**118 ON MUNJOY HILL**

**PUBLIC OFFERING STATEMENT**

**General Project Description**

118 on Munjoy Hill Condominium (the "Condominium") is to be a newly constructed mixed-use (i.e., residential and retail/commercial) condominium project located at 118 Congress Street in Portland, Maine.

The developer of the Condominium (the "Developer" or "Declarant") is 118 Condominiums, LLC, a Maine limited liability company with an address of 18 Brackett Street, Portland, ME 04102.

The Condominium will be comprised of one building (the "Building") with 12 residential units (the "Residential Units") on the second, third and fourth floors and 2 Nonresidential Units on the first floor along Congress Street. Under the current plan, the 12 Residential Units will be as follows: three two bedroom plus den, 2.5 bath Units; three three bedroom, 2.5 bath Units; and six three bedroom plus den, 2.5 bath Units.

Declarant intends to commence construction of the Condominium in May, 2014, with completion and occupancy of the first Units therein estimated to be in February, 2015. The foregoing timeframe is an approximation only and is subject to delays arising from marketing and sale of units, receipt of governmental permits, work stoppages, labor and/or material shortages, weather conditions, "acts of God," and other factors beyond the Declarant's reasonable control.

EMT, LLC owns the land by virtue of a Warranty Deed and will be transferring the land to 118 Condominiums, LLC prior to the commencement of construction. As is more fully discussed below, the Declarant obtained conditional site plan and subdivision approval for the construction of the Condominium from the City of Portland Planning Board on January 28, 2014, and recorded its Subdivision Plat in the Cumberland County Registry of Deeds in Plan Book , Page . Attached hereto as **Exhibit A** is a reduced copy of the Subdivision Plat. Any and all obligations of the Declarant to Unit purchasers shall be subject to, and contingent upon, the receipt of all necessary governmental permits not already obtained by the Declarant and a certificate of occupancy for the units upon completion of construction.

The Condominium includes 18 enclosed parking spaces located on the first floor of the building. Each of the parking spaces in the Condominium will be sold by the Declarant as an appurtenance (or "limited common element") to a Residential Unit. Some of the spaces can accommodate vehicle lifts, and Declarant intends to allocate such parking spaces with lifts to Residential Units as desired. Fourth floor Units will have roof top terraces as limited common elements. All Units will have balconies and access to storage closets, recycling area and bicycle and kayak storage.

###### Disclosures Relating to the Declarant's Retained Special Declarant Rights

Declarant has not reserved any development right to create additional units, add land to the Condominium, remove land from the Condominium, or convert units to common elements or common elements to units. The only development right reserved is the right to declare the delineated Parking Spaces, storage closets and mailboxes as limited common elements (i.e., convert common elements into limited common elements) and to allocate such specific limited common elements to specific units as determined in Declarant' s sole discretion for a period of up to 10 years from the date of the Condominium Declaration (more fully described below).

Any limited common element(s) created by the Declarant in the future are expected to be the same general types and sizes as the limited common elements within other parts of the Condominium. It is also expected that the proportion of limited common elements to Units created by the Declarant will remain approximately the same as the project is developed.

Notwithstanding the foregoing, the Declarant makes no assurances in the foregoing regards.

Units will have appurtenant limited common elements in the balconies and/or on the roof above the unit.

The Declarant has retained special declarant rights in order to facilitate the development, construction, financing and marketing of the Units in the Condominium, including without limitation, the following:

* The right to maintain a sales office, a management office, and one or more model Units;
* The right to control the executive board (the "Board") of the Condominium Association (the "Association") for up to seven (7) years (or, if sooner, that date which is 60 days after eight of the total units have been conveyed to Unit Owners other then the Declarant);
* The right to use certain unsold Units for rental purposes on terms and conditions determined by the Declarant; and
* The right to use certain common elements of the Condominium for construction of the Building and related improvements, the marketing and development-related purposes, and to utilize one or more Residential Units as models to assist in its marketing efforts.

In addition to the Units and parking garages described above, the Building is also expected to contain common storage and work areas, common trash room(s), common utility room(s), lobby(s), vestibule(s), hallways, stairways and elevator.

###### Significant Features of Condominium Documents

The Condominium's primary legal documents will consist of the following: (a) Declaration of Condominium (the "Declaration," a copy of the draft of which is attached hereto as **Exhibit B);** (b) the By-Laws of 118 on Munjoy Hill Condominium Association (the "By­ Laws," a copy of which is attached hereto as **Exhibit C**); (c) a Property Management

Agreement; (d) the Condominium's Rules and Regulations (a copy of which is attached hereto as **Exhibit D);** (e) the Condominium Plat and Condominium Plans (reduced copies of which are attached hereto as **Exhibit E)** and (f) the Purchase and Sale Agreement (the "P&S" or "Sales Agreement").

The following is a brief narrative description of each of the above-described documents:

1. Declaration of Condominium

The Declaration of Condominium is the legal document executed by the Declarant and recorded at the Registry of Deeds which formally dedicates the Condominium property to the condominium form of ownership. Once this

instrument is recorded, the Condominium becomes divided into various individual "Units," as well as various common elements and limited common elements (which are common elements reserved for the exclusive use of a unit or units). The common elements will be owned by the Unit owners as tenants in common based on the allocated interests of the Unit owners. The Declaration also includes various other rights, obligations, easements, covenants and restrictions relating to the Declarant, the Units and the common elements, as well as a method to carry out any future amendments to the Declaration.

1. By-Laws

The By-Laws define the governance, operation and functioning of 118 on Munjoy Hill Condominium Association (the "Association"). The Association is, or will be, organized as a non-profit, non-stock, mutual benefit corporation pursuant to Maine law. The Association will be governed by an Executive Board (the "Board"), and the By-Laws provide for the size of the Board, the method of the Board's election, general Board powers, the removal of Board members, the required officer positions, and the appointment of officers. The By-Laws also provide that the Board initially shall be appointed by the Declarant, as described above in this Public Offering Statement.

1. Property Management Agreement

The Property Management Agreement deals with the day-to-day management of the Condominium for the benefit of the Unit Owners and residents. Although a Property Management Agreement has not yet been entered into, it is anticipated that this will be done at or about the time of the creation of the Condominium.

1. Rules and Regulations

These are a series of additional restrictions and requirements relating to use of common elements and occupancy of Units adopted by the Association for the benefit of Unit owners generally. The Rules and Regulations may be modified from time to time by the Board.

1. Purchase and Sale Agreement

The Purchase and Sale Agreement (if signed by Declarant and a purchaser) constitutes the contractual agreement between the Declarant and the purchaser, setting forth the purchase price and other important terms and conditions related to the purchase of a Unit.

###### Projected Association Budget(s)

Due to the mixed-use nature of the project, the Condominium documents have been drafted to provide for common expenses to be assessed pursuant to up to four separate budgets (the "Budgets"):

* 1. The General Budget: This is the Budget which accounts for all of the Condominium expenses and services which benefit all Units generally. Examples include snow removal, insurance premiums, legal fees, sewer and water fees, landscaping and grounds maintenance, exterior maintenance, waste removal costs, reserves related to general building materials and equipment, and management fees.
  2. The Residential Budget: This is the Budget for expenses and services which benefit only the Residential Units. Examples include lobby and elevator repairs and maintenance, interior lobby, stairway and hallway maintenance, mechanical and electrical equipment maintenance relating to the residential units (excluding maintenance relating to equipment associated exclusively with one unit), elevator and life safety maintenance, testing and licensing, reserves related to residential building materials and equipment, and balcony repairs. If a separate Garage Budget is not created, then expenses relating to the parking garage will be part of the Residential Budget.
  3. The Commercial Budget. If adopted, this would be the Budget for any expenses and services relating solely to the commercial units. By way of example, commercial Expenses would consist of any cost of utilities and other services provided exclusively to the Commercial Units and Limited Common Elements, if any, appurtenant to the Commercial Units, the cost of maintenance, repair and replacement of the Limited Common Elements appurtenant to the Commercial Units, if any, as such expenses are designated as Commercial Expenses by the Maintenance Responsibility Chart.
  4. The Garage Budget. If adopted, this would be a Budget for expenses and services relating solely to the parking garage. A separate Budget may be provided for the parking garage because not all Unit Owners will have appurtenant rights to an equal number of parking spaces in the garage.

Assessments for expenses set forth in the General Budget will be based upon each Unit's percentage interest in the Condominium common elements. Each Residential Unit's assessments for expenses set forth in the Residential Budget will be based upon its allocated interest, which is calculated as a fraction, the numerator of which shall be that Residential Unit's percentage interest in the common elements and the denominator of which shall be the aggregate percentage interest of all Residential Units. Each Commercial Unit's assessments for expenses set forth in the Commercial Budget, if adopted, will be based upon its allocated interest, which is calculated as a fraction, the numerator of which shall be that Commercial Unit's percentage interest in the common elements and the denominator of which shall be the aggregate percentage interest of all Commercial Units. Assessments under the Garage Budget, if adopted, will be assessed to each holder of the right to use a Parking Space, on an equal basis for each such Parking Space.

The Association's projected Budgets for the first year of operation once the building is constructed are attached hereto as Exhibit F. These Budgets were prepared at the Declarant's request by Foreside Real Estate Management, Inc., an independent consultant and property manager, and are estimates based on information available in January, 2014. The Budgets are not dependent upon any minimum assumed level of occupancy, and because the Budgets are believed to be a reasonable projection of the expenses to be incurred, no inflation factor has been included. The projected first-year Assessments for each Unit are also included in Exhibit F. Because the Association has not been formed yet, there currently is no balance sheet for the Association.

In addition to the Assessments described above, the Residential and Commercial Units will be assessed, on a monthly basis, a Utility Charge, determined by the property manager based on an allocation of utility costs associated with the heating and cooling of the Units. The allocation will be determined by computer software associated with the mechanical equipment that will determine the proportion of the total energy utilized during the period associated with each Unit. The Declarant will pay assessments allocated to unsold Units.

##### Other Association Services

To the best of the Declarant's knowledge and belief, there are no services to be provided to the Association which are not reflected in the Budgets, which the Declarant will initially provide, and which might become a common expense of the Association in future years, except to the extent that Declarant performs certain work to accommodate Declarant's construction activities (e.g., snow plowing).

##### Initial or Special Fees

In addition to customary closing costs, Unit purchasers must contribute to the Association's working capital reserve fund, in an amount equal to two times the Unit's estimated or actual monthly assessment for common expenses. This contribution is non-refundable and is not a prepayment of regular monthly common expense assessments or any special assessments.

##### **Liens and/or Title Encumbrances**

There are various covenants, conditions, easements and restrictions of record relating to the Condominium, in addition to those set forth in the Declaration, as set forth in Exhibit G attached hereto.

###### Warranties

The Declarant will provide each purchaser of a Unit with a Limited Warranty to protect against possible construction or design problems. This Limited Warranty also will be part of the Purchase and Sale Agreement and will be acknowledged and signed by both the Declarant and the Unit purchaser by the closing. In order to assert a claim under the Limited Warranty, an action must be initiated within two years after the purchaser's closing of the purchase of the Unit. The Limited Warranty is transferable to subsequent Unit owners. Maine law also provides certain express and implied warranties of quality which are set forth in Sections 1604-112 and 1604-113 of the Maine Condominium Act. As to any item covered by Maine's statutory express or implied warranty provisions, the statute of limitations for assertion of a claim shall be limited by the Limited Warranty Certificate to two (2) years from the date of closing.

###### Cancellation Rights

1. Unless a purchaser has received and reviewed a copy of this Public Offering Statement prior to the execution of a contract for sale, a purchaser, before conveyance, may cancel any contract for purchase of a Unit from the Declarant.

If the purchaser elects to cancel, the purchaser may do so by hand-delivering a Notice of Cancellation or by mailing the notice by pre-paid United States mail, to the Declarant. The cancellation rights conferred hereby are without penalty, and any earnest money deposit made by the purchaser will be promptly refunded in its entirety upon such cancellation as described above.

1. If a purchaser accepts the conveyance of a Unit or waives the cancellation right prior to closing, the purchaser thereafter may not cancel the contract.

###### Absence of Unsatisfied Judgments

There are no unsatisfied judgments or pending lawsuits against the Association, nor are there any pending lawsuits material to the Condominium of which the Declarant has actual knowledge.

###### Escrow of Deposit(s)

Any earnest money deposit made in connection with the purchase of a Unit will be held in an escrow account until closing and will be returned to the purchaser if the purchaser cancels the contract pursuant to its terms and Section 1604-107 of the Maine Condominium Act. The name and address of said escrow agent is: **Thomas B. Federle, Esq., Federle Mahoney, LLC, 254 Commercial Street, Portland, Maine 04101.** Prepayments for upgrades are not earnest money deposits and will not be held in escrow; rather, they are prepayments for specific upgrades to the unit requested by the purchaser and such funds may be used by the Declarant to purchase materials and perform work on the unit in connection with such upgrades.

##### **No Restraints on Transfer**

The Declarant is not aware of any restraints on transfer of any portion of the Condominium.

##### **Insurance**

The Declarant and/or the Condominium's property management company will keep the Condominium and units insured against loss by fire and standard extended coverage events, as well as with commercial general liability insurance. Further details of insurance coverage are set forth in the Declaration attached hereto as Exhibit B. Each purchaser is advised, however, to obtain his or her own condominium unit owner's insurance policy, in order to insure against matters not covered by the Condominium's policy.

##### **Absence of Fees for Use of Facilities**

The assessments paid by a Unit purchaser to the Association cover the use and enjoyment of the Condominium's common elements, facilities and amenities, and no further fees will be charged for such use except for service charges for use of common elements by Unit owners for events that preclude the use of such common elements by others.

##### **Declarant's Financial Arrangements**

The Declarant intends to obtain a loan from a commercial lender to finance the construction of the Condominium building and related improvements. Subject to the satisfaction of the other contingencies, conditions and reservations set forth in the Purchase and Sale Agreement and this Public Offering Statement, the Declarant will be obligated to complete and/or restore any improvements labeled "MUST BE BUILT" on any plats or plans to be recorded with the Condominium Declaration.

##### **Alienation of Common Elements**

Except for the sale of Parking Spaces as discussed herein, no portion of the Condominium's common elements may be alienated or sold, except as expressly allowed by Section 1603-112 of the Maine Condominium Act.

**Property Management**

Property management will be provided by Jeff Martin of Foreside Real Estate Management, Inc. at a fee of 10% of annual expenses. The duties of the property manager will include oversight of all property maintenance including trash removal and recycling, billing and collection of condominium fees and utility charges and snow removal.