this Declaration, the Bylaws, the Rules and Regulations, or the Act, late charges, penalties, interest, and costs of collection, foreclosure and enforcement including reasonable attorneys' fees, the Association may act through its manager or Board of Directors in the same manner as any mortgagee of real property. In any action brought by the Association to foreclose a lien on a unit because of unpaid common charges, the Owner shall be required to pay a reasonable rental for the use of his unit and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. The manager or Board of Directors acting on behalf of the Association shall have the power to bid and acquire such Unit at a foreclosure sale and to lease, mortgage, convey, or otherwise deal with the Unit. Suit to recover a money judgment for unpaid Common Expense assessments, Service Charges, Special Assessments, user fees, fines, penalties and all other amounts due to the Association, with interest and all costs and reasonable attorneys' fees, may be maintained without foreclosing upon or waiving the lien securing the same.

(e) If for any reason the Association revises its annual budget and as a result the Common Expenses or Limited Common Expenses are increased, then commencing on the next day assessments are due, each Unit Owner shall pay to the Association or its authorized representative such revised Common Expenses.

If any assessment is payable in installments, upon a default by such Unit Owner in the timely payment of any two (2) installments in any fiscal year, the maturity of the remaining total of the unpaid installments may be accelerated at the option of the Board of Directors, and the entire

balance of the assessment may be declared by the Board of Directors to then be due and payable in full.

(f) The liens for assessments described herein may be enforced and foreclosed by the Association in like manner as a mortgage on real estate as provided in the Condominium Act, or by any other means presently or hereafter provided by law or in equity. A suit to recover a money judgment for unpaid assessments, interest, fines, penalties, and costs of collection may be maintained against the Unit Owner personally without foreclosing or waiving the lien securing such assessments, and a foreclosure may be maintained notwithstanding the pendency of any suit to recover a money judgment.

§6.6 Liability/Resale Certificate. Multiple owners of a Unit shall each be jointly and severally liable for all Common Expenses, Limited Common Expenses, Special Assessments, Service Charges, interest, fees, penalties, and costs of collection. In the transfer of a Unit, the grantee(s) of such Unit shall be jointly and severally liable with the grantor for all unpaid Common Expenses, Limited Common Expenses assessments and Service Charges, penalties, fees, interest, and costs of collection outstanding at the time of the grantor's transfer. A grantee receiving a conveyance of a Unit shall not be prevented from exercising any right to recover from the grantor such amounts paid for those Common Expense assessments, Service Charges, etc. arising prior to the conveyance.

However, any Unit Owner may obtain a resale certificate from the Association setting forth the amount of the then outstanding past due unpaid Common Expenses, Special Assessments and Service Charges, late fees, interest and costs of collection against the Unit and such other items required by the Condominium Act, upon payment of such fee for the resale certificate as may be established from time to time by the Board of Directors. The Association has no obligation to subsequently update the information contained in such statement. A grantee who obtains such a resale certificate from a Unit Owner shall not be liable for, and the Unit conveyed shall not be subject to a lien for any unpaid amounts due from the grantor before the statement date in excess of the amount set forth in the statement as of its effective date except for other amounts, interest, late fees and costs of collection accruing or becoming due thereafter.

§6.7 Budget. Budgets and any amendments thereto shall be proposed and adopted as set forth in the Association's Bylaws. The Board of Directors shall have the power to expend funds and incur expenses out of the reserves even if not set forth in the budget.

ARTICLE 7 MAINTENANCE AND USE

§7.1 General Maintenance Responsibilities. The Units and Common Elements shall be generally maintained and repaired by each Unit Owner and the Association in accordance with the provisions of Sections 1603-107(a) and 1603-115 of the Condominium Act except as otherwise provided herein.

Attached hereto as **Exhibit D** is a Maintenance Chart that assigns the ordinary and customary responsibility for maintenance of various parts of the Condominium. Notwithstanding the ownership and boundary descriptions of various portions of the Common Elements and Units as set forth in this Declaration, the Units and Common Elements shall generally be maintained and

repaired by each Unit Owner and by the Association in accordance with the Act, this Declaration, and said Maintenance Chart.

Notwithstanding anything to the contrary, a Unit Owner is responsible for all damage to any other Units or to the Common Elements resulting from such Owner's failure or neglect to make any of the repairs required by this Article. Each Unit Owner shall perform his or her responsibility within such time frames as may be established by the Board of Directors and in such manner as shall not unreasonably disturb or interfere with the other Unit Owners. Each Unit Owner shall promptly report to the Board of Directors or the managing agent any defect or need for repairs for which the Association is responsible.

§7.2 Maintenance of Common Elements. Generally the Association shall be responsible for the maintenance, repair and replacement of the Common Elements, including but not limited to landscaping, lawn care, sewer, storm water and drainage system, snowplowing, interior pathways, roadways and parking areas that are Common Elements or Limited Common Elements, area lighting, trash pickup to the extent not provided by the municipality, and compliance with the sewer and drainage system maintenance obligations established by any governmental agency, all as determined by the Board of Directors. Each Unit Owner shall promptly notify the Association of any defects in the Common Elements (including the Limited Common Elements) that the Association is responsible for the maintenance and repair of. If such repair or replacement of the Common Elements shall be necessitated by the negligence, neglect, or misconduct of fewer than all of the Unit Owners, such cost may be assessed to the Unit Owners responsible as a Service Charge. Unit Owners shall be responsible for the costs of maintenance and repair of any improvements made under Section 3.5 and/or, to the extent provided by the Board, Section 4.4 in good condition and repair.

§7.3 Maintenance of Limited Common Elements & Reserved Common Elements. Generally the Association shall maintain, repair and replace the Limited Common Elements, all as determined by the Board of Directors; provided, however, the Unit Owner shall be responsible for the following maintenance, repair and replacement of Limited Common Elements:

- (a) The Unit Owner shall perform the normal maintenance for any Limited Common Element balcony or deck that is appurtenant to only such Owner's Unit, including keeping it in a clean and sanitary condition, free and clear of leaves, ice, snow and any accumulation of water;
- (b) Any Unit Owner permitted by the Board to use a reserved Common Element or a specific portion of the Common Elements for storage is responsible for the maintenance and care of such portion and shall use the same in a safe and sanitary manner; and
- (c) The Unit Owner shall provide for the maintenance, repair and replacement of individual windows, doors, and storm windows and doors serving the Unit, and all door and window components consisting of screens, locks, glass, slides, hinges, tracks, knobs, and hardware, in good condition and repair, together with the painting of the interior surfaces of the exterior windows and doors, and the ordinary washing and cleaning of interior and exterior surfaces of door and window glass. All such activities shall be subject to the Rules and Regulations including without limitation, restrictions on the brand and model of replacement windows (replacement windows must be of similar color, size, quality and style to the original windows, as determined by the Board in its discretion) and the qualifications of contractors providing such work. Provided, however, that the

Association may elect to provide any of the above services and assess the Units therefore as a Service Charge or as a part of the general Common Charges.

With the exception of all structural repairs and replacements of all Limited Common Elements other than windows and doors, the Association, at the discretion of the Board, may elect to assess the costs of maintenance, repair and replacement of the Limited Common Elements either as (i) a general common expense payable by all Units in the Association OR (ii) as a limited common expense to the Unit(s) so benefitted, all as may be determined from time to time by the Board of Directors. All structural repairs and replacements of all Limited Common Elements with the exception of windows and doors shall be assessed as a Common Expense to all Units. The Board shall have the authority to determine, in its discretion, whether a repair or replacement is structural.

Notwithstanding anything to the contrary, if the Board determines that any repair or replacement of the Limited Common Elements (including but not limited to structural repairs) shall be necessitated by the acts, omissions, negligence, neglect or misconduct of fewer than all of the Unit Owners, the costs thereof may be assessed to the Unit Owners responsible as a Service Charge, as determined by the Board of Directors.

§7.4 Maintenance, Repair and Replacement of Units and Exterior Lighting. Each Unit Owner shall keep, maintain, repair, and replace her or his Unit and its equipment, appliances and appurtenances in good order, condition, and repair and in a neat, attractive, clean, safe and sanitary condition in compliance with building and life safety codes, whether such maintenance and repair shall be structural or non-structural. Each Unit Owner shall maintain, repair and replace the exterior light bulbs which are controlled from inside the Unit, the door bells and vents and ducts which serve their Unit exclusively.

Each Unit Owner shall do all redecorating, painting, and varnishing of the Unit interior which at any time may be necessary to maintain the good appearance and condition of such Unit.

No Unit Owner shall deposit any trash, dirt, debris or other substance from the Unit onto the Common Elements or Limited Common Elements, except in designated trash disposal areas.

Only ordinary household waste in normal quantities shall be deposited into the sewage system. No person shall deposit baby wipes, hand wipes, feminine hygiene products, or similar materials into the sewage system, nor shall they pour any grease, paint, solvents, oil, or non-household chemicals other substances which may be identified in the Rules and Regulations into the sewage system or storm drains.

The Board of Directors may adopt Rules and Regulations requiring the Unit Owners periodically to: (i) replace water heaters and washing machine hoses; (ii) repair and maintain any dehumidifiers; (iii) have any chimneys, flues and fireplaces used during the year professionally cleaned; (iv) have dryer vents cleaned periodically, and (v) install and maintain temperature monitors, smoke-carbon monoxide detectors and other life safety devices. Unit Owners shall be strictly liable for any water damage to the Common Elements or to another Unit resulting from the failure of their water heaters, washing machine hoses and accessories.

Each Unit Owner shall be responsible for all damage to his or her Unit, to any other Units or to the Common Elements resulting from his or her failure or negligence to make any of the

repairs or replacements required by this Article. Each Unit Owner shall perform his or her responsibilities in such manner as shall not unreasonably disturb or interfere with the other Unit Owners. Each Unit Owner shall promptly report to the Board of Directors or the managing agent any defect or need for repairs for which the Association is responsible.

To the extent that any damage to a Unit is covered by the Association's insurance, the Unit Owner shall be responsible for (i) payment of any insurance deductible, if any (or such other amount established by the Rules and Regulations), with respect to the Unit, and (ii) for uninsured damage to his or her Unit or to any Common Element for which the Unit Owner is otherwise responsible due to the fault or negligence of the Unit Owner.

§7.5 Liability of Owner. Each Unit Owner shall be liable, and the Association shall have a lien against his or her Unit for, all costs of maintaining, repairing or replacing any portion of such Owner's Unit, any other Unit or of the Common Elements including Limited Common Elements to the extent that such costs are caused by or attributable to such Unit Owner's wrongful or negligent act, neglect, omission or carelessness or by that of such Unit Owner's guests, employees, agents, lessees, invitees, or their pets. The Association shall have the right to repair any damage so caused, to cure or correct the cause of the damage and to maintain or replace such damaged Unit or Common Element to the extent the Association deems necessary and appropriate all at the Unit Owner's expense. Such liability shall include any increase in insurance rates occasioned by uses, misuse, occupancy, or abandonment of any Unit or its appurtenances. Nothing herein contained, however, shall be construed to modify any waiver by insurance companies of rights of subrogation against such Unit Owner.

§7.6 Use and Occupancy Restrictions. Each Unit and its associated Limited Common Elements shall be occupied and used subject to the following restrictions:

(a) *Single Family Residential Use.* No Unit shall be used or occupied for any purpose other than a single family residence with only one complete set of housekeeping (i.e., cooking and sleeping) facilities, provided, however, that an occupant of a Unit may conduct business activities, incidental to the single family residential use, within the confines of such Unit so long as no signs are displayed, the Unit is not used for meeting with customers or third parties and there is no noticeable increase in deliveries, all except as otherwise permitted by the Board of Directors in its discretion.

(b) *Maximum Number of Unit Occupants.* The maximum number of residents in a Unit shall be limited to two (2) people per bedroom (as such bedrooms are depicted on the original Plat and Plans), provided that this maximum number may be exceed for brief visits to accommodate a reasonable number of guests, all as may be determined by the Board from time to time in the Rules and Regulations. Upon written application, the Board shall grant variances to this restriction to comply with provisions of the Fair Housing Amendments Act of 1988 or any amendments thereto.

(c) *Insurance.* No activities shall be carried on or materials used or kept in any Unit or any of the Common Elements that will increase the rate of insurance for the Property, or any part thereof, without the prior written consent of the Board of Directors. No Unit Owner shall permit anything to be done or kept in his or her Unit or in the Common Elements which will result in the cancellation of insurance on the property, or any part thereof, or which would be in violation of any law, regulation, or administrative ruling. No waste may be committed on or to the Common Elements.

(d) *Nuisance/Hazard/Illegal uses.* No Unit or Common Element shall be used so as to create a nuisance, hazard, or an unreasonable interference with the peaceful enjoyment of any other Unit or the Common Elements or to carry on any illegal activities.

No Unit Owner or occupant of any Unit shall carry on, or permit to be carried on, any practice which unreasonably interferes with the quiet enjoyment and proper use of another Unit or the Common Elements by the Unit Owner or occupant of any other Unit, or which creates or results in a hazard on the Property.

No immoral, improper, offensive, or unlawful use shall be made of the Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed.

(e) *Pets and Animals.* Ordinary household animals such as dogs, cats, fish, and small birds are permitted for Unit Owners and their temporary guests, not including renters. The Board of Directors may elect to allow or prohibit renters/tenants from keeping pets in accordance with the Rules and Regulations promulgated by the Board of Directors. The maintenance, keeping, boarding and/or raising of animals, including without limitation laboratory animals, livestock, poultry, or reptiles of any kind, regardless of number, is prohibited within any Unit or upon the Common Elements.

All pets are subject to such additional and more restrictive Rules and Regulations as established from time to time by the Board of Directors, and to local and state ordinance, statutes, and regulations. In any event all pets and animals shall not be kept for any commercial purposes and shall be restrained so as not to become noisome, bothersome or offensive to other persons, as determined by the Board of Directors. All residents must be in compliance with all municipal rules and ordinances relating to pets.

No dogs, cats or other pets shall be permitted outside of a Unit except on a leash attended by a responsible person or except in "off-leash" area(s), if any, which may be designed from time to time by the Board of Directors. Pet owners shall promptly clean up the droppings left by their pets which shall be disposed of in such manner as may be prescribed in Rules and Regulations.

The Association shall have the power to further regulate and restrict the keeping of pets and animals under Rules and Regulations of the Association as promulgated or amended from time to time.

In the event of repeated, significant violations of the Condominium Documents by a pet or animal that interferes with the safety and quiet enjoyment of the Property then upon notice to the Unit Owner and opportunity to be heard the Board of Directors may expel any offending pets and animals from the Property.

(f) *Fire Safety and Noise Control.* No person shall impair or remove or alter any of the acoustical, sound-deadening, or fire-resistant material or any smoke or carbon monoxide detector from the walls, floors or ceilings of a Unit or the surrounding Common Elements without obtaining the prior written permission of the Board of Directors and replacing the same with materials of equal or greater qualities, as is determined by the Board of Directors in its reasonable discretion.

The Unit Owner shall maintain sufficient carpeting, rugs or acoustical tilings on a minimum of eighty percent (80%) of the floor surfaces (except kitchens, closets and bathrooms) in his Unit located over another Unit to adequately reduce transmission of sound between Units, and shall notify the Board in writing and obtain written Board permission prior to removing any carpeting, acoustical tilings or other sound-deadening materials from any floors in such Owner's Unit that are located above another Unit. Additional washers, dryers and other major appliances may not be installed in a Unit without the prior written consent of the Board.

(g) *Trash.* Trash, garbage and other waste shall be kept only in sanitary containers and shall be disposed of in such manner as may be prescribed in Rules and Regulations established by the Board of Directors and in compliance with the requirements of the Town of Old Orchard Beach.

(h) *Personal Property.* No articles of personal property belonging to any Unit Owner shall be stored in any portion of the Common Elements except for outdoor furniture located on any deck or balcony that is a Limited Common Element of the Unit Owner, which shall be kept in a neat and attractive condition or as permitted by the Board of Directors pursuant to the Rules and Regulations.

(i) *Electrical.* No Unit Owner shall overload the electrical wiring in the Condominium. No Unit Owner shall operate any machinery, appliances, accessories or equipment in such a manner as to cause, in the judgment of the Board of Directors, as appropriate, an unreasonable disturbance or make any alterations, repairs or modifications to or connection with the electrical or plumbing systems without the prior written consent of the Board of Directors, as appropriate.

Additional major appliances including without limitation hot tubs, generators and permanently installed space heaters, heat pumps, and air conditioners may not be installed in a Unit or Limited Common Elements except with the prior written consent of the Board of Directors, which may also adopt Rules and Regulations regulating and requiring the periodic replacement of water heaters located in individual Units at the owner's expense.

(j) *Smoking.*

(i) Prohibition. Smoking shall be prohibited (i) within each Unit, (ii) within the Common Elements of the buildings, including without limitation the lobby, hallways, balconies, elevators, stairs, and recreational facilities, (iii) within 25 feet of any building's perimeter and common entrances, (iv) within any deck, patio, balcony or any other Limited Common Element adjacent or appurtenant to a condominium building; and (v) if so provided by the Rules and Regulations, such other portions of the Common Elements as may be designated from time to time as areas in which Smoking is prohibited.

No owner or any other person shall Smoke or permit Smoking by any occupant, agent, tenant, guest, friend, invitee, or family member in violation of this Section or the Rules and Regulations.

Provided however that notwithstanding the foregoing, the owner of a Unit and members of the owner's family who shared occupancy of a Unit as of July 5, 2018 may engage in Smoking within that Unit, so long as no portion of the resulting Smoke travels or passes outside the boundaries of that Unit into the building's Common Elements or into

another Unit, regardless of quantity or cause. These exemptions shall not apply to: (i) any person who purchased or occupies a Unit after July 5, 2018 unless such person had entered into a binding contract to purchase a Unit that was in effect prior to July 5, 2018; nor shall it apply to (ii) any Smoking in Common Element areas in which Smoking is prohibited by this Section or by the Rules and Regulations; nor to (iii) any Smoking by tenants; nor to (iv) any Smoking by guests or invitees who do not reside in the Unit.

(ii) Definition of Smoking. The term “Smoking” shall include carrying, burning, vaporizing, or otherwise handling or controlling any heated, lit or smoldering product containing (i) tobacco, cloves or similar products, or containing (ii) Cannabis products (also known as marijuana) or derivatives thereof. This prohibition shall include but not be limited to cigarettes, cigars, hookahs, vaporizers, pipes, and devices which simulate any of the foregoing, sometimes known as electronic nicotine delivery systems or “e-cigarettes”. The term “Smoke” shall include all the products and residue of Smoking.

(iii) Disposal of Smoking Products. All lighted and/or unlighted Smoking products shall be disposed of properly in the proper waste receptacles. They shall not be thrown from balcony or patio areas. Smoking products shall not be deposited on the Common Elements, including outdoor walkways, parking lots, drives, and lawn areas. Neither lighted nor unlighted tobacco products shall be left unattended in any manner. These provisions shall not be deemed to allow Smoking in any areas in which Smoking is otherwise prohibited.

(iv) Rules. The Board may adopt Rules and Regulations in order to (i) add additional areas of the Common Elements subject to the prohibition on Smoking and to (ii) implement or clarify the provisions of this Section.

(v) Enforcement. Any person complaining of a Smoking violation shall provide a written statement of the particulars of the violation to the managing agent designated by the Board. When so advised to a possible violation of these provisions, the Unit owner and if appropriate the tenant or other occupants shall be sent a written notice and advised as to whether a hearing will be held by the Board to consider the violation. If the alleged violator is a tenant or other occupant, a copy of the notice will be sent to the Unit owner. At the hearing if the Board receives testimony that it deems creditable that smoke is emanating from a Unit, then the burden of proving that Smoking did not occur in the Unit shall shift to the Unit Owner and its occupants.

If, at the conclusion of the hearing, the Board determines in its discretion that a material Smoking violation has occurred, the then Board may impose fines in amounts as determined by the Board in its discretion, in addition to all other rights and remedies of the Association. If the Board determines after hearing that a person has committed a Smoking violation and/or that a Smoking violation has occurred in a Unit or such Unit’s appurtenant Limited Common Elements, then the Board shall not be required to hold a hearing on subsequent Smoking violations alleged to be committed by such person or within such Unit or appurtenant Limited Common Elements with a year of the date of the hearing. Upon receipt of a written complaint of such subsequent Smoking violation occurring within a year of the hearing, the Board may, upon written notice to the violator and/or Unit owner, impose further fines as determined by the Board in its discretion without holding additional hearings. Any such fines and expenses and the costs of abating the transmission of Smoke

will become the personal liability of the Unit owner and a lien on the Unit, together with interest and costs of collection and enforcement, including reasonable attorney's fees.

The Board may exercise its judgment in deciding whether or not to hold a hearing or otherwise pursue an alleged violation of this Section. If the Board declines to take action, then upon 30 days' written notice to the Board a Unit owner shall then have the option to sue the Unit owner or occupant alleged to be violating this Section in order to seek specific performance of the provisions of this Section, including the costs of abating the transmission of Smoke but such person shall not be entitled to recover legal expenses or to a lien on the Unit under this Section. Provided however that any decision of or settlement entered into by the Board with respect to Smoking shall be binding on all Owners.

(k) *Governmental Requirements.* All Unit Owners, Unit Occupants, their families, guests, and invitees shall comply with and conform to all applicable laws and regulations of the State of Maine and of the United States, and all ordinances, rules, and regulations of the Town of Old Orchard Beach. A Unit Owner shall hold the Association and other Unit Owners harmless from all fines, penalties, costs, and prosecutions for the violation thereof or noncompliance therewith.

(l) *Water and Sewer.* The sewage system shall be used only for ordinary household purposes. Since the water supply depends in part on the forces of nature, the Association shall not be responsible for any insufficiency or failure of water supply or the purity thereof, even if due to the alleged negligence or fault of the Association.

(m) *Heating.* Every Unit Owner must at his own expense maintain heat at levels sufficient to protect the Common Elements from damage. Further, the heat must be set at a minimum level as set forth in the Rules and Regulations, if any, but in any event not less than fifty-four degrees (54°) F. In the event the Board of Directors or its agents learn that the heat in a Unit is, in its opinion, insufficient, and if the Board of Directors or its agents cause the heat in the Unit to be increased in a good faith attempt to prevent damage to the Unit, other Units or Common Elements, the Unit Owner shall be solely liable for any increase in the utility costs associated with the increased heat. The Board of Directors may adopt Rules and Regulations regarding the installation of auxiliary heating systems and appliances to ensure their proper installation, use and maintenance.

(n) *Vents, Water Heaters, and Hoses.* Bathroom vents, dryer vents and exhaust fans shall not be vented directly into any attic or crawl space areas, and the free flow of air through attic ventilation shall not be obstructed. All such fans must vent directly into the open air and meet all standards established by the Town of Old Orchard Beach. The Association may adopt Rules and Regulations requiring the periodic replacements of or specifying the types of water heaters and washing machine hoses.

(o) *Time-Sharing and Similar.* No Unit shall be subjected to or used for any timesharing, cooperative, licensing, or other arrangement that would entail daily, weekly, monthly, or any other type of revolving, periodic or interval occupancy or ownership by multiple Unit Owners, co-operators, licensors, or time-sharing participants.

§7.7 Use of Common Elements. Subject to this Declaration, the Bylaws or the Rules and Regulations adopted from time to time by the Board of Directors pursuant to its powers, each Unit Owner, occupant, tenant, guest, visitor and invitee may use the Common Elements in common with

all other Unit Owners and their occupants, tenants, guests, visitors and invitees, in accordance with the single family residential purposes for which they are intended, without hindering or encroaching upon the lawful rights of the other Unit Owners, upon the following terms:

(a) *Exterior Alterations.* Except with the written consent of the Board of Directors or as otherwise expressly provided in this Declaration, the Bylaws, or the Rules and Regulations, no person shall (i) construct or maintain any antennas, dishes, vents, piping, wires, cables, fences, decks, steps, signs, canopies, lights, awnings, clotheslines or other structures in the Common Elements (including the Limited Common Elements), nor (ii) replace exterior windows and doors, nor (iii) plant, trim, cut or remove vegetation, trees or shrubs, nor (iv) materially alter the grading or landscaping, nor (iv) do any other thing which affects the appearance from the exterior of the buildings or the Common Elements including without limitation the Limited Common Elements. The Board of Directors shall have the authority to adopt Rules and Regulations regarding such matters including without limitation water shut offs, heating systems and items placed on the interiors of glass windows and doors that are visible from the Common Elements.

(b) The Board of Directors may in its discretion designate areas in which Unit Owners may plant flowers and annuals based on plans specifically approved by the Board and subject to the obligation of the Unit Owner to maintain such items in good condition and repair, failing which they may be removed by the Association at the Unit Owner's expense, all as may be further governed by the Rules and Regulations.

(c) *Signs.* No signs, flags, poster or notice of any character shall be erected, posted or displayed from any Unit, Common Element or Limited Common Element without the prior written approval of the Board of Directors, except: (a) a single small non-illuminated name site or sign indicating the Unit address on the door to such Unit; (b) national flags of the United States may be displayed to the extent required by the Freedom to Display the American Flag Act of 2005 and in full compliance therewith; (c) an Owner may display within the window of the Owner's Unit a sign that supports or opposes a candidate for public office or a referendum question during the period from six (6) weeks prior to the date that a primary or general election or special election is held regarding that candidate or referendum question to one week after the election for that political candidate or vote for that referendum question is held; and (e) such other signs as may be specifically permitted by the Association's Rules and Regulations. The Board of Directors may also erect or authorize directional, speed control, safety, anti-solicitation, and identifying sign(s) listing the name and location of each occupant of the Units.

(d) *Obstruction/Storage.* No Unit Owner shall obstruct any of the Common Elements or another Unit's Limited Common Elements, nor shall any Unit Owner place or store anything on any of the Common Elements except as permitted by the Board of Directors pursuant to the Rules and Regulations or in this Declaration.

(e) *Responsibility.* Neither the Board of Directors, the Association, nor any Unit Owner, shall be considered a bailee of any personal property stored on the Common Elements or Limited Common Elements (including vehicles parked on the Common Elements and items stored in storage cubicles or storage areas), whether or not exclusive possession of the particular area is given to a Unit Owner for storage or parking purposes. None of them shall be responsible for the security of such personal property or for any loss or damage thereto, whether or not due to negligence, except to the extent covered by insurance in excess of any applicable deductible.

With respect to any items stored in a Common Element storage cubicle, whether such is reserved or not, the Board shall have the authority to remove and dispose of such items if it determines such items are abandoned after making reasonable attempts to notify the last-known potential owner of the items. Neither the Association nor any officer or agent thereof shall be liable to any Person for any claim of damage resulting from the removal activity in accordance herewith. The Board may elect to impose fines or use other available remedies, rather than exercise its authority to remove property hereunder.

(f) *Recreational Facilities.* Each Unit Owner's right of use and enjoyment of the Recreational Facilities located on the Property is subject to the power of the Board to:

- (i) charge a fee for the use of such Recreational Facilities;
- (ii) charge a fee for membership with respect to the use of the Recreational Facilities;
- (iii) establish rules and regulations regarding the use of the Recreational Facilities;
- (iv) allow persons who do not reside in the Property to use some or all of the foregoing, subject to such fees, rules and regulations as the Board may establish.

In the event an Owner leases his Unit, the tenants of such Unit shall be entitled to use such Recreational Facilities, provided however, that the tenant's right to use shall be deemed an assignment of the Owner's right to use the Recreational Facilities unless otherwise determined by the Board.

§7.8 Parking. Motor vehicles may be parked only in any Limited Common Element parking spaces and any portions of the Common Elements expressly designated for parking from time to time by the Board of Directors. No parking shall be permitted in areas posted against parking by the Board of Directors, nor shall any person park so as to block access to the parking space of another Unit Owner or restrict emergency vehicle access.

Other than the Limited Common Element parking spaces assigned to a Unit and any designated handicap parking, any Common Elements designated by the Board of Directors as parking shall be used by the Unit Owners and their tenants on a short term, "first come, first served" basis or as the Board of Directors may otherwise determine or as otherwise provided in the Condominium Documents.

The parking spaces are provided for the parking of private motor vehicles and shall not be used for the parking or storage of commercial vehicles, trailers, motor homes, vehicles with a gross weight of over 8,000 pounds or boats, except with the prior written approval of the Board of Directors. All vehicles must be in operable condition and fully licensed for operation on public highways and insured for operation on public highway.

Unit Owners who are not in good standing in the payment and performance of their obligations to the Association may have their rights to use the parking spaces, including any Limited Common Element parking spaces allocated to such Owner's Unit, suspended.

The Board of Directors may adopt and amend further Rules and Regulations governing the parking of vehicles, including without limitation the number of vehicles permitted per Unit (including motorcycles) that may be kept on the Property.

No person shall park on any grassed or landscaped areas or in any paved swale or block access to designated parking spaces.

No inoperable or unregistered vehicles, nor any boats, recreational vehicles, snowmobiles, all-terrain vehicles or other similar vehicles, recreational equipment, trailers, or similar items may be kept or parked on the Property without the prior written approval of the Board of Directors. No snowmobiles, all-terrain vehicles or similar items may be operated on the Property.

No unattended vehicle shall at any time be left in such a manner as to impede the passage of traffic or to impair access to parking areas. Parking areas and Common Elements shall at all times be kept free of unreasonable accumulations of debris or rubbish of any kind and no junk or derelict vehicles or other vehicle on which current registration plates are not displayed shall be kept upon any of the Common Elements. Vehicle repairs, other than ordinary light maintenance, are not permitted on the exterior areas of the Property.

All persons are required to move parked vehicles in a timely manner in order to facilitate snow plowing and removal.

The Board of Directors may adopt such Rules and Regulations as it deems necessary or appropriate to further interpret, regulate, allocate, assign, reassign, and restrict parking and the use and storage of motor vehicles generally. The Board of Directors shall have the authority to tow vehicles parked, kept or brought unto the Property in violation of this Section or any other provision of this Declaration, the Bylaws or Rules and Regulations.

§7.9 Leasing & Renting

(a) No Unit may be leased more than once per calendar year without the prior written approval of the Board of Directors in its discretion. No Unit may be leased for transient or hotel purposes and no Unit may be leased for a period of less than one (1) calendar months. "Calendar month" is defined as beginning on the first day of a "named" calendar month, (e.g., January, February, etc.) and ending on the last day of a calendar month. No portion of any Unit (other than the entire Unit) shall be leased or rented for any period of time. No unit owner shall rent or lease a Unit other than in accordance with a written form of lease which contains the following provisions, which shall automatically be incorporated into every lease, rental, license, and every other form of rights to occupy a Unit (collectively sometimes referred to herein as "Lease"):

- (i) The tenant and all other guests and occupants of each Unit shall comply with the Declaration, the Bylaws, and the Rules and Regulations of the Association, and a failure to comply constitutes a default under the Lease and any other rights to occupy a Unit;
- (ii) The Unit Owner shall comply with all life safety requirements for rental properties, including without limitation the installation and maintenance of functional smoke and carbon monoxide detectors;
- (iii) The Board of Directors has the power to terminate the Lease and/or to bring summary proceedings to evict all tenants, guests or other occupants in the name of the Unit Owner after thirty (30) days prior written notice to the Unit Owner in the

event of an uncured default by any tenant, guest or other occupant of a Unit in the performance of the Lease or this subsection, but that no notice period need be given in the event of a threat to personal safety or property; and

- (iv) In the event that the payment of Common Expenses, Limited Common Expenses, Assessments, Service Charges and/or other amounts due to the Association becomes more than sixty (60) days past due, the Association may require the tenant or other occupant to pay directly to the Association the rent on the Unit in an amount of up to the balance of current and delinquent Common Expenses and other unpaid amounts outstanding, subject to the rights of any recorded first mortgage or Eligible Mortgage Holder which has exercised an assignment of rents. The Association's notice to the tenant or other occupant shall be conclusive and binding on the tenant and occupants as to the obligation to pay the rent directly to the Association and as to the amount of Common Expenses and other amounts due. The Unit Owner shall have ten (10) days after such notice is sent to file an objection with the Board of Directors, which objection must be in writing and signed under oath under the pains and penalties of perjury, must contain a short and plain statement of any alleged errors by the Association, and shall include copies of cancelled checks or other written evidence of objection or miscalculation of the amounts due. The Unit Owner must state what amounts, if any, which the Unit Owner admits is owed to the Association.

Every Lease shall be in writing. The foregoing provisions shall be deemed to be automatically incorporated into every Lease and the terms of any tenancy or other agreement for the occupancy of a Unit

Each Unit Owner shall, within ten (10) days following the execution of any written lease of a Unit, forward a true copy thereof to the Board of Directors or to the property manager.

The Board of Directors shall have the power to adopt reasonable Rules and Regulations further governing and interpreting leasing so long as said Rules and Regulations do not materially increase the scope of the restrictions set forth herein and are not otherwise in conflict with this Declaration and the Bylaws. Any new rule or regulation that materially expands the restrictions on leasing of Units shall require an amendment to the Declaration.

The foregoing provisions of this paragraph shall not apply to an institutional lender in possession of a Unit as a result of foreclosure, judicial sale or a proceeding in lieu of foreclosure.

(b) In the event a tenant, guest or other occupant of a Unit fails to comply with the provisions of this Declaration, the Bylaws, the Rules and Regulations or the Lease and tenancy, then, in addition to all other remedies which it may have, the Association may notify the Unit Owner of such violation(s) and demand that the same be remedied through the Unit Owner's efforts within a reasonable time after such notice in the judgment of the Board of Directors, recognizing that no notice period need be given in the event of a threat to personal safety or property.

If such violation(s) is(are) not remedied within said period if applicable, then the Unit Owner shall at his or her own cost and expense immediately institute and diligently evict all tenants, guests, or other occupants of the Unit on account of such violation(s). In the event the Unit Owner fails to

so act promptly, then the Board of Directors shall have the right, but not the duty, to institute and prosecute such eviction as attorney-in-fact for the Unit Owners and at the Unit Owner's sole cost and expense, including all legal fees and costs incurred. Said costs and expenses shall be due and payable upon demand by the Association and shall be deemed to constitute a lien on the particular Unit involved, and collection thereof may be enforced by the Board of Directors in the same manner as the Board of Directors is entitled to enforce collection of Common Expenses and all other amounts due to the Association.

§7.10 No Liability of Association. The Association shall not be liable for the failure of water supply, sewage disposal and storm water systems, electricity, telephone, or other services to be obtained by the Association or paid for out of the Common Expense or Service Charge funds, or for injury or damages to persons or property caused by the elements or by the owner of any Unit or by any other person or public utilities, or resulting from electricity, water, sewage, snow or ice which may leak, fall or flow from, back up, or settle on any portion of the Common Elements or Limited Common Elements, from within the Unit, or from another Unit or from any roof, wire, pipe, drain, conduit, appliance, fixture or equipment, even if due to the alleged fault or negligence of the Association, provided that this shall not impair the scope of any insurance coverage provided by the Association.

The Association shall not be liable to the Unit Owner or occupant of any Unit Owner for loss or damage, by theft, or otherwise, of property which may be stored upon or in any individual Unit or in any of the Common Elements even if due to the alleged fault or negligence of the Association.

No reduction, set-off, diminution or abatement of assessments for Common Expenses or Service Charges, shall be claimed or allowed for the expense, damage or discomfort arising from the making of repairs or improvements to the Common Elements or facilities or to any Unit, or from any action taken by the Association to comply with any law, ordinance, or order of any other governmental authority.

ARTICLE 8 EASEMENTS

§8.1 Utilities, Pipes and Conduits. Each Unit Owner shall have an easement, in common with all other Unit Owners, to use all pipes, wires, ducts, cables, conduits, public utility lines and other Common Easements serving his or her Unit and located in any of the other Units. Each Unit shall be subject to an easement in favor of other Unit Owners to use the pipes, ducts, cables, wires, conduits, life safety systems, sprinkler systems, utility lines and other Common Elements serving such other Units and located in such Unit. The Association shall have the right to grant to third parties additional permits, licenses, and easements over and through the Common Elements for utilities, ways, and other purposes reasonably necessary or useful for the proper maintenance and operation of the Condominium.

§8.2 Owner Access. Subject to the terms of this Declaration, the Bylaws, and the Rules and Regulations, each Unit Owner shall have an easement in common with all other Unit Owners to use the Common Elements as a means of access to and from his or her Unit. In the event that a Unit is not in good standing in the payment of all amounts due to the Association and in the performance of other obligations under this Declaration, then the rights to use all or any portion of the Common

Elements, including without limitation Limited Common Element parking spaces, may be suspended and services may be withheld in accordance with Rules and Regulations adopted by the Board of Directors but the right to physically gain access the Unit shall not be suspended and the Association may not withhold services provided to a Unit or a Unit Owner by the Association if the effect of withholding the service would be to endanger the health, safety or property of any person.

§8.3 Association Access to Units. Upon such notice as may be reasonable at the time, the Association and its officers and directors and such persons as may be authorized by the Board of Directors shall have the right of access to each Unit as provided in Section 1603-107(a) of the Condominium Act for the inspection, maintenance, repair or replacement of the Common Elements and Limited Common Elements located in the Unit or accessible from the Unit or for making any addition or improvements thereto; or to make repairs to any Unit, the Common Elements or the Limited Common Elements if such work is reasonably necessary for life and property safety or to prevent damage to any other Unit, the Common Elements or the Limited Common Elements; to exercise its enforcement rights under the Declaration, Bylaws or the Condominium Act; or to abate any violation of law, orders, this Declaration, the Bylaws, rules or regulations of the Association or of any governmental authorities having jurisdiction thereof. In case of an emergency, such right of entry shall be immediate, whether or not the Unit Owner is present at the time.

The Board of Directors may establish rules and regulations requiring that all Unit Owners to key their locks to the Association's master key. If an Owner fails to comply with such rules, then the Association and its agents shall have no liability for any damage to doors and/or windows created by gaining entry into a Unit in the event there is a reasonable belief that circumstances exist for which entry is authorized.

§8.4 Support and Encroachments. Each Unit and the Common Elements are subject to an easement for structural and lateral support in favor of every other Unit. If any portion of the Common Elements or Limited Common Elements hereafter encroach upon any Unit, or if any Unit hereafter encroaches upon any other Unit or upon any portion of the Common Elements or Limited Common Elements, as a result of settling or shifting of any building in which they are located, other than as a result of the willful or negligent act or omission of the owner of the encroaching Unit or of the Association in the case of encroachments by the Common Elements or Limited Common Elements, then a valid easement for the encroachment and for the maintenance of the same shall exist. In the event that a building is partially destroyed as a result of fire or other casualty or as a result of a taking by eminent domain or by deed in lieu of condemnation and is subsequently rebuilt, encroachments due to such rebuilding shall be permitted, and valid easements appurtenant thereto shall exist.

§8.5 Easements through Common Elements. The Common Elements (including, but not limited to, the Limited Common Elements) adjacent to a Unit are subject to the following easements in favor of the adjacent Unit:

- (i) For the installation, repair, maintenance, use, removal and/or replacement of pipes, ducts, heating and air conditioning systems, electrical, data, cable television, telephone and other communication wiring and cables and all other utility lines and conduits which are a part of or serve any Unit and which pass across or through a portion of the Common Elements.

(ii) For the installation, repair, maintenance, use, removal and/or replacement of lighting fixtures, electrical receptacles, panel boards and other electrical installations which are a part of or serve any Unit but which encroach into a part of a Common Elements adjacent to such Unit; provided, however, that the installation, repair maintenance, use, removal or replacement of any part of the Common Elements shall not adversely affect either the thermal, fire safety or acoustical character of the building or impair or structurally weaken the building.

(iii) For driving and removing nails, screws, bolts and other attachment devices into the Unit side surface of the studs which support the sheet rock or plaster perimeter walls bounding the Unit, the bottom surface of joists above the Unit and the top surface of the floor joists below the floor of a Unit to the extent such nails, screws, bolts and other attachment devices may encroach into a part of a Common Element adjacent to such Unit; provided, however, that any such action will not unreasonably interfere with the common use of any part of the Common Elements or any other Unit, adversely affect either the thermal, safety, or acoustical character of the buildings or impair or structurally weaken the buildings.

ARTICLE 9 RIGHTS OF MORTGAGE LENDERS ON UNITS

§9.1 Right to Mortgage. Each Unit Owner shall have the right to mortgage or encumber his own respective Unit together with its appurtenant Allocated Interests. Except as provided by Section 1603-112 of the Condominium Act, a Unit Owner may not mortgage or encumber the Common Elements in any manner except as a component of the Allocated Interests appurtenant to his Unit.

§9.2 Identification of Mortgagee. A Unit Owner who mortgages his Unit shall notify the Board of Directors in writing of the name and address of his Mortgagee(s).

§9.3 Mortgage Foreclosure and Dispositions. Any holder of a first mortgage covering a Unit which obtains title to the Unit pursuant to a foreclosure or other exercise of the remedies provided in the Mortgage or through deed in lieu of foreclosure after written notice of default which deed identifies the circumstances classifying it as such a deed shall, to the extent required under the Maine Condominium Act, take title to the Unit with its appurtenant Allocated Interests, free of any claims for unpaid assessments for Common Expenses, Service Charges, late fees, interest and costs levied against such Unit which accrued prior to the acquisition of title to such Unit by the Mortgagee, other than the proportionate share of the Common Expenses which become due and payable from and after the date on which the Mortgagee shall acquire title to the Unit through a completed foreclosure or deed in lieu of foreclosure.

In the event the Association adopts any right of first refusal or purchase option arising in the event of the sale or transfer of a Unit, it shall not impair the right of an institutional mortgage lender to foreclose its mortgage, to accept a deed in lieu of foreclosure after written notice of default which deed identifies the circumstances classifying it as such a deed, or to dispose or lease a Unit so acquired.

§9.4 Eligible Mortgage Holder. "Eligible Mortgage Holder" means the holder of record of a recorded first Mortgage encumbering a Unit (a "Mortgage") which has delivered written notice to

the Association, by prepaid United States Mail, return receipt requested, or by delivery in hand securing a receipt therefore, stating: (a) the name and address of the holder of the Mortgage, (2) the name and address of the owner of the Unit encumbered by such Mortgage, (3) the identifying number of such Unit, and (4) containing a statement that such Mortgage is a recorded first mortgage. The Secretary or manager of the Association shall maintain such information.

Eligible Mortgage Holders shall have all rights specified in the Condominium Act. Furthermore, after the filing of the request by an Eligible Mortgage Holder, the Board shall cause notice to be sent to the Eligible Mortgage Holders (and any insurers or guarantors of such mortgages identified in the request)), if any, of any one or more of the following events affecting the mortgaged Unit(s), if so requested.

- i. Default in the payment of Common Charges, Assessments, Service Charges, or other amounts due the Association which continues for Sixty (60) days or as required by the Condominium Act;
- ii. Default or violation of the Condominium Documents, or any proceedings by the Association relating thereto;
- iii. The expiration, cancellation or material modification of insurance required to be maintained under the Declaration or Bylaws of the Association;
- iv. A material amendment to the Declaration requiring the consent of Eligible Mortgage Holders;
- v. Termination of the Condominium pursuant to Section 1602-118 of the Condominium Act;
- vi. Change in the Allocated Interests of a Unit, voting rights, a change in Unit boundaries or the subdivision of a Unit;
- vii. The merger or consolidation of the Condominium with another condominium;
- viii. The conveyance or subjection to a security interest of any portion of the Common Elements;
- ix. The lapse, cancellation or material modification of any insurance policy maintained by the Association or any use of any hazard insurance proceeds other than for repair or restoration of the Property; and
- x. Such other events specified in the Condominium Act.

§9.5 Mortgagee Approval Rights. For a material amendment to the Declaration or any of the actions specified below but subject in any event to the provisions of the Condominium Act, an Eligible Mortgage Holder who has duly qualified as such by properly registering with the Association in accordance with the Condominium Act and Section 9.4 above shall have the right but not the obligation in place of the Unit Owner to cast the votes allocated to that Unit or give or withhold any consent required of the Unit Owner for such action by delivering written notice to the association with a copy to the Unit Owner prior to or at the time of the taking of the

proposed action, which notice shall be sent by prepaid United States mail, return receipt requested, or by delivery in hand. Failure of the Eligible Mortgage Holder to so exercise such rights shall constitute a waiver thereof and shall not preclude the Unit Owner from exercising such right. An amendment affecting any of the following is considered material:

- i. Voting rights in the Association;
- ii. Change in percentage liability for Common Expenses, assessment liens for Common Expenses, priority of assessment liens, or the subordination of assessment liens, or increases in the assessments of more than twenty-five percent (25%) over the prior year;
- iii. Reduction in reserves for maintenance, repair and replacement of Common Elements;
- iv. Responsibility for maintenance and repairs;
- v. Reallocation of pro rata interests in the Common Elements, the Limited Common Element or rights to their use;
- vi. Alteration of the definitions of the boundaries of any Unit, including the partition or subdivision of a Unit;
- vii. Convertibility of Units into Common Elements or vice versa;
- viii. Expansion or contraction of the Condominium, or the addition, annexation or withdrawal of property to or from the Condominium;
- ix. Hazard insurance or fidelity bond requirements;
- x. Imposition of any further restrictions on the leasing of Units;
- xi. Imposition of any restrictions on a Unit Owner's right to sell or transfer his or her Unit;
- xii. A decision by the Association to establish self-management when professional management had been required previously by an Eligible Mortgage Holder or by this Declaration or the Bylaws;
- xiii. Restoration or repair of the Property (after damage or destruction, or partial taking by eminent domain or condemnation) in a manner other than that specified in this Declaration;
- xiv. Any action to terminate the Condominium after substantial damage destruction or condemnation occurs;
- xv. Any provisions of this Article and any other provision of this Declaration expressly benefits mortgage holders, insurers, or guarantors; or

xvi. Any provisions of this Article.

When Unit Owners are considering termination of the Condominium for reasons other than substantial damage, destruction or taking by eminent domain of the Condominium, the Eligible Mortgage Holders representing at least Sixty-Seven percent (67%) of the votes of Units subject to mortgages held by Eligible Holders must agree.

If required by Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Veterans' Administration, the Federal Housing Administration or other recognized institutional mortgage programs for mortgaged units, amendments of a material adverse nature or a decision to terminate the legal status of the Condominium after substantial destruction or condemnation occurs must be agreed to by fifty-one percent (51%) of the votes of Units that are subject to such mortgages which are held by qualified as Eligible Mortgage Holders.

Approval shall be presumed when an Eligible Mortgage Holder or other mortgagee is sent a written request for approval of a proposed amendment by registered or certified mail, return receipt requested, and then fails to submit a response within sixty (60) calendar days after the notice is received.

§9.6 Mortgagee Priority. No provision of the Condominium Documents shall be deemed or construed to give a Unit Owner, or any other person, priority over the rights of any Eligible Mortgage Holder under its mortgage in the case of a distribution of insurance proceeds or condemnation awards for losses to or taking of Units, Common Elements, or both.

§9.7 Records. An Eligible Mortgage Holder may examine the books, records, and accounts of the Association at reasonable times. The Association shall maintain current copies of this Declaration, the Association's articles of incorporation, Bylaws, and other Rules and Regulations concerning the Condominium as well as its own books, records, and financial statements available for inspection by any Eligible Mortgage Holder, insurers, and guarantors of first mortgages that are secured by Units available during normal business hours. Upon written request, any Eligible Mortgage Holder may obtain an audited statement of the Association's fiscal affairs prepared by an independent certified public accountant once the Condominium has been established for a full fiscal year, which preparation shall be prepared at the Eligible Mortgage Holder's expense.

ARTICLE 10 INSURANCE

§10.1 General. The Association shall obtain and maintain as a Common Expense the policies of insurance described below to the extent such policies shall be reasonably available as determined by the Board of Directors. If such insurance is not maintained, then the Association shall give written notice thereof to the Unit Owners and the Eligible Mortgage Holders, if any. To the extent that such insurance subsequently becomes unavailable, the Association shall obtain such comparable insurance as may be reasonably available.

The Board of Directors is hereby irrevocably appointed as attorney-in-fact for each Unit Owner and for each Mortgagee and Eligible Mortgage Holder and for each owner of any other interest in the Property, for purchasing and maintaining the insurance, for the collection and

disposition of any insurance, including distribution pursuant to Section 1603-113(c) of the Condominium Act, for the negotiation of losses and execution of releases of liability, and for the execution of all documents, and performance of all other acts necessary to accomplish these purposes.

§10.2 Property and Casualty Insurance for Units and Common Elements. The Association shall obtain and maintain in effect a broad "special form" fire and casualty insurance policy covering the Property with extended coverage, vandalism, malicious mischief, windstorm, debris removal, cost of demolition and water damage endorsements, subject to the exclusions and limitations as may be set forth in such policies, issued by an insurance company authorized to do business in the State of Maine (which company shall also meet the ratings requirements of the Federal National Mortgage Association), insuring as a single entity the entire Property including the Common Elements, the Limited Common Elements, the Units, and the improvements, fixtures and appliances contained within the Unit as of the date of settlement on the Unit by the Declarant or the value thereof, and building service equipment and common equipment fixtures, personal property and supplies owned by the Association *excepting* the land, foundations, excavations, and other similar items customarily excluded from property insurance policies and also *excepting* any improvements or appliances subsequently added by a Unit Owner after the date of settlement on the Unit by the Declarant, and furniture, furnishings or other personal property supplied or installed by Unit Owners. The policy shall cover the interests of and name as insureds the Association, the Board of Directors, and all Unit Owners and their Mortgagees as their insurable interests may appear.

To the extent reasonably available, such blanket or master insurance policy shall be in an amount equal to one hundred percent (100%) of the then current full replacement cost of the insured Property (exclusive of the land, excavations, foundations and other similar items and perils customarily excluded from such coverage), without deduction for depreciation, but subject to such exclusions and limitations as may be set forth therein. Such insurance policy may, at the option of the Board of Directors, contain such deductible as the Board of Directors shall reasonably deem appropriate but not to exceed ten (10) percent of the policy's face amount unless approved by a majority vote of the Unit Owners.

Unless otherwise established under Rules and Regulations adopted by the Board of Directors from time to time, a Unit Owner shall be responsible for the expense of repair of damage to his or her Unit in the amount of the Association's insurance deductible or due to exclusions and limitations in the Association's policy. The Association shall not be responsible for the costs of repair of uninsured damage to the Unit in the amount of the insurance deductible or due to exclusions and limitations in the Association's insurance coverage unless otherwise required by the Condominium Act. If any Unit Owner fails to pay the expense of repair of damage to his or her Unit in the amount of the Association's insurance deductible or due to exclusions and limitations in the Association's policy when required to do so under this Section or this Declaration, the Association may do so and charge the Unit Owner back for the costs as a Service Charge.

Such property and casualty insurance policy shall also include the following provisions:

- (i) The following endorsements or their equivalent: (a) "no control," meaning that coverage shall not be prejudiced by any act or neglect of any occupant or Unit Owner or their agents, when such act or neglect is not within the control of the Association or the Unit Owners collectively, nor by any failure of the Association or the Unit Owners collectively, to comply

with any warranty or condition with regard to any portion of the Condominium over which the Association or the Unit Owners collectively, have no control; (b) "Construction Code Endorsement" or "increased cost of construction," (c) "agreed amount" or elimination of co-insurance clause; and (d) "inflation guard," when it can be readily obtained.

(ii) That any "no other insurance" clause shall expressly exclude individual Unit Owners' policies from its operation, so that the physical damage policy purchased by the Board of Directors shall be deemed primary coverage and any individual Unit Owners' policies shall be deemed excess coverage and/or deductible and excluded perils coverage, and in no event shall the insurance coverage obtained and maintained by the Board of Directors hereunder provide for or be brought into contribution with insurance purchased by individual Unit Owners or their Mortgagees;

(iii) The recognition of any Insurance Trust Agreement whereby the Board of Directors may designate in writing an Insurance Trustee to hold any insurance proceeds in trust for disbursement, as provided in Section 10.3 below; and

(iv) A standard "mortgagee clause" which shall: (a) provide that any reference to a mortgagee in such policy shall mean and include all holders of mortgages of any Unit, in their respective order and preference, whether or not named therein; (b) provide that such insurance as to the interest of any mortgagee shall not be invalidated by any act or neglect of the Unit Owners or any persons acting under any of them; and (c) waive any provision invalidating such mortgagee clauses by reason of the failure of any mortgagee to notify the insurer of any hazardous use or vacancy.

Subject to the foregoing, the Association's insurance coverage includes betterments and improvements to a Unit installed after the original construction, but Unit Owners who arrange for the newly installed improvements must report betterments and improvements to the Association so that it may maintain adequate insurance and the Board of Directors may elect to assess the increased property insurance premiums resulting from such improvements to the Owners of such Units and Limited Common Elements. Neither the Association nor its officers, directors, agents and managers shall have responsibility for ascertaining betterments, upgrades and improvements that have not been properly reported

§10.3 Casualty Losses, Adjustment and Payment; Insurance Trustee. Any loss covered by the insurance policy maintained by the Association shall be adjusted with the Association acting through its Board of Directors, but the insurance proceeds shall be payable to the Insurance Trustee designated for that purpose, if any, as provided in the Condominium Act and otherwise to the Association, and not to any Mortgagee. Any affected Unit Owner shall have ten (10) business days after receiving notice of the Association's proposed settlement with an insurance carrier in which to dispute the amount and terms of settlement with respect to his or her Unit; if the Unit Owner objects then the Association may elect to assign such Unit damage claim to the objecting Unit Owner and its mortgagee without further liability to the Unit Owner so that the Association may settle the balance of the claim and fund repairs for the benefit of the non-objecting Unit Owners.

The Insurance Trustee or the Association as applicable shall hold any insurance proceeds in trust for Unit Owners, Mortgagees and other lien holders as their interests may appear. Subject to the provisions of this Article, the Bylaws and Section 1603-113(e) of the Condominium Act, the

proceeds shall be disbursed first for the repair or restoration of the damage to the Common Elements and then to the Units forming a part of the Property. If only Units are affected by the insured casualty or if the insurance proceeds are insufficient to cover all damages to the Units, then the available insurance proceeds shall be divided in proportion to the total loss among the affected Units. Unit Owners, Mortgagees and other lien holders are not entitled to receive payment of any portion of the proceeds, unless either (i) there is a surplus of proceeds after the damaged Common Elements and Units have been repaired or restored, or (ii) the decision has been made not to repair or restore the damage as provided in Section 1603-113(h) of the Condominium Act, or (iii) the Condominium is terminated in whole or part.

§10.4 Liability Insurance. The Board of Directors shall obtain and maintain, as a Common Expense, comprehensive general public liability insurance (including medical payments insurance) and property damage insurance in such limits as the Board may from time to time determine, insuring each Board of Directors member, the managing agent, and each Unit Owner against any liability to the public or to the Unit Owners (and their invitees, agents and employees) covering all occurrences commonly insured against for death, bodily injury or property damage, arising out of the maintenance, ownership or use of the Common Elements, and for any legal liability resulting from suits or actions related to employment contracts to which the Association is a party. Such insurance shall be issued on a comprehensive liability basis and shall contain: (i) a cross liability endorsement, under which the rights of a named insured under the policy shall not be prejudiced with respect to his or her action against another named insured; (ii) hired and non-owned vehicle coverage; (iii) a “severability of interest” endorsement, which shall preclude the insurer from denying liability to a Unit Owner because of negligent acts of the Association or of another Unit Owner; and (iv) a broad form liability extension endorsement including “personal injury,” contractual liability, and other coverage commonly included in such broad form endorsement. The Board of Directors shall review such limits once each year, but in no event shall such insurance be less than two million dollars (\$2,000,000.00) covering all claims for bodily injury or property damage arising out of one occurrence.

§10.5 Additional Required Provisions. All insurance policies required to be carried by the Association under this Article shall in addition contain the following provisions or features:

- i. The insurer waives any right to claim by way of subrogation against the Association, the Board of Directors, the managing agent or the Unit Owners, and their respective agents, employees, guests and, in the case of the Unit Owners, the members of their households;
- ii. Each Unit Owner is an insured person under the policy with respect to liability arising out of the ownership of an undivided interest in the Common Elements or membership in the Association;
- iii. The insurer waives its right to subrogation under the policy against any Unit Owner or members of his or her household;
- iv. No act or omission by any Unit Owner, unless acting within the scope of his or her authority on behalf of the Association, will void the policy or be a condition to recovery under the policy; and
- v. If at the time of a loss under the Association's policy, there is other insurance in the name of a Unit Owner covering the same risk covered by the policy,

the Association's policy provides primary insurance except with respect to any applicable deductible or excluded perils and special coverage limitations.

§10.6 Other Insurance. The Board of Directors shall obtain and maintain as a Common Expense:

- (i) To the extent reasonably available, “directors and officers” liability insurance, to satisfy the indemnification obligations of the Association;
- (ii) Workers' compensation insurance, if and to the extent necessary to meet the requirements of law;
- (iii) Flood insurance on any Common Elements located in a special flood hazard area in an amount equal to the maximum coverage available under the appropriate national flood insurance Administration program. The Board of Directors may elect to purchase additional excess flood insurance coverage, including but not limited to coverage on the Units. Unit Owners shall be responsible for the expense of repair of damage to his or her Unit caused by flooding to the extent not covered by the Association’s policy; and
- (iv) A blanket or master policy shall be obtained which includes a deductible in the amount determined by the Board of Directors; and
- (v) Fidelity insurance covering those employees of the Board of Directors and those agents and employees hired by the Board of Directors who handle Condominium funds, in amounts as determined by the Board of Directors.
- (vi) Such other insurance as the Board of Directors may determine, or as may be requested by a majority of the Unit Owners or as may be required by Federal National Mortgage Association guidelines or any similar replacement national secondary mortgage market guidelines (including, without limitation, fidelity bond coverage).

§10.7 Memoranda and Cancellation. All insurers that shall issue an insurance policy or policies under this Article shall issue certificates or memoranda of insurance to the Association, and, upon request, to any Unit Owner or Mortgagee.

All such insurers issuing the policy may not cancel, substantially modify, or refuse to renew such policy or policies until thirty (30) days, and in the case of non-payment ten (10) business days, after notice of the proposed cancellation of non-renewal has been mailed to the Association, the managing agent, each Unit Owner and each Mortgagee to whom a certificate or memorandum of insurance has been issued at their respective last known addresses.

§10.8 Owner’s Separate Insurance Obligations. Each Unit Owner should investigate and obtain at his or her own expense, a Condominium Unit-Owner’s Policy (HO6) covering, at a minimum, the Association’s current deductible(s). No such policy shall be written so as to decrease the coverage under any of the policies obtained by the Association. Each Owner hereby assigns to the Association the proceeds of any such policy to the extent that any such policy does, in fact,

result in a decrease in such coverage. Copies of all such policies, shall be made available for inspection upon request of the Board. The Board will not, however, be made responsible for any policy deficiencies that result in a denial or reduction in coverage in the event of a claim. All Unit Owner's policies shall contain waivers of subrogation in favor of the Association.

a. Each Owner shall obtain additional insurance for said Owner's own benefit, and at said Owner's own expense as said Owner deems reasonable and appropriate.

b. In the event of a casualty which causes damage to a Unit covered by the insurance obtained by an Owner, the Owner shall apply all insurance proceeds, including coverage for the master policy deductible, toward the prompt repair or restoration of the Unit. Unless otherwise provided by the Board, repairs and/or restoration shall commence within 60 days of the accepted adjustment of the claim by the carrier.

c. Each Owner shall further obtain liability insurance with respect to said Owner's ownership and/or use of said Owner's Unit as well as upon any improvements made by him to his Unit under coverage normally called "improvements and betterments coverage" to the extent not insured by the Association. Each Unit Owner should also consider obtaining at his or her own expense coverage for loss of use and/or lost rental income.

Each Unit Owner should notify the Board of Directors in writing of all betterments, upgrades, and improvements made by the Unit Owner to his or her Unit; provided, however, that this sentence shall not be construed as an authorization to Unit Owners to make structural improvements to Units otherwise than in accordance with this Declaration, the Bylaws and Rules and Regulations promulgated by the Board of Directors. Any premium increase caused by such improvements may be assessed to the Owner of the improved Unit.

Neither the Association nor its officers, directors, agents, and managers shall have responsibility for ascertaining whether or not the Unit Owner maintains such personal insurance in effect, or whether all betterments, upgrades and improvements have been properly reported.

ARTICLE 11 DAMAGE OR DESTRUCTION.

§11.1 Repair. Any portion of the Property on which the Association is required to carry property insurance pursuant to Section 1603-113 of the Act that is damaged or destroyed by a casualty, or for which the Association receives insurance proceeds, shall be repaired, or replaced promptly by the Association unless:

- i. The Condominium is terminated;
- ii. Repair or replacement would be illegal under any state or local health or safety statute or ordinance; or
- iii. One Hundred percent (100%) in interest of the Unit Owners vote not to rebuild, including every owner of a Unit or Limited Common Element which would not be rebuilt, and including the consent of the Eligible Mortgage Holders as required herein.

The cost of repair or replacement in excess of insurance proceeds and reserves or not covered by insurance shall be a general Common Expense, provided that notwithstanding anything to the contrary herein the owners of any damaged Unit shall be responsible for (i) the

costs of the repair of damage to the Unit not covered by insurance proceeds, whether due to the insurance deductible or exclusions or limitations in the Association's policy or otherwise, prorated among all damaged Units if multiple Units are damaged, or such other amount established by the Rules, (ii) the cost of damage which is uninsured due to damage from water leaks and seepage originating from within their Unit or is uninsured due to failure to maintain heat, and also for (iii) the costs of repairing damage to betterments, upgrades or other improvements unless insured under the Association's policy. Notwithstanding anything to the contrary herein, the Board shall have the sole authority in the event of a multi-Unit casualty to delegate responsibility for the master policy deductible in a manner they see as equitable and reasonable. For improvements in any below grade areas, such improvements are at the sole risk of the Owner; the Association shall have no responsibility for the maintenance and repair of such improvements or for mold, water intrusion or damage to such improvements.

§11.2 Application of Insurance Proceeds. If the entire Property is not completely repaired or replaced:

- i. the insurance proceeds attributable to the damaged Units and Common Elements shall be used to restore the damaged areas to a condition compatible with the remainder of the Condominium;
- ii. the insurance proceeds attributable to Units which are not rebuilt, including without limitation the interest in the Common Elements and in the Limited Common Elements, shall be distributed to such Unit Owners and their mortgagees; and
- iii. the remainder of the proceeds shall be held in trust to be distributed to the Unit Owners and their mortgagees in accordance with the Condominium Act.

Any loss covered by such insurance shall be adjusted with the Association, which shall exclusively represent all Unit Owners in any proceedings, negotiations, settlements, or agreements. The insurance proceeds shall be paid to the Association as trustee for the Unit Owners and lien holders as their interests may appear. Mortgagees' liens shall transfer in order of priority to the insurance proceeds. Notwithstanding the provisions of this Section, Article 12 of the Declaration governs the distribution of insurance proceeds if the Condominium is terminated. If the Unit Owners vote not to rebuild any Unit, that Unit's percentage interest in the Common Elements shall be automatically reallocated to the then remaining Units in proportion to their percentage interests prior to the reallocation, and the Association shall promptly prepare, execute and record an amendment to the Declaration reflecting the reallocation. Unless a Unit Owner has requested and received written confirmation from both the Association and the Association's hazard insurance carrier of optional insurance coverage for the Unit Owner's permanent improvements and betterments within the Unit, the Unit Owner shall be responsible for the expense of repair or replacement.

ARTICLE 12 TERMINATION OF CONDOMINIUM

§12.1 Termination. In accordance with the Condominium Act, the Condominium may be terminated in whole or part with the agreement of the Unit Owners to which at least eighty (80) percent of the Votes in the Association are allocated, and that percentage of Eligible Mortgage Holders required herein and the Condominium Act. Termination shall not bar the subsequent resubmission of the Property to the Condominium Act.

§12.2 Effect of Termination. Upon removal of the Property from the Condominium Act, the Unit Owners shall hold the Property and any proceeds thereof as tenants in common in accordance with the Condominium Act and subject to the Condominium Act with any mortgages or liens affecting a Unit to attach in order of priority against the resulting interest.

ARTICLE 13. EMINENT DOMAIN.

§13.1 Acquisition of Unit(s). If a Unit is acquired by eminent domain, to the extent the award is paid to the Association or is controlled by this Declaration or the Association, the award shall be applied to compensate the Unit Owner and his or her mortgagee(s), if any, for the Unit and its percentage interest in the Common Elements, whether or not any Common Elements are acquired. Upon acquisition of the Unit, its Allocated Interests shall be automatically reallocated to the remaining Units in proportion to their respective Allocated Interests before the taking, and the Association shall promptly prepare, execute, and record an instrument reflecting the reallocations.

If part of a Unit is acquired by eminent domain, to the extent the award is paid to the Association or is controlled by this Declaration or the Association, the award shall be applied to compensate the Unit Owner and his or her mortgagee(s), if any, for the reduction in value of the Unit and its interest in the Common Elements, whether or not any Common Elements are acquired. Upon such acquisition, (i) that Unit's Allocated Interests shall be reduced in proportion to the reduction in the size of the Unit, and (ii) the portion of the Allocated Interest divested from the partially acquired Unit shall automatically be reallocated to that Unit and the remaining Units in proportion to their respective Allocated Interests, with the partially acquired Unit participating in the reallocation on the basis of its reduced Allocated Interests; provided however, that each Unit shall continue to have one vote to permit equality among Units.

§13.2 Acquisition of Common Elements. If part of the Common Elements are acquired by eminent domain, the Association shall be entitled to payment of the award, subject, however, to the Condominium Act; generally the portion of the award attributable to the Common Elements taken shall be distributed to the Unit Owners and their mortgagee(s) in accordance with the Condominium Act, unless the Association rebuilds or acquires comparable elements. Any portion of an award attributable to the acquisition of a Limited Common Element or as may otherwise benefit the Condominium as determined by a Court of competent jurisdiction must be equally divided among the owners of the Units to which that Limited Common Element was allocated at the time of acquisition in proportion to their interests in the Common Elements.

§13.3 Rights of the Association and Mortgage Holders. In the event of a proposed acquisition by eminent domain, the Association shall have the right but not the obligation to act and to intervene on behalf of Unit Owners. Nothing contained in this Declaration, the Bylaws or any rule or regulation adopted by the Association, however, shall entitle any Unit Owner or other

person to priority over a first mortgagee of a Unit pursuant to its mortgage instrument in the right to receive eminent domain awards for the taking of Units and/or Common Elements.

ARTICLE 14 AMENDMENTS

§14.1 General. Certain amendments to this Declaration may be made by the Unit Owners under Condominium Act Sections 1602-108(b), Reallocation of Limited Common Elements, 1602-112(a), Relocation of Boundaries Between Adjoining Units, 1602-113(b), Subdivision of Units, or 1602-118(b) of the Condominium Act or as otherwise permitted herein. Other amendments may be unilaterally executed and recorded by the Association as described in Condominium Act Sections 1601-107, Eminent Domain, 1602-108(c), Allocation of Limited Common Elements, 1602-112(a), Relocation of Boundaries Between Adjoining Units, 1602-113, Subdivision of Units and 1602-117(a).

Otherwise subject to the other provisions of this Declaration and of the Condominium Act, this Declaration and the accompanying Plats and the Plans may be amended as follows:

- (a) The terms of the following procedures shall apply to an amendment of this Declaration:
 - (i) *Proposal and Notice.* An amendment to the Declaration may be proposed by either by the Board of Directors or by Unit Owners holding at least twenty (20) percent of the voting interest in the Association. Notice of the subject matter of a proposed amendment, including the proposed text thereof, shall be included in the notice of any meeting in which a proposed amendment is to be considered, and such notice shall be given to all Unit Owners and all eligible Mortgage Holders.
 - (ii) *Approval.* The amendment shall be adopted if it receives the affirmative vote or written consent of Sixty-Seven percent (67%) or more of the total percentage in interest of all votes in the Association in all cases and such Eligible Mortgage Holders, if any, as may be required herein. Provided however that no amendment may change the class of uses to which a Unit may be put without the unanimous consent of the Unit Owners. Except as specifically provided to the contrary in this Declaration or the Act, no amendment may alter the boundaries of a Unit or the Allocated Interests allocated to a Unit without the unanimous consent of all affected owners.
 - (iii) *By Written Agreement.* In the alternative, an amendment may be made by an agreement signed by the record owners of Units to which are allocated one hundred percent (100%) of the Units in the manner required for the execution of a deed and acknowledged by at least one of them, together with any required approval by Eligible Mortgage Holders, and such amendment shall be effective when certified and recorded as provided below.

§14.2 Notice, Execution and Recording. After each amendment to this Declaration adopted by the Association pursuant to this Article has been recorded, notice thereof shall be sent to all Unit Owners and to all Eligible Mortgage Holders, but failure to send such notices shall not affect the validity of such amendment. A certificate of each such amendment shall be executed and acknowledged by such officer(s) or director(s) of the Association designated for that purpose by the

Bylaws. The amendment shall be effective when such certificate and copy of the Amendment are recorded.

§14.3 Notice and Challenge. No action to challenge the validity of an amendment to this Declaration adopted by the Association may be brought more than one (1) year after such amendment is recorded.

ARTICLE 15 GENERAL PROVISIONS

§15.1 Enforcement. A failure to comply with this Declaration, the Bylaws, and the Rules and Regulations adopted pursuant thereto shall entitle the Association to:

- (a) take court action, including without limitation suit for injunctive relief,
- (b) take such further action as permitted under this Declaration, the Bylaws, and the Rules and Regulations,
- (c) to impose fines and penalties in accordance with the Rules and Regulations adopted from time to time,
- (d) enter the Unit or Common Elements in which such violation or breach exists and summarily to abate and cure the violation at the expense of the Unit Owner, and the Board of Directors shall not be deemed guilty in any manner of trespass when enforcing these terms; and/or
- (e) after reasonable notice from the Association to the Unit Owner, to suspend the rights of s Unit Owner's and any occupants of such Unit Owner's Unit to use and enjoy any and all of the Common Elements, including the Recreational Facilities and parking spaces including Limited Common Element spaces, not essential to gain access to the Unit and to withhold services to such Unit Owner and such Owner's Unit; provided, however, that the right to physically gain access the Unit shall not be suspended and the Association may not withhold services provided to a Unit or a Unit Owner if the effect of withholding the service would be to endanger the health, safety or property of any person.

The exercise of any one remedy shall not preclude the exercise of other remedies provided by law, the Condominium Act, this Declaration or in the Bylaws. In any such enforcement action or proceeding, or the successful defense of a lawsuit brought by an owner against the Association, or disputes over the interpretation of the Condominium Documents, the Association shall be entitled to recover the costs of the proceeding, including reasonable attorney's and paralegal's fees and expenses all with interest at the rate of 18% per annum, if the Association is the prevailing party.

A delay or failure of the Board of Directors to enforce any covenant, restriction or other provision of the Condominium Act, this Declaration, the Bylaws, or the Rules and Regulations adopted pursuant thereto, shall not constitute a waiver of the right to do so thereafter.

Notwithstanding anything to the contrary stated herein, the Association shall not be obligated to take any action to enforce any covenant, use restriction, rule, or provision of this Declaration or the Bylaws that the Board, in exercise of its business judgment, determines is or is likely to be construed as inconsistent with applicable law or in any case in which the Board reasonably determines that the Association's position is not strong enough to justify taking such action. Such a decision shall not be construed a waiver of the right of the Association to enforce such provision at a later time under other circumstances or estop the association from enforcing any other covenant, use restriction or rule.

§15.2 Conflict. If any provision of this Declaration, the Bylaws, or the Rules and Regulations conflicts with any applicable laws, including, but not limited to, the Condominium Act, then the laws shall be deemed controlling; but the validity of the remainder of this Declaration, the Bylaws, and Rules and Regulations, and the application of any such provision, section, clause, phrase, or word in other circumstances shall not be affected thereby.

§15.3 Severability. The invalidity of any provision of this Declaration shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder of this Declaration, and in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included herein.

§15.4 Waiver. No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same irrespective of the number of violations or breaches which may occur.

§15.5 Captions. The headings in this Declaration are for purposes of reference only, and shall not limit or otherwise affect the meaning hereof. The table of contents is attached to this Declaration for purposes of reference and convenience only, and shall neither limit nor otherwise affect the meaning of this Declaration. References in this Declaration to Articles, and Schedules without references to the document in which they are contained are references to this Declaration. Schedules are attached to and incorporated by reference into this Declaration.

§15.6 Gender, Number, Etc. The use of the singular number in this Declaration shall be deemed to include the plural, the plural shall include the singular, and the use of any one gender shall be deemed applicable to all genders.

§15.7 Power to Interpret. Any dispute or disagreement with any person with respect to interpretation or application of this Declaration or the Bylaws or the Rules and Regulations shall be determined by the Board of Directors, which determination shall be final and binding on all parties.

ARTICLE 16 NOTICES

§16.1 Notices.

(a) *To Unit Owners.* All notices, demands, bills and statements or other communications affecting the Condominium shall be given to Unit Owners by the Association in writing and shall be delivered in hand, delivered to the Unit, or sent by United States mail, postage prepaid, or if the Unit Owner consents, by electronic mail which consent shall be presumed when an Owner provides an email address unless such consent is specifically disclaimed. Regular monthly statements may be electronically mailed and do not need to be sent by United States mail. If such notification is of a default or lien, then it shall be sent by registered or certified United States mail, return receipt requested, postage prepaid, addressed to the Unit Owner at the address which the Unit Owner shall designate in writing and filed with the Secretary of the Association, or if no such address is so designated, the address of the Unit of such Unit Owner who is the record owner thereof.

(b) *Notice to the Association.* All notices, demands, statements or other communications affecting the condominium given by the Unit Owners to the Association shall be in writing, and shall be deemed to be delivered personally, securing a written receipt therefore, or sent by United States mail, postage prepaid, return receipt requested, addressed to the Association at the principal office of the managing agent, if any, and to the Secretary of the Association at the Secretary's address.

(c) *Notice to Eligible Mortgage Holder.* All notices, demands, statements or other communications affecting the Condominium given by the Association to any Eligible Mortgage Holder shall be in writing and shall be delivered personally, securing a written receipt, or sent by United States mail, postage prepaid, addressed to the Eligible Mortgage Holder at the address identified pursuant to the notice given to the Association when it became an Eligible Mortgage Holder.

[SIGNATURES ON FOLLOWING PAGE]

WITNESS its hand and seal as of _____, 2024.

**WHISPERING SANDS
CONDOMINIUM ASSOCIATION**

Witness

By: _____
_____, its President

Witness

By: _____
_____, its Secretary

STATE OF MAINE
York County, ss

_____, 2024

Personally appeared the above-named _____ in his/her/their said capacity and acknowledged the foregoing Declaration to be his/her free act and deed, and the free act and deed of said corporation, before me,

Name: _____
Maine Attorney at Law/Notary Public

- Exhibit A Legal Description of Land
- Exhibit B-1 Condominium Plat Reference
- Exhibit B-2 Condominium Floor Plans Reference
- Exhibit C Allocated Interests
- Exhibit D Maintenance Chart
- Exhibit E Condominium Association Bylaws

Whispering Sands Condominium
Old Orchard Beach, Maine

Exhibit A
- Legal Description -

A certain lot or parcel of land situated southwesterly of but not adjacent to Temple Avenue in the Town of Old Orchard Beach, County of York and State of Maine more particularly bounded and described as follows (hereinafter called the "Premises"):

Beginning at an iron rod driven into the ground at the intersection of the southwesterly sideline of New Hampshire Avenue at the southeasterly sideline of the Premises herein and the northeasterly corner of land conveyed by New England Baptist Council to Pinewood Manor Inc. as shown on the "Final Plan Showing Perkins' Subdivision" (hereinafter called the "Perkins Plan") dated June 2, 1984 by Dow and Coulombe, Inc., recorded in the York County Registry of Deeds in Plan Book 134, Page 9; thence South 35°-11'-15" West, by said land of Pinewood Manor Inc. ninety five and twenty four one hundredths feet (95.24') to an iron rod driven into the ground; thence North 60°-08'-45" West, by said land of Pinewood Manor, Inc. two hundred seventy nine and seventy four one hundredths feet (279.74') to an iron rod driven into the ground at the easterly corner of land of the New England Baptist Council; thence North 60°-08'-45" West, by said land of New England Baptist Council two hundred ninety eight and seventy six one hundredths feet (298.76') to an iron pipe driven into the ground; thence North 26° -14' East, by said land of New England Baptist Council, three hundred thirty two and twenty three one hundredths feet (332.23') to an iron pipe driven into an old stump; thence North 31°-41' East, partly by said land of the New England Baptist Council and partly by land of Boston and Maine Railroad, eighty six and twenty nine one hundredths feet (86.29') to an iron pipe driven into the ground and land of Boston and Maine Railroad; thence North 79°-29' East, by said land of Boston and Maine Railroad, four hundred fifty six and ninety nine one hundredths feet (456.99') to an iron rod driven into the ground; thence South 57°-13'-45" East, partly by said land of Boston and Maine Railroad and partly by the southwesterly sideline of land shown on "A Plan of the Land of the Ocean Park Association at Old Orchard Beach" (hereinafter called the "Dennett Plan") by W. S. Dennett dated June 22, 1881 and recorded in York County Registry of Deeds in Plan Book 2, Page 46 1/2, a distance of three hundred fourteen and twenty one one hundredths feet (314.21') to a stone monument set in the ground at the northerly corner of land shown on a plan entitled "Tanglewood" dated June 23, 1922 and recorded in said Registry in Plan Book 9, Page 29; thence South 35°-11'-15" West, by said northwesterly sideline of land shown on said Tanglewood Plan six hundred five and sixty two one hundredths feet (605.62') to the point of beginning.

The above bearings refer to the Maine State Coordinate Grid System (West Zone).

Together with all rights, titles and interests in all lots, strips, gores, additions and other real estate included in, attached to or appurtenant to the Premises whether or not described in or shown on said deed, the Dennett Plan or the Perkins Plan.

Together with all rights, titles and interests that the Declarant may have in and to the real estate described as follows (hereinafter collectively referred to as "South Avenue"):

(1) (a) A parcel of land forty feet (40') in width running southwesterly from Temple Avenue, bounded on the north by the southerly side of said land of Boston and Maine Railroad, bounded on the east by Temple Avenue and bounded on the south by the Premises (b) more particularly bounded and located as follows: Beginning at the intersection of the southeasterly sideline of land of the Boston and Maine Railroad as shown on a "Right-of-Way and Track Map B&M Railroad, Station 5370 + 60" dated June 30, 1914 (V2Me/101) with the southwesterly sideline of Temple Avenue; thence South 79°-29' West, by said land of Boston & Maine Railroad, to the northeasterly sideline of land described in a deed to Rodney J. Perkins dated June 25, 1981, recorded in the York County Registry of Deeds, Book 2816, Page 287 and shown on a "Final Plan Showing Perkins Subdivision" dated June 2, 1984 made by Dow & Coulombe, Inc. and recorded in said Registry in Plan Book 134, Page 9; thence South 57°-13'-45" East, by said land of Rodney J. Perkins, 58.34 feet; thence North 79°-29' East, by a line 40.0 feet southeasterly of, and parallel with, said Boston and Maine Railroad land, to said southwesterly sideline of Temple Avenue; thence northwesterly by said Temple Avenue to the point of beginning; (c) meaning and intending to include (without limitation) in the description of said parcel of land and convey, and hereby including (without limitation) and conveying, all the land included within the boundaries of South Avenue as depicted on the Dennett Plan and the Perkins Plan, (2) a parcel of land forty feet (40') in width and approximately two feet (2') in length between the Premises and the terminus of South Avenue so that the Premises and South Avenue shall be contiguous and (3) all shoulders, rights of way, and adjacent strips and the fee interests to South Avenue.

Together with all rights, titles and interests that the Declarant may have in and to the easements, licenses, rights-of-way, privileges and rights in South Avenue and in New Hampshire Avenue, Connecticut Avenue, Massachusetts Avenue and Maine Avenue depicted on the Dennett Plan and the Perkins Plan which shall serve the Premises and burden said South Avenue, New Hampshire Avenue, Connecticut Avenue, Massachusetts Avenue and Maine Avenue (hereinafter periodically referred to collectively as the "Servient Estate"): (1) for a right-of-way and easement over the Servient Estate for ingress and egress on foot and vehicle to and from the

Premises and Temple Avenue, Ninth Avenue, Tenth Avenue, Eleventh Avenue and Randall Avenue (hereinafter periodically referred to collectively as the "Public Ways"), (2) for a right-of-way and easement over the Servient Estate for ingress and egress on foot and by vehicle for passage to and from the Premises and the Servient Estate to (a) enter on the Servient Estate upon foot or on vehicles with men, machinery and equipment to (i) clear, level, grade, pave and maintain the Servient Estate and to utilize the same as a right-of-way and easement for ingress and egress, by vehicle or on foot, for all purposes for which roadways are commonly used including access to and egress from the Premises hereinabove conveyed and the Public Ways, (ii) to install, construct, maintain, repair, replace, operate and use underground water mains in the Servient Estate for the benefit of the Premises, to connect such water mains with any and all water mains and branches which may exist from time to time beneath the surface of the Servient Estate, to install, construct, maintain, repair, replace, operate and use all necessary fixtures and appurtenances thereto and to draw water along said water mains beneath the surface of the Servient Estate to the Premises, (iii) to install, construct, maintain, repair, replace, operate and use underground sewer mains, to connect such sewer mains with any and all sewer mains and branches which may exist from time to time beneath the surface of the Servient Estate, to install, construct, maintain, repair, operate and use all necessary fixtures and appurtenances thereto, and to dispose of sewage and waste generated on the Servient Estate and (iv), to install, construct, maintain, repair, replace and operate above-ground and underground electric transmission and distribution wires and cables, above-ground cables and lines suspended from utility poles or fixtures and utility poles or fixtures to support such above-ground cables and lines and to connect or all of such wires or cables with any or all such other lines, wires and cables which may be installed in such easements and the Premises hereinabove conveyed, and (3) to permit the Grantee, its successors and assigns in ownership of the Premises and others to whom they may grant the same or similar rights and easements, to pass and re-pass by foot or by emergency vehicle services such as fire engines, ambulances and police vehicles; (4) provided, however, that the use and granting of such easements and of such rights-of-way by said Grantee and its successors and assigns in ownership of the Premises, and their respective heirs, successors and assigns, and their respective lessees and licensees shall not be deemed an overburden or surcharge of the easements, licenses, rights-of-way, privileges and rights hereinabove conveyed.

Together with all right, title and interest in and subject to, all other streets, ways, rights-of-way, open spaces, utility services and other easements as are depicted on the Perkins Plan and the Dennett Plan.

Meaning and intending to declare, and hereby declaring, the same premises described in Warranty Deed by Rodney J. Perkins and Rita J. Perkins to WHISPERING SANDS ASSOCIATES dated March 12, 1986, recorded in the York County Registry of Deeds in Book 3779,

Page 116, and subject to and with the benefit of all rights, easements, privileges and appurtenances described or mentioned in said Warranty Deed.

Easements and rights-of-way over the following premises (hereinafter referred to as the "Servient Estate") for the benefit of the Premises hereinabove described (hereinafter referred to as the "Dominant Estate"):

(1) (a) A parcel of land forty feet (40') in width running southwesterly from Temple Avenue, bounded on the north by the southerly side of said land of Boston and Maine Railroad, bounded on the east by Temple Avenue and bounded on the south by land of the Grantee (b) more particularly bounded and located as follows: Beginning at the intersection of the southeasterly sideline of land of the Boston and Maine Railroad as shown on a "Right-of-Way and Track Map B&M Railroad, Station 5370 + 60" dated June 30, 1914 (V2Me/101) with the southwesterly sideline of Temple Avenue; thence South 79°-29' West, by said land of Boston & Maine Railroad, to the northeasterly sideline of land described in a deed to Rodney J. Perkins dated June 25, 1981, recorded in the York County Registry of Deeds, Book 2816, Page 287 and shown on the Perkins Plan; thence South 57°-13'45" East, by said land formerly of Rodney J. Perkins, 58.34 feet; thence North 79°-29' East, by a line 40.0 feet southeasterly of, and parallel with, said Boston and Maine Railroad land, to said southwesterly sideline of Temple Avenue; thence northwesterly by said Temple Avenue to the point of beginning; (c) meaning and intending to include (without limitation) in the description of said parcel of land, and hereby including (without limitation), all the land included within the boundaries of South Avenue as depicted on the Dennett Plan and on the Perkins Plan; together with (2) a parcel of land forty feet (40') in width and approximately two feet (2') in length between said Premises hereinabove described and the terminus of South Avenue so that the said Premises and the entire width of South Avenue shall be contiguous.

The easements and rights-of-way have been granted for: (1) a right-of-way and easement over the Servient Estate for ingress and egress on foot and vehicles to and from the Dominant Estate and Temple Avenue and other public roads (hereinafter periodically referred to collectively as the "Public Ways"), (2) for a right-of-way and easement over the Servient Estate for ingress and egress on foot and by vehicle for passage to and from the Public Ways, the Dominant Estate and the Servient Estate to enter on the Servient Estate upon foot or on vehicles with men, machinery and equipment to (i) clear, level, grade, pave and maintain the Servient Estate and to utilize the same as a right-of-way and easement for ingress and egress, by vehicle or on foot, for all purposes for which roadways are commonly used including access to and egress from the Dominant Estate and the Public Ways, (ii) to install, construct, maintain, repair, replace, operate and use underground water mains

in the Servient Estate for the benefit of the Dominant Estate, to connect such water mains with any and all water mains and branches which may exist from time to time beneath the surface of the Servient Estate, to install, construct, maintain, repair, replace, operate and use all necessary fixtures and appurtenances thereto and to draw water along said water mains beneath the surface of the Servient Estate to the Dominant Estate, (iii) to install, construct, maintain, repair, replace, operate and use underground sewer mains, to connect such sewer mains with any and all sewer mains and branches which may exist from time to time beneath the surface of the Servient Estate, to install, construct, maintain, repair, operate and use all necessary fixtures and appurtenances thereto, and to dispose of sewage and waste generated on the Dominant Estate through such mains and branches (but not to dispose of such sewage and waste on the Servient Estate) (iv), to install, construct, maintain, repair, replace and operate underground and above-ground electric, telephone and television transmission and distribution wires and cables, above-ground cables and lines suspended from utility poles or fixtures, and utility poles or fixtures to support such above-ground cables and lines, and to connect any or all of such wires or cables with any or all such other lines, wires and cables which may be installed in the Servient Estate and the Dominant Estate, and (v) generally to work, trench and/or backfill within the Servient Estate for the purposes described in the foregoing clauses (i), (ii), (iii) and (iv), (3) to permit the Grantee, its successors and assigns in ownership of the Dominant Estate and others to whom they may grant the same or similar rights to pass and re-pass by foot or by emergency vehicle services such as fire engines, ambulances and police vehicles; (4) provided, however, that the use and granting of such easements and of such rights-of-way by said Grantee and its successors and assigns in ownership of the Dominant Estate, and their respective heirs, successors and assigns, and their respective lessees and licensees shall not be deemed an overburden or surcharge of the easements, licenses, rights-of-way, privileges and rights hereinabove granted.

Meaning and intending to declare, and hereby declaring, the same easements, rights, privileges and appurtenances described in Easement Deed by Ocean Park Association to Whispering Sands Associates dated April 19, 1986, recorded in the York County Registry of Deeds in Book 4026, Page 113.

Meaning to declare, and hereby declaring, the same Premises, rights, privileges, easements and appurtenances, conveyed to the Declarant by Warranty Deed from Whispering Sands Associates dated December 30, 1986, recorded in Book 4137, Page 151, and subject to, and with the benefit of, all rights, easements, privileges, appurtenances and matters affecting title to the Property described or shown in said Warranty Deed, the Perkins Plan, Dennett Plan, the Plats and the Plans.

Exhibit B-1
Condominium Plat

Exhibit B-2
Floor Plans

Exhibit C

DESCRIPTION OF UNITS

Identifying Number	Building	Type	Size In Sq. Feet	Common Element Interest, Common Expense Liability, and Vote Allocation
1	A	A	1,461	3,000%
2	A	E	842	1.730%
3	A	B	1,210	2.480%
4	A	E	842	1.730%
5	A	B	1,210	2.480%
6	A	A	1,461	3.000%
7	B	A	1,461	3.000%
8	B	D	1,111	2.280%
9	C	A	1,461	3.000%
10	C	E	842	1.730%
11	C	B	1,210	2.480%
12	C	E	842	1.730%
13	C	B	1,210	2.480%
14	C	A	1,461	3.000%
15	D	A	1,461	3.000%
16	D	C	1,138	2.330%
17	D	C	1,138	2.330%
18	D	A	1,461	3.000%
19	E	A	1,461	3.000%
20	E	E	842	1.730%
21	E	F	1,162	2.390%
22	E	E	842	1.730%
23	E	F	1,162	2.390%
24	E	A	1,461	3.000%
25	F	A	1,461	3.000%
26	F	E	842	1.730%
27	F	B	1,210	2.480%
28	F	E	842	1.730%
29	F	B	1,210	2.480%
30	F	A	1,461	3.000%
31	G	A	1,461	3.000%
32	G	E	842	1.730%
33	G	B	1,210	2.480%
34	G	E	842	1.730%
35	G	B	1,210	2.480%
36	G	D	1,111	2.280%
37	H	D	1,111	2.280%
38	H	E	842	1.730%

39	H	B	1,210	2.480%
40	H	E	642	1.730%
41	H	B	1,210	2.480%
42	H	D	1,111	2.280%