

residential use, an agreement to reduce the period of limitation must be evidenced by a separate instrument executed by the purchaser.

NOTE: PURSUANT TO § 1604-115(a) PURCHASERS OF UNITS WILL BE REQUIRED TO SIGN A SEPARATE AGREEMENT, ATTACHED HERETO AS EXHIBIT H, TO REDUCE THE PERIOD OF LIMITATION FROM SIX (6) YEARS TO TWO (2) YEARS.

NOTE: PURSUANT TO § 1604-113, THE COMMERCIAL UNIT IS BEING SOLD AS IS, WITH ALL FAULTS, AND WITH NO IMPLIED WARRANTIES OF QUALITY. THE COMMERCIAL UNIT BUYER WILL BE REQUIRED TO SIGN A SEPARATE AGREEMENT, ATTACHED HERETO AS EXHIBIT J, TO WAIVE ANY IMPLIED WARRANTIES OF QUALITY.

(b) Subject to subsection (c), a cause of action for breach of warranty of quality, regardless of the purchaser's lack of knowledge of the breach, accrues:

(1) As to a unit, at the time the purchaser to whom the warranty is first made enters into possession if a possessory interest was conveyed or at the time of acceptance of the instrument of conveyance if a nonpossessory interest was conveyed; and

(2) As to each common element, at the time the common element is completed or, if later:

(i) As to a common element which may be added to the condominium or portion thereof, at the time the first unit therein is conveyed to a bona fide purchaser; or

(ii) As to a common element within any other portion of the condominium, at the time the first unit in the condominium is conveyed to a bona fide purchaser.

(c) If a warranty of quality explicitly extends to future performance or duration of any improvement or component of the condominium, the cause of action accrues at the time the breach is discovered or at the end of the period for which the warranty explicitly extends, whichever is earlier.

IX. Right to Cancel Purchase (Limitations of Warranties).

The Declarant shall provide a purchaser of a Unit with a copy of this Public Offering Statement and all amendments thereto before the execution of a contract for sale. Unless prior to the execution of a contract for sale, a purchaser acknowledges in writing receipt and review of such offering statement, the purchaser, upon written notice to the Declarant, may cancel the contract at any time prior to conveyance of the Unit, unless the purchaser shall, subsequently, expressly and in writing waive such right to cancel after having received and reviewed such offering statement. **ACCORDINGLY, PURCHASERS WILL BE REQUIRED TO ACKNOWLEDGE IN WRITING, BY SIGNING THE FORM ATTACHED AS EXHIBIT I, THE RECEIPT AND REVIEW OF THIS PUBLIC OFFERING STATEMENT.**

If the Purchaser elects to cancel, he or she may do so by hand delivering a notice thereof or by mailing the notice by prepaid United States mail to the Declarant. The cancellation shall be without penalty and any deposit made by the Purchaser shall be promptly refunded in its entirety.

Once a purchaser accepts the conveyance of a Unit, he may not cancel the contract.

X. Unsatisfied Judgments, Pending Legal Proceedings.

As of the date of delivery of this Statement, there are no judgments against the Association, nor is the Association a party to any pending litigation. The Declarant has no actual knowledge of any pending litigation that would be of any significance to the Condominium or the Property.

XI. Escrow of Deposits.

Any deposit made in connection with the purchase or reservation of a Unit from the Declarant shall be placed in escrow by Declarant and held either in this State in an account designated solely for that purpose by a licensed title insurance company, an attorney, a licensed real estate broker or an institution whose accounts are insured by a governmental agency or instrumentality until the deposit is: (1) delivered to the Declarant at closing; (2) delivered to the Declarant because of purchaser's default under a contract to purchase the unit; or (3) refunded to the purchaser.

XII. Restraints on Transfers.

Section 1604-102 of the Condominium Act prohibits the Declarant from offering any interest in a Unit until the Declarant has prepared and delivered to a Purchaser a current Public Offering Statement.

The Condominium Act further provides that no part of the Common Elements may be sold except in conjunction with the sale of an interest in a Unit; provided, however, the Act does permit the sale of Common Elements or portions thereof by the Association upon the required vote of the members. No conditions are placed on this right of the Association by the Declaration.

The Declaration imposes the following restrictions on use of an Owner's Unit.

(a) The Residential Units (with the exception of any such Units during the time period when they are being used by the Declarant as a sample, model or sales office) are restricted to Residential use. The Commercial Units are restricted to Commercial Use.

(b) No Owner may obstruct the Common Elements in any way.

(c) No Owner may carry on any practice, or permit any practice to be carried on, which unreasonably interferes with the quiet enjoyment of the occupants of any other Unit. The Property is to be maintained in a clean and sanitary condition, and no Owner may place any garbage, trash or rubbish anywhere in the Property other than in his own Unit and in or on such parts of the Common Elements as may be designated for such purpose by the Executive Board.

(d) No Unit shall be used, occupied or kept in a manner that in any way increases the fire insurance premiums for the Property without the prior written permission of the Executive Board.

(e) No Owner of any Unit (other than the Declarant in connection with its marketing and sale of the Units) may erect any sign on or in his Unit or any Limited Common Element which is visible from outside his Unit or from the Common Elements without in each instance having obtained the prior written permission of the Executive Board.

(f) Pets shall be allowed in accordance with the Declaration and Rules and Regulations.

(g) The Executive Board may from time to time promulgate reasonable Rules and Regulations, not in conflict with the provisions of the Declaration, concerning the use and enjoyment of

the Property. Copies of the then current Rules and Regulations and any amendments thereto shall be furnished to all Owners by the Association promptly after the adoption of such Rules and Regulations and any amendments thereto.

(h) Except as otherwise provided in the Declaration, no Unit shall be altered, remodeled or renovated unless such alteration, remodeling or renovation shall be approved in writing by a majority vote of the Executive Board of the Association. Any such approval shall identify the alteration, remodeling or renovation to be done in reasonable detail and shall establish a budget therefor. All such alterations, remodeling or renovation shall be conducted by the Owner.

(i) No Owner shall cause any material to be furnished to his Unit or any labor to be performed therein or thereon except in the manner set forth in the Declaration.

The Declarant shall have the right to operate any Units owned by the Declarant as a rental project. An Owner, other than the Declarant, may sell or lease his or her Unit, however, the Executive Board may prescribe a form of lease or specific provisions.

The Rules and Regulations attached to this Statement as **Exhibit D** further restrict the Owners' use of the Common Elements and of the Units.

XIII. Insurance.

Article 16 of the Declaration sets forth the provisions concerning the types and amounts of insurance coverage to be provided by the Association. The Property will be insured by a policy of fire and property damage insurance in an amount equal to one hundred percent (100%) of the current replacement cost of the Condominium, including, to the extent required by Section 1603-113 of the Condominium Act, the individual Units, at the time the insurance is purchased and at each renewal date. The premium for this insurance will be paid by the Association. Each Owner will pay his share as part of his Assessment for Common Expenses. This policy will insure all physical improvements and fixtures within each Unit in existence on the date of closing. Personal property of the Owner will not be insured. It will be the individual responsibility of the Owners to insure their personal property and liability insurance to cover claims arising out of the use or ownership of their Units. Owners are advised to consult the Executive Board or the Managing Agent before purchasing their own insurance.

The Association will also carry a liability insurance policy on behalf of the Association and all Owners to insure them against liability arising out of the ownership or use of the Common Elements, worker's compensation insurance, directors and officers insurance, flood insurance, if applicable and available, covering anyone who either handles or is responsible for funds held or administered by the Association. The cost of maintaining each of such insurance policies and bonds shall be a Common Expense.

The liability policy will not insure Owners against liability arising from an accident or injury occurring within their Unit or from their own negligence.

Insurance proceeds under the fire and property damage insurance policy will be paid to the Association or an insurance trustee, if there is an insurance trust agreement in effect.

XIV. Fees on the Use of Common Elements; Financial Arrangements for Improvements.

There are no current or expected fees or charges to be paid by Owners for the use of Common Elements and other facilities related to the Condominium other than the assessments for management of the Condominium.

XV. Unusual and Material Circumstances, Features and Characteristics, Zoning and Land use Requirements Affecting the Condominium.

A. Pre-Construction Sales. The Declarant does not intend to sell Units on a pre-construction basis.

B. Zoning and Land Use Requirements. The Condominium is located in the "B3 Downtown Business" zoning district and the Pedestrian Activity District established by the Zoning Ordinance of the City of Portland, Maine. As provided in Section 3.1 of the Declaration, no Residential Unit may be subdivided without prior site plan approval from the City of Portland.

XVI. Common Expense Assessments.

The projected Common Expense Assessments for each Unit are set forth in the annual budget, a copy of which is attached to this Statement as Exhibit F. The assessments do not vary seasonally but will change each year as the annual budget is approved by the Association.

XVII. Owner's Liability for Real Estate Taxes, Assessments and Other Charges.

By statute, a municipality must separately assess and tax individual Units with each Owner therefore liable only for real estate taxes, municipal assessments and other municipal charges against his or her own Unit, with no liability for such obligations against other Units. Payment of such taxes, assessments, and charges shall be included in the Common Expense Assessment unless the owner is charged a special Assessment or an Assessment for Limited Common Expenses as authorized by Article 14 of the Declaration. Collection of such taxes is done by the Association.

XVIII. Liens for Assessments and Other Claims.

All sums assessed by the Association constitute the personal liability only of the Owner thereby assessed. The Condominium Act provides a lien process by which the Association can perfect liens for the non-payment of assessments and foreclose them through a judicial proceeding. That liability constitutes a lien only against that Owner's Unit.

In addition, other liens such as judgment liens against the Association run against the Units and not the common elements. No other property of an Owner is subject to a lien of a judgment creditor of the Association.

XIX. Development Rights Reserved by the Declarant.

In addition to the easement rights reserved in Article 8 of the Declaration, the Declarant reserves to itself and for the benefit of its successors and assigns the right until the construction, marketing and sale of all Units are completed to:

- (a) connect with and make use of utility lines, wires, pipes and conduits located on the Property for construction and sales purposes, provided that the Declarant shall be responsible for the cost of services so used;
- (b) use the Common Elements for ingress and egress, for the repair and construction of Units and Common Elements including the movement and temporary storage of construction materials and equipment, and for the installation of signs and lighting for sales and promotional purposes;
- (c) exercise any and all development rights as are now allowed or in the future may be allowed by the Condominium Act;

- (d) complete all contemplated improvements on the Plats and Plans;
- (e) relocate any improvements shown on the Plats and Plans and construct additional Common Element improvements;
- (f) maintain models and a sales office;
- (g) exercise the easements reserved to it in the Declaration;
- (h) appoint or remove any officer or Executive Board member during any period of Declarant control of the Association set forth in Article 10 of the Declaration;
- (i) convert the Commercial Unit to a Residential Unit if permitted by applicable local land use regulations, and;
- (j) exercise any other Special Declarant Rights as are now allowed or in the future may be allowed by the Condominium Act.

The Development Rights reserved by the Declarant include, without limitation, the right to withdraw one (1) unit and the right to determine the final location of the elevator within the approximate location as shown on the Plans.

The exercise of any Development Rights shall be in accordance with and governed by the provisions of the Condominium Act, including Section 1602-110.

Any Limited Common Elements created pursuant to any Development Right reserved will be of the same general types and sizes as the Limited Common Elements within other parts of the Condominium.

The proportion of Limited Common Elements to Units created pursuant to any Development Right reserved by the Declarant are intended to be approximately equal to the proportion existing within other parts of the condominium.

All restrictions in the Declaration affecting use, occupancy, and alienation of Units will apply to any Units of the same type created pursuant to any Development Right reserved by the Declarant.

The assurances made in this section do not apply in the event that any Development Right is not exercised by the Declarant.

XX. The Owners Association.

The Condominium Act provides for the self-governing of the Condominium by an Owners Association, in this instance called "Monument Square Condominium Association."

The Association is organized as a non-profit condominium corporation under Maine law. The ByLaws provide that the powers and responsibilities of the Association are delegated to the Condominium's Executive Board, some of which in turn may be sub-delegated to the Managing Agent. The Executive Board has the power and responsibility in administering the Condominium to, among other things:

- (a) Prepare the annual budget;
- (b) Make and collect assessments against the Owners for Common Expenses;
- (c) Provide for the upkeep, maintenance and care of Common Elements;
- (d) Designate, hire and dismiss the personnel necessary for the maintenance of the Condominium;
- (e) Make rules and regulations concerning the use of the Condominium;

- (f) Establish a bank account on behalf of the Association;
- (g) Make alterations to the Condominium;
- (h) Enforce by legal means the provisions of the Condominium instruments;
- (i) Obtain necessary insurance;
- (j) Pay the cost of services rendered to the Condominium; and
- (k) Keep the books of account of the Condominium;

The Declaration describes the makeup of the Executive Board of the Association. The Executive Board consists of at least three (3) members elected by Owners, except that the Declarant will initially appoint the members of the Executive Board in accordance with Article 12 of the Declaration.

Not later than the earlier of (i) 60 days after the conveyance by the Declarant to Owners other than the Declarant of seventy-five percent (75%) of the Units, including any additional Units which may be added to the Condominium, or (ii) seven (7) years following conveyance of the first Unit to an Owner other than the Declarant, all members of the Executive Board appointed by the Declarant shall resign and the Owners (including the Declarant to the extent of Units owned by the Declarant) shall elect new members of the Executive Board in accordance with the By-Laws of the Association.

NO PERSON HAS BEEN AUTHORIZED BY THE DECLARANT TO MAKE ANY STATEMENT, REPRESENTATION OR WARRANTY NOT SPECIFICALLY CONTAINED HEREIN; AND NOTHING IN THIS PUBLIC OFFERING STATEMENT MAY BE CHANGED OR MODIFIED ORALLY.

ANY INFORMATION OR DATA ABOUT THE CONDOMINIUM THAT IS NOT INCLUDED IN THIS PUBLIC OFFERING STATEMENT SHOULD NOT AND MUST NOT BE RELIED UPON.

IN WITNESS WHEREOF, 28 Monument Square, LLC, has caused this instrument to be sealed with its company seal and signed in its company name by _____, its Manager, thereunto duly authorized, this _____ day of the month of _____ 2008.

SIGNED, SEALED AND DELIVERED
In the presence of: **28 Monument Square, LLC**

By _____
Name: _____
Its: Manager

EXHIBIT C

BYLAWS
of
Monument Square Condominium
28 Monument Square, Portland, Maine

ARTICLE 1

INTRODUCTORY PROVISIONS

Section 1.1. Applicability. These Bylaws ("Bylaws") shall relate solely to the property called Monument Square Condominium, located at 28 Monument Square, Portland, Maine (the "Property"), more fully described in the Declaration of Condominium dated _____, 2008, and the Plans and Plans attached thereto (collectively, the "Declaration"), recorded in the Cumberland County Registry of Deeds.

Section 1.2. Definitions. The capitalized terms used herein without definition shall have the same definitions as such terms have in the Declaration and the Maine Condominium Act, 33 M.R.S.A. §§1601-101 et seq. (the "Condominium Act" or "Act"). Unless otherwise provided, in the event of inconsistencies in definitions among the Declaration and the Condominium Act, the Declaration shall control.

Section 1.3. Compliance. Pursuant to the provisions of the Condominium Act, every Owner and all persons entitled to occupy a Unit shall comply with these Bylaws.

Section 1.4. Name and Office. The name of the Condominium is the "Monument Square Condominium". The address of the Condominium is 28 Monument Square, Portland, Maine 04101. The name of the Condominium association is "Monument Square Condominium Association" (the "Association") and its address is 28 Monument Square, Portland, Maine 04101. The office of the Condominium and the Association and the Executive Board shall be located at the Property or at such other place as may be designated from time to time by the Executive Board.

Section 1.5. Incorporation of Statutory Law. Except as expressly provided herein, in the Declaration, or in the Act, the Association shall be governed by the provisions of any applicable statute of the State of Maine.

ARTICLE 2
THE ASSOCIATION

Section 2.1. Membership. The Association is a Maine non-stock, nonprofit corporation, all the members of which are the owners of Units in the Property. The Declarant, being the initial owner of all Units, initially shall constitute all of the members of the Association. A person shall automatically become a member of the Association at the time he records the legal title instrument to his Unit in the Cumberland County Registry of Deeds, and he shall continue to be a member so long as he continues to hold title to such Unit. An Owner shall not be permitted to resign from membership in the Association prior to the time when he transfers title to his Unit to another. No membership may be transferred in any way except as appurtenant to the transfer of title to the Unit to which that membership pertains. Transfer of membership shall be automatic upon recordation of transfer of title, but the Association may treat the prior Owner as the member for all purposes until satisfactory evidence of the recording of the instrument transferring title shall be presented to the Secretary of the Executive Board. The date of recordation of an instrument of conveyance in the Cumberland County Registry of Deeds shall be determinative of all disputes concerning the date of transfer of title to any Unit or Units. A mortgage conveyance of any Unit, however, shall not operate to transfer membership until the mortgage is foreclosed or the Unit sold in lieu of foreclosure.

Section 2.2. Meetings. Meetings of the Association shall be conducted in accordance with the following:

- (a) Annual Meetings.

(1) Owners shall hold Annual Meetings for the purposes stated in Section 2.2. (a) (2) hereof (the "Annual Meeting"). The **Annual Meeting of the Owners shall be held on the first (1st) Saturday in February of each year**, unless otherwise determined by the Association, and shall take place at the Property or at such locations as may be determined by the Association.

(2) The purpose of the Annual Meeting of the Association shall be to conduct such business as may be required or permitted by law, the Declaration or these Bylaws to be done by a vote of Owners. The Treasurer of the Executive Board shall present at each Annual Meeting a financial report of the receipts and Common Expenses for the Association's immediately preceding fiscal year, itemized receipts and expenditures, the allocation thereof to each Owner, and any changes expected for the present fiscal year. A copy of such financial report shall be sent to each Owner not less than five (5) days prior to the Annual Meeting.

(b) Special Meetings.

(1) The President shall call a special meeting of the Association if so directed by resolution of the Executive Board or upon petition signed and presented to the Secretary by Owners entitled to cast at least fifty percent (50%) of the votes in the Association. The notice of any special meeting shall state the time, the place and purpose thereof. Such meetings shall be held within forty-five (45) days after receipt by the President of said resolution or petition; provided, however, if the purpose includes the consideration of the rejection of a capital expenditure pursuant to Section 5.8. hereof, such meeting shall be held within fifteen (15) days after receipt by the President of said resolution or petition. No business shall be transacted at a special meeting except as stated in the notice.

(2) Within sixty (60) days after the date of which all members of the Executive Board must resign pursuant to Section 12.1 of the Declaration, a special meeting of the Association shall be held at which all of the members of the Executive Board shall resign, and the Owners, including the Declarant if the Declarant owns one or more Units, shall thereupon become successor members of the Executive Board to act in the place of those resigning.

(c) Notice. Notices to Owners of meetings of the Association or meetings of the Executive Board which Owners who are not Executive Board members are entitled or invited to attend pursuant to Section 3.3. (e) hereof shall be delivered either: (1) by hand; (2) by prepaid U.S. mail to the mailing address designated in writing by the Owner to the Managing Agent or, in the absence of a Managing Agent, the Executive Board; or (3) by verifiable electronic mail to an address designated in writing for such purpose by the Owner to the Managing Agent or, in the absence of a Managing Agent, the Executive Board. If a notice sent to Owners pursuant to the foregoing sentence includes an item on the proposed agenda that would require the approval of Eligible Mortgage Holders pursuant to Section 15.2 of the Declaration, a copy of such notice will also be sent to the Eligible Mortgage Holders. All such notices shall be delivered to all Owners (and Eligible Mortgage Holders, if applicable) not less than ten (10) nor more than sixty (60) days in advance of the date of the meeting to which the notice relates and shall state the date, time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the Declaration or Bylaws. The Secretary of the Executive Board shall cause all such notices to be delivered as aforesaid. Notice sent by mail shall be deemed to have been delivered on the second day after the date of mailing, in the case of notices by mail or electronic mail, or the date of deposit in the Owner's (or if applicable, in the Eligible Mortgage Holder's) mailbox in the case of hand delivery. No subject may be dealt with at any Annual Meeting or special meeting of the Association, unless the notice for such meeting stated that such subject would be discussed at such meeting.

(d) Quorum. Except as set forth below, the presence in person or by proxy of Owners to which at least fifty percent (50%) of the total votes in the Association are allocated at the commencement of a meeting shall constitute a quorum at that meeting of the Association. If a quorum is not present, Owners entitled to cast a majority of the votes represented at such meeting may adjourn the meeting to a time not less than forty-eight (48) hours after the time for which the original meeting was called. If a meeting is adjourned, the quorum at such second meeting shall be deemed present throughout any meeting of the

Association if Owners to which at least fifty percent (50%) of the total votes in the Association are allocated are present in person or by proxy at the beginning of the meeting.

(e) Voting.

(1) Each Unit shall vote in accordance with Exhibit B attached to the Declaration, and each Owner shall be entitled to cast the vote allocated to his Unit as set forth in the Declaration. When the ownership of a Unit is in more than one person, the person who shall be entitled to cast the vote of such Unit shall be the person owning such Unit who is present. If more than one person owning such Unit is present, then such vote shall be cast only in accordance with the majority in interest of the Owners pursuant to Section 1603-110 of the Condominium Act. There shall be deemed to be majority agreement if any one of the multiple Owners casts the votes allocated to that Unit without protest being made promptly to the person presiding over the meeting by any of the other Owners of the Unit. Subject to the requirement of the Condominium Act, wherever the approval or disapproval of an Owner is required by the Condominium Act, the Declaration or these Bylaws, such approval or disapproval shall be made only by the person who would be entitled to cast the vote of such Unit at any meeting of the Association.

(2) Except with respect to the election of members of the Executive Board and except where a greater number is required by the Condominium Act, the Declaration or by these Bylaws, the approval of the Owners to which more than fifty percent (50%) of the aggregate votes in the Condominium are allocated voting in person or by proxy at one time at a duly convened meeting at which a quorum is present (50% of quorum) is required to adopt decisions at any meeting of the Association. In all elections for Executive Board members, each Owner shall be entitled to cast for each vacancy to be filled at such election the number of votes allocated to the Unit or Units owned by such Owner. Those candidates for election receiving the greatest number of votes cast in such elections shall be elected. If the Declarant owns or holds title to one or more Units, the Declarant shall have the right at any meeting of the Association to cast the votes to which such Unit or Unit owned by the Association may be cast. There shall be no cumulative or class voting or splitting of votes.

(3) Notwithstanding anything to the contrary herein, during the period of Declarant control pursuant to Section 12.1 of the Declaration, the Annual Meetings and any Special Meetings of the Members shall be held only for the purpose of ratifying the budget, and no other matters shall be voted upon by Members during such period.

(f) Proxies. A vote may be cast in person or by proxy. If a Unit is owned by more than one person, each Owner of the Unit may vote through a duly executed proxy. Such proxy may be granted by any Owner only in favor of another Owner, the holder of a mortgage on a Unit or the Declarant. Proxies shall be duly executed in writing, shall be valid only for the particular meeting designated therein and must be filed with the Secretary before the appointed time of the meeting. Such proxy shall be deemed revoked only by actual receipt by the person presiding over the meeting of written notice of revocation from the grantor of the proxy. No proxy shall be valid for a period in excess of one year after the execution thereof. A proxy is void if it is not dated or purports to be revocable without notice.

(g) Actions of Association without a Meeting. Any action required or permitted to be taken by a vote of the Association may be taken without a meeting if all Owners shall individually or collectively consent in writing to such action. Any such written consent shall be filed with the proceedings of the Association.

(h) Conduct of Meetings. The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meeting and record in a Minute Book all resolutions adopted at the meeting as well as keep a record of all transactions occurring at the meeting. The President may appoint a person to serve as parliamentarian at any meeting of the Association. The then current edition of Robert's Rules of Order shall govern the conduct of all meetings of the Association when not in conflict with the Declaration or these Bylaws. All votes shall be tallied by tellers appointed by the President.

Section 2.3. Copies of Association Documents. The Association shall have current copies of the Declaration, these Bylaws, the Rules and Regulations and any other rules concerning the Property as well as its own books, records and financial statements available for inspection by Owners. These documents shall be available during normal business hours.

ARTICLE 3 EXECUTIVE BOARD

Section 3.1. Composition. The Executive Board shall govern the affairs of the Association. The Executive Board shall initially consist of five (5) natural individuals. During the Period of Declarant Control, as defined in the Declaration, the members of the Executive Board may be designees of the Declarant. After the period of Declarant control, in accordance with Section 12.1 of the Declaration, each owner of a Unit shall be a member of the Executive Board or may appoint a representative to take his or her place on the Executive Board. A Commercial Unit Owner that is a corporate entity or partnership may be represented by an officer, member, shareholder or partner of the Commercial Unit Owner, as applicable, or by an agent or representative of a Commercial Unit Owner, provided that such agent or representative is duly authorized in writing by such Owner. In the event that the Declarant exercises the Declarant's reserved right to withdraw a Unit from the Condominium, the number of Executive Board members shall automatically be reduced to three (3) natural individuals who shall be elected in accordance with Section 12.1 of the Declaration.

Section 3.2. Election and Term of Office.

(a) At the Annual Meeting of the Association, subject to Section 12.1 of the Declaration, the election of members of the Executive Board whose terms have expired shall be held. The term of office of any Executive Board member to be elected (except as may be set forth in Section 2.2, (b) (2), and Section 3.5. hereof) shall be fixed at three (3) years. The members of the Executive Board shall hold office until the earlier of the election of their respective successors or their death, adjudication of incompetency, removal or resignation. An Executive Board member may serve an unlimited number of terms and may succeed himself.

(b) Persons qualified to be members of the Executive Board may be nominated for election only as follows:

(1) Any Owner may submit to the Secretary at least thirty (30) days before the meeting at which the election is to be held a nominating petition signed by Owners to which at least twenty percent 20% of the votes in the Association are allocated, together with the statement that the person nominated is willing to serve on the Executive Board and a biographical sketch of the nominee. The Secretary shall mail or hand deliver copies of the submitted items to every Owner together with the notice of such meeting; and

(2) Nominations may be submitted from the floor at a meeting at which the election is held for each vacancy on the Executive Board for which no more than one person has been nominated by petition.

Section 3.3. Meetings. Meetings of the Executive Board shall be conducted in accordance with the following:

(a) **Time and Location.** The Executive Board shall hold an annual meeting within ten (10) days following the Annual Meeting of the Association for the purpose of electing officers, as more fully set forth in Article 4 hereof, and for any other purpose which may be required or permitted by law, the Declaration or these Bylaws to be done by a vote of the Executive Board. The Executive Board shall hold meetings at the call of the President or upon request to the President by at least a majority of the members of the Executive Board; provided however that:

(1) In any event, the Executive Board shall meet at least three (3) times each fiscal year (in addition to the annual meeting of the Executive Board), unless all members of the Executive Board shall waive such requirements as to a particular meeting or meetings;

(2) The first such Executive Board meeting shall be held promptly after the date on which the Declaration is recorded;

(3) There shall be a meeting of the Executive Board on or before the first day of the twelfth month of each fiscal year for the purpose of adopting the budget of the Association for the next following fiscal year of the Association; and

(4) The President shall call any Executive Board meeting requested by a majority of the members of the Executive Board for a date occurring not less than five (5) nor more than twenty (20) days after the receipt of such request.

The President shall designate the time and location of Executive Board meetings. No business shall be transacted at Executive Board meetings other than as specified in the notice thereof unless all members are present. If all members are present the notice requirements for such additional matters shall be deemed waived in accordance with the Act unless a member objects.

(b) Notice. Not less than forty-eight (48) hours prior to the time of any Executive Board meeting, a written notice stating the date, time and place of such meeting shall be delivered, in the same manner provided in Section 2.2(c) for Association meeting notices, to each Executive Board member at the address given to the Executive Board by such Executive Board member for such purpose. Any Executive Board member may waive notice of a meeting or consent to any action of the Executive Board without a meeting. An Executive Board member's attendance at a meeting shall constitute his waiver of notice of such meeting.

(c) Quorum of the Executive Board. At all meetings of the Executive Board a majority of the members shall constitute a quorum for the transaction of business, and the votes of a majority of the members present at a meeting at which a quorum is present shall constitute a decision of the Executive Board. If at any meeting of the Executive Board there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice. One or more members of the Executive Board may participate in and be counted for quorum purposes at any meeting by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other.

(d) Voting. Each Executive Board member shall be entitled to cast one vote. A vote of the majority of the members of the Executive Board present at any meeting at which a quorum is present shall bind the Executive Board for all purposes unless otherwise provided in the Declaration or these Bylaws.

(e) Organization. Executive Board meetings may be held under such reasonable rules consistent with these Bylaws as the Executive Board may determine. The Executive Board is hereby entitled to promulgate such rules.

(f) Conduct of Meetings. The President shall preside over all meetings of the Executive Board and the Secretary shall keep a Minute Book of the Executive Board meetings, recording therein all resolutions adopted by the Executive Board and a record of all transactions and proceedings occurring at such meetings. The then current edition of Robert's Rules of Order shall govern the conduct of the meeting of the Executive Board if and to the extent such Rules are not in conflict with the Declaration or these Bylaws.

(g) Action without a meeting. Any action by the Executive Board required or permitted to be taken at any meeting may be taken without a meeting if all of the members of the Executive Board shall individually or collectively consent in writing to such action. Any such written consent shall be filed with the minutes of the proceedings of the Executive Board.

Section 3.4. Resignation and Removal. A member of the Executive Board shall be deemed to have resigned upon transfer of title to his Unit. The Declarant shall have the right to remove and replace any and all members appointed by the Declarant at any time and from time to time until the required resignation date specified in Section 12.1 of the Declaration.

Section 3.5. Vacancies. Any vacancy or vacancies on the Executive Board, whether caused by resignation, removal, death, adjudication of incompetency, or an increase in size of the Executive Board, shall be filled by the Executive Board with an interim appointee who shall serve until the next Annual Meeting of the Association at which time such vacancy may be filled by the Unit owner not currently represented on the board, provided, however, that the Declarant shall have the right to fill any vacancy created by the resignation, death, or adjudication of, incompetency of a member who had been appointed by the Declarant.

Section 3.6. Compensation. No member of the Executive Board shall receive compensation for performing his duties as a member of the Executive Board unless such compensation is expressly authorized or approved by a vote of Owners to which more than fifty percent (50%) of the votes in the Association are allocated, at any Annual or special meeting of the Association. Executive Board Members shall be entitled to reimbursement for all reasonable expenses they incur in carrying out their duties.

Section 3.7. Validity of Contracts with Interested Executive Board Members. No contract or other transaction between the Association and one or more of its Executive Board members or between the Association and any corporation, firm or association in which one or more of the Executive Board members are directors or officers, or are financially interested, shall be void or voidable because such Executive Board member or members are present at any meeting of the Executive Board which authorized or approved the contract or transaction or because his or their votes are counted, if the circumstances specified in either of the following subparagraphs exists:

(a) The fact that an Executive Board member is also such a director or officer or has such financial interest is disclosed or known to the Executive Board and is noted in the minutes thereof, and the Executive Board authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient for the purpose without counting the vote or votes of such Executive Board Member or members; or

(b) The contract or transaction is made in good faith and is not unconscionable to the Association at the time it is authorized, approved or ratified.

Section 3.8. Inclusion of Interested Executive Board Members in a Quorum. Any Executive Board member holding such director or officer position or having such financial interest in another corporation, firm or association may be counted in determining the presence of a quorum at a meeting of the Executive Board or a committee thereof which authorizes, approves or ratifies a contract or transaction of the type described in Section 3.7. hereof.

Section 3.9. Powers of the Executive Board.

(a) **Enumeration.** The Executive Board shall have all of the powers and duties granted by the Condominium Act and the laws governing nonprofit corporations or both.

(b) **Limitation.** Nothing in this Section or elsewhere in these Bylaws shall be considered to grant to the Executive Board or to the officers of the Association any powers or duties which, by law, are possessed by Owners. Unless otherwise provided herein or in the Condominium Act or in the Declaration, the Executive Board, unless under the period of Declarant control pursuant to Section 12.1 of the Declaration, shall comply with the instructions of Owners to which more than two-thirds (2/3) of the votes in the Association are allocated present in person or by proxy, as expressed in the resolution duly adopted at any Annual or special meeting of the Owners.

(c) **Delegation of Powers. Managing Agent.** The Executive Board may employ for the Condominium a Managing Agent at a compensation established by the Executive Board. The Managing Agent shall perform such duties and services as the Executive Board shall authorize, including, but not limited to all of the duties listed in the Declaration and these Bylaws; provided, however, where a Managing Agent does not have the power to act under the Declaration or these Bylaws, the Managing Agent may act as an advisor or in an advisory capacity to the Executive Board. The Executive Board may delegate to the Managing Agent all of the powers granted to the Executive Board by the Condominium Act, the Declaration

and these Bylaws other than the following powers: (i) to adopt an annual budget and any amendment thereto or to assess Common Expenses; (ii) to designate repeal or amend rules and regulations; (iii) to designate signatories on Association bank accounts; (iv) to borrow money on behalf of the Association; (v) to acquire mortgages on Units; and (vi) to assign Common Elements as Limited Common Elements. Any contract with the Managing Agent must provide that it shall be cancelable by either party without cause and without a termination fee upon not less than ninety (90) days written notice and shall be cancelable by the Executive Board with cause upon not less than five (5) days written notice. Any such contract negotiated by the Declarant shall meet all requirements of this Section 3.9.(c) for contracts negotiated by the Association and shall not exceed one year but may be renewed upon consent of the Association.

ARTICLE 4 **OFFICERS**

Section 4.1. Election. Subject to Article 12 of the Declaration, at the first meeting of the Executive Board, and at every Annual Meeting of the Executive Board thereafter the Executive Board members, if a quorum is present, shall elect Executive Board officers of the Association for the following year, such officers to serve for a one year term and until their respective successors are elected. The officers to be elected are: President, Secretary, Treasurer and such other officers as the Executive Board shall determine. Each officer may serve an unlimited number of terms so long as such member or officer continues to be reelected to the Executive Board. Any member may hold two offices simultaneously, except that the President shall not hold any other office.

Section 4.2. Duties. The duties of the officers shall be as follows:

(a) **President.** The President shall be the chief executive officer of the Association and the chairperson of the Executive Board. The President shall be responsible for implementing the decisions of the Executive Board and in that capacity shall direct, supervise, coordinate and have general control over the affairs of the Association and the Executive Board, subject to the limitations of the laws of the State of Maine, the Condominium Documents and the actions of the Executive Board. The President shall have the power to sign checks and other documents on behalf of the Association and the Executive Board, or both, with or without the signatures of any other officers as may be determined by the Executive Board. The President shall preside at all meetings of either body at which he is in attendance and shall be a member of all committees. If the President is absent from such meetings the senior officer of the Association present at such meeting shall preside, and in the absence of any officer, the body holding the meeting shall elect a person to preside. If the Executive Board so provides, the President also shall have any or all of the powers and duties ordinarily attributable to the chief executive officer of a corporation domiciled in Maine.

(b) **Secretary.** Unless otherwise determined by the Executive Board, the Secretary shall keep or cause to be kept all records (or copies thereof if the original documents are not available to the Association) of the Association and the Executive Board shall have the authority to affix the seal of the Association to any documents requiring such seal. The Secretary shall give or cause to be given all notices as required by law, the Declaration or these Bylaws, shall take and keep or cause to be taken and kept minutes of all meetings of the Association, the Executive Board and all committees, and shall take and keep or cause to be taken and kept at the Association's office a record of the names and addresses of all Owners as well as copies of the Declaration, the Plats and Plans, these Bylaws and the Rules and Regulations, all of which shall be available at the office of the Association for inspection by Owners or prospective Owners during normal business hours and for distribution to them at such reasonable charges (if any) as may be set from time to time by the Executive Board. The Secretary shall keep or cause to be kept the register of Eligible Mortgage Holders. The Secretary shall also perform all duties and have such other powers as are ordinarily attributable to the Secretary of a corporation domiciled in Maine.

(c) **Treasurer.** Unless otherwise determined by the Executive Board, the Treasurer shall have the charge and custody of, and be responsible for, all funds and securities of the Association, shall deposit or cause to be deposited all such funds in depositories as the Executive Board may direct, shall keep or cause to be kept correct and complete accounts and records of all financial transactions of the Association and the Executive Board and shall submit or cause to be submitted to the Executive Board and the

Association such reports thereof as the Condominium Act, the Declaration, the Executive Board, or these Bylaws may from time to time require. Such records shall include, without limitation, chronological listings of all receipts and expenditures on account of the Common Elements, Limited Common Elements, and each Unit, the amount of each assessment for Common Expenses and expenses accessible to individual Units, if any, and the amount paid and the amounts due on such assessments. Such records shall specify and itemize the maintenance, repair and replacement expenses relating to the Common Elements and the Limited Common Elements and any other expenses incurred by the Association. The foregoing financial records shall be kept at the Association's office and shall be available there for inspection by Owners or prospective Owners during normal business hours. The Treasurer shall, upon request, provide any person who shall have entered into a written agreement to purchase a Unit with a written statement of the information required to be provided by the Association pursuant to Sections 1603-116 (h) and 1604-108 (b) of the Condominium Act. The Treasurer shall also perform such duties and have such powers as are ordinarily attributable to the Treasurer of a corporation domiciled in Maine. The Executive Board may grant to the Treasurer the power to sign checks on behalf of the Association, with or without the signatures of any other officers, subject to any terms or limitations as may be determined by the Executive Board in its discretion.

Section 4.3. Compensation. The officers of the Executive Board shall serve without compensation for their services in such capacity unless such compensation is expressly authorized or approved by a vote of Owners to which more than fifty percent (50%) of the votes in the Association are allocated to any Annual or special meeting of the Association. Officers of the Executive Board shall be entitled to reimbursement for all reasonable expenses they incur in carrying out their duties.

Section 4.4. Resignation and Removal. Any officer may resign at any time by written notice to the Executive Board, such resignation to become effective at the next Executive Board meeting. Any officer who ceases to be a member of the Executive Board for any reason also shall be deemed to have resigned or been removed, ipso facto, from any Executive Board office he may have held. Any officer may be removed from his office at any time by a majority vote of the Executive Board whenever in the judgment of the Executive Board members the interests of the Association will be best served thereby.

Section 4.5. Vacancies. Vacancies caused by resignation or removal of officers or the creation of new officers may be filled by a majority vote of the Executive Board members, if the vacancy resulted from action of the Executive Board.

ARTICLE 5 COMMON EXPENSES; BUDGETS

Section 5.1. Fiscal Year. The fiscal year of the Association shall be the calendar year unless otherwise determined by the Executive Board; provided, however, that the first fiscal year shall begin upon the recodation of the Declaration and end on December 31 of the same year.

Section 5.2. Preparation and Approval of Budget.

(a) **Adoption.** On or before the tenth day of December of each year (or sixty (60) days before the annual meeting if the fiscal year is other than the calendar year), the Executive Board shall adopt an annual budget for the Association containing an estimate of the total amount considered necessary to pay the cost of maintenance, management, operation, repair and replacement of the Common Elements, Limited Common Elements, and Limited Common Property, in accordance with Article 14 of the Declaration, and those parts of the Units as to which it is the responsibility of the Executive Board to maintain, repair and replace; and the cost of wages, materials, insurance premiums, services, supplies and other expenses that may be declared to be Common Expenses or Limited Common Expenses by the Condominium Act, the Declaration, these Bylaws or a resolution of the Association and which will be required during the ensuing fiscal year for management and administrative expenses; the cost of such utilities as may be furnished by the Association; the amount of such reserves as shall be reasonably established by the Executive Board including operating contingency reserves for expenses both unanticipated and extraordinary and reserves for periodic maintenance, repair and replacement of the Common Elements, Limited Common Elements, and Limited

Common Property; and such other expenses of the Association as may be approved by the Executive Board including operating deficiencies, if any, for prior periods.

(b) Available for Inspection. On or before the next succeeding tenth day of January (or thirty (30) days before the annual meeting, if the fiscal year is other than the calendar year), the Executive Board shall make available for inspection at the Association office the budget and a summary of the budget in a reasonably itemized form that sets forth the amount of the Common Expenses. Such budget shall constitute the basis for determining each Owner's assessments for Common Expenses of the Association.

(c) Ratification of Budget. The Executive Board shall set and notice a date for a meeting of the Owners to consider ratification of such budget not less than ten (10) days nor more than thirty (30) days after such budget and summary are available for inspection. The meeting set by the Board for such ratification may coincide with the annual meeting as described in Section 2.2 (a). Unless at that meeting a majority of all the Owners of all Units reject such budget, such budget is ratified, whether or not a quorum is present. In the event such proposed budget is rejected, the budget last ratified by the Owners shall be continued until such time as the Owners ratify a subsequent budget proposed by the Executive Board.

(d) Reasonable Efforts. The Executive Board, shall make reasonable efforts to meet the deadlines set forth above, but compliance with such deadlines shall not be a condition precedent to the effectiveness of any budget.

Section 5.3. Assessment and Payment of Common Expenses.

(a) Common Expenses. The Executive Board shall calculate the Assessments for Common Expenses against each Unit by dividing the total amount of the estimated funds required for the operation of the Property set forth in the budget adopted by the Executive Board for the fiscal year in question by the number of Units in the Condominium. Such assessments shall be due and payable in accordance with the Rules and Regulations of the Condominium and, in any event, prior to an Owner's occupancy of his or her Unit and shall be a lien against each Owner's Unit as provided in the Condominium Act or in the Declaration.

Within ninety (90) days after the end of each fiscal year, the Executive Board shall prepare and deliver to each Owner and to each record holder of a first mortgage or a Land Installment Contract on a Unit who has registered an address with the Secretary and requested to receive the accounting, an itemized accounting of the Common Expenses and funds received during such fiscal year less expenditures actually incurred and sums paid into reserves. Any net shortage with regard to Common Expenses, after application of such reserves as the Executive Board may determine, shall be assessed promptly against the Owners in equal shares and shall be payable as a Special Assessment, in such manner as the Executive Board may determine.

(b) Reserves. Extraordinary expenditures not originally included in the annual budget which may become necessary during the year may be charged first against reserves for working capital, operations, contingencies, and replacements. If the reserves are deemed to be inadequate for any reason, including non-payment of any Owner's assessments, the Executive Board may at any time levy further assessments for Common Expenses which shall be assessed against the Owners or in accordance with their Percentage Interests and shall be payable as a special assessment, in such manner as the Executive Board may determine.

Section 5.4. Further Assessments. The Executive Board shall serve notice on all Owners of any further assessments pursuant to Sections 5.3. (a), or 5.3. (c) or otherwise as permitted or required by the Condominium Act, the Declaration and these Bylaws by a statement in writing giving the amount and reasons therefor, and such further assessments, unless otherwise specified in the notice, shall become effective ten (10) days after the delivery of such notice of further assessments. All Owners so assessed shall be obligated to pay the amount of such further assessments. Such assessments shall be a lien as of the effective date set forth in the preceding Sections 5.3. (a) and 5.3. (c).

Section 5.5. Initial Budget. At or prior to the time assessment of Common Expenses commences, the Executive Board shall adopt the budget, as described in this Article 5, for the period commencing on the date of the recording of the Declaration in the Cumberland County Registry of Deeds and ending on the last day of the fiscal year during which such commencement date occurs. Assessments shall be levied and become a lien against the Owners during such period as is provided in Section 5.3. above.

Section 5.6. Effect of Failure to Prepare or Adopt Budget. The failure or delay of the Executive Board to prepare or adopt a budget for any fiscal year shall not constitute a waiver or release in any manner of an Owner's obligation to pay his allocable share of the Common Expenses as herein provided whenever the same shall be determined and, in the absence of any annual budget or adjusted budget, each Owner shall continue to pay each Assessment at the rate established for the previous fiscal year until the new annual or adjusted budget shall have been adopted.

Section 5.7. Accounts; Audits. All sums collected by the Executive Board with respect to assessments against the Owners or from any other source may be commingled into a single fund. All books and records of the Association shall be kept in accordance with good and accepted accounting practices.

Section 5.8. Limitations on Expenditures and Borrowing. Anything herein to the contrary notwithstanding, the Association, by a vote of more than two-thirds (2/3) of all votes in the Association present, may reject any capital expenditure or borrowing approved by the Executive Board, within thirty (30) days after approval by the Executive Board; provided, however, that this Section shall not apply to the Executive Board so long as a majority of its members are appointed by the Declarant pursuant to Section 10.1 of the Declaration.

Section 5.9. Statement of Common Expenses. The Executive Board shall promptly provide any Owner, contract purchaser or proposed Mortgagee so requesting the same in writing with a written statement of all unpaid assessments for Common Expenses and Limited Common Expenses, if any, due from such Owner. The Executive Board may impose a reasonable charge for the preparation of such statement to cover the cost of its preparation, to the extent permitted by the Condominium Act.

ARTICLE 6

REPAIR OR RECONSTRUCTION

Section 6.1. Restoration of Property Out of Common Expense Fund. Damage to or destruction of the Buildings shall be promptly repaired and restored by the Association in accordance with the provisions of Article 7 of the Declaration, Sections 1603-113 (e) and (h) of the Condominium Act, as the same may be amended from time to time. The Executive Board shall be responsible for accomplishing the full repair or reconstruction which shall be paid out of the Common Expense fund. The disbursement of funds for such repair or reconstruction shall, at the option of the Executive Board, be made only as the work progresses upon approval of a qualified architect who shall have furnished a description satisfactory to the Executive Board of the costs involved and the services and materials to be furnished by the contractors, subcontractors and materialmen. Owners may apply the proceeds from their individual property insurance policies, if any, to the share of such Common Expenses as may be assessed to them. The Executive Board shall be responsible for restoring the Property only to substantially the same condition as it was immediately prior to the damage. If any physical changes are made to any restored Unit or the Common Elements, or any combination of them, which renders inaccurate the Plats and Plans which are then of record, the Executive Board shall record amended Plats and Plans showing such changes.

ARTICLE 7

AMENDMENTS TO BYLAWS; NOTICE RIGHTS OF MORTGAGE HOLDERS, INSURERS, GUARANTORS

Section 7.1. General Requirements; Consent of Declarant or Holders or Mortgages; Curative Amendments to Bylaws. Except as otherwise provided in any one or more of these Bylaws, the Declaration or the Condominium Act, these Bylaws may not be amended during Declarant's period of control pursuant to the Declaration unless it consents to said amendment. If the Declarant consents, then the Bylaws may be amended by the vote of the Owners entitled to cast a majority of the votes in the Association, cast in person

or by proxy at a meeting duly held in accordance with the provisions of these Bylaws; provided, however that if such amendment shall make any change which would have a material effect upon any rights, privileges, powers and options of the Declarant, such amendment shall require the joinder of the Declarant; and further provided that no amendment seeking (i) to abandon, encumber, sell or transfer any portion of the Common Elements, or (ii) to abandon or terminate the condominium form of ownership of the Property except as otherwise provided in the Declaration, shall be effective without the prior written approval of all Mortgagees holding mortgages and all holders of Land Installment Contracts encumbering the Units. Notwithstanding the foregoing, amendments of a material nature must be approved by Owners entitled to cast at least sixty-seven percent (67%) of the total allocated votes in the Association and by Eligible Mortgage Holders representing at least fifty-one percent (51%) of the votes of Units subject to mortgages held by Eligible Mortgage Holders. A change to any of the following, except where such change may be effected by the Declarant, would be considered material:

- (a) reallocation of interests in the Common or Limited Common Elements, or rights to their use;
- (b) boundaries of any Unit;
- (c) restoration or repair of the Condominium (after a hazard damage or partial condemnation) in a manner other than that specified in the Condominium Documents; or
- (d) any action to terminate the legal status of the Condominium after substantial destruction or condemnation occurs.

If the amendment is not of such a material nature, such as the correction of a technical error or the clarification of a statement, the approval of an Eligible Mortgage Holder may be assumed when that Eligible Mortgage Holder has failed to submit a response to any written proposal for an amendment within thirty (30) days after the proposal is made.

Section 7.2. Amendments to the Declaration. The Declaration may be amended pursuant to the provisions of the Condominium Act and of the Declaration. The President is empowered to prepare and execute any amendments to the Declaration on behalf of the Association and the Secretary or any Assistant Secretary is empowered to attest, seal with the Association's corporate seal and record any such amendments on behalf of the Association.

Section 7.3. Notice Rights of Mortgage Holders, Insurers, Guarantors.

(a) Notice. The Association shall send timely prior written notice by prepaid United States mail to holders, insurers, and guarantors of the mortgage on any Unit of the following matters:

- (i) any condemnation or casualty loss that affects either a material portion of the Condominium or the Unit securing the mortgage;
- (ii) any sixty (60) day delinquency in the payment of assessments or other charges owed by the Owner of any Unit securing the mortgage;
- (iii) a lapse, cancellation, or material modification of any insurance policy maintained by the Association; and
- (iv) any proposed action that requires the consent of fifty one percent (51%) of the Eligible Mortgage Holders.

(b) Request for Notice Required. To receive the written notice provided in this Section 7.3, the mortgage holder, insurer, or guarantor shall send a written request for this information to the Association, stating both its name and address and the Unit number or address of the Unit on which it holds, insures, or guarantees the mortgage.

ARTICLE 8
GENERAL PROVISIONS

Section 8.1. Severability. The provisions of these Bylaws shall be deemed independent and severable and the invalidity, partial invalidity or unenforceability of any provision or portion hereof shall not

affect the validity or enforceability of any other provision or portion thereof unless the deletion of such invalid or unenforceable provision shall destroy the uniform plan for development and operation of the Property which the Declaration and these Bylaws are intended to create.

Section 8.2. Conflicts. The Acts and the Declaration shall control in the event of any conflict between the provisions thereof and the provisions of these Bylaws. The Act, the Declaration and these Bylaws shall control in the case of any conflict between the provisions thereof and the provisions of the Rules and Regulations.

Section 8.3. Notices. All notices or other communications required or permitted under these Bylaws shall be in writing and shall be deemed to have been given when personally delivered or on the second business day after the day on which mailed by regular U.S. mail, postage prepaid (or otherwise as the Condominium Act may permit), (a) if to an Owner at the single address which the Owner shall designate in writing and file with the Managing Agent, or Secretary if no Managing Agent, or, if no such address is designated, at the address of the Unit of such Owner, or (b) if to the Association, the Executive Board or to the Managing Agent, at the principal office of the Association and to the Managing Agent or at such other address as shall be designated by notice in writing to the Owners pursuant to this Section. If a Unit is owned by more than one person, each such person who so designates a single address in writing to the Managing Agent, or Secretary if no Managing Agent, shall be entitled to receive all notices hereunder.

Section 8.4. Headings. The headings preceding the various Sections of these Bylaws and any Table of Contents are intended solely for the convenience of readers of the Bylaws and in no way define, limit or describe the scope of these Bylaws or the intent of any provision thereof.

Section 8.5. Gender. The use of the masculine gender in these Bylaws shall be deemed to include the feminine and neuter genders, and the use of the singular shall be deemed to include the plural, and vice versa, whenever the context so requires.

ARTICLE 9 CORPORATE SEAL

Section 9.1. Seal. The form of the seal of the Association shall contain the name of the Association and the State of Maine.

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Exhibit A

DECLARATION OF MIXED-USE CONDOMINIUM
Monument Square Condominium
28 Monument Square, Portland, Maine

ARTICLE 1
SUBMISSION

Section 1.1. Submission of Property. **28 Monument Square, LLC** ("Declarant"), owner in fee simple of the land described in Exhibit A annexed hereto, located within the City of Portland, Cumberland County, Maine (the "**Land**"), hereby submits the Land, together with all improvements, easements, rights and appurtenances thereunto belonging (the "**Property**") to the provisions of Chapter 31 of Title 33 of the Maine Revised Statutes Annotated, as amended, known as the Maine Condominium Act ("**Condominium Act**" or "**Act**") and hereby creates with respect to the Property a condominium, to be known as "Monument Square Condominium" (the "**Condominium**"). The Property is also shown on the following plats and plans: (i) the plan recorded on _____, 2008, in the Cumberland County Registry of Deeds in Plan Book _____, Page _____, identified as follows: "Condominium Plat, Monument Square Condominium," dated _____, 2008 (the "**Plat**"); (ii) on the plan recorded on _____, in the Cumberland County Registry of Deeds in Plan Book _____, Page _____, identified as follows: "Horizontal And Vertical Boundaries, Monument Square Condominium" dated _____, 2008 (the "**Plan**") (collectively the "**Plans**" or "**Plats and Plans**").

Section 1.2. Name and Address of Condominium. The name of the Condominium shall be "Monument Square Condominium." The address of the Condominium is 28 Monument Square, Portland, Maine 04101. The name of the unit owners association is the "**Monument Square Condominium Association**" (the "**Association**") and its address is 28 Monument Square, Portland, Maine 04101.

Section 1.3 Description of Condominium Development. The Condominium initially consists of the Land described in the attached Exhibit A and the condominium building containing five Units as follows: (i) two (2) residential Units identified as **Units 1 and 2** as shown on the Plats and Plans (the "**Residential Units**"), and (ii) three (3) commercial Units identified as **Units 3, 4, and 5** as shown on the Plats and Plans (the "**Commercial Units**"). The Declarant reserves the right to withdraw any single Unit from the Condominium. No additional Residential Units may be created without prior site plan and, as applicable, subdivision approval from the City of Portland, Maine.

ARTICLE 2
DEFINITIONS

Section 2.1. Terms Defined in the Act. Capitalized terms are defined herein or in the Plats and Plans, otherwise they shall have the meanings specified or used in the Condominium Act. In the case of conflict between the meanings specified or used in the Act, those meanings specified or used in the Condominium Act shall control.

Section 2.2. Terms Specifically Defined in this Declaration. In addition to the terms hereinabove defined, the following terms shall have the following meanings in this Declaration, the Bylaws, and Plats and Plans:

(a) "Additional Units" means the Units, if any, which may be added by the Declarant to the Condominium in accordance with Section 10.2 of this Declaration.

- (b) "Assessment" means the Owner's share of the anticipated Common Expenses, allocated by Percentage Interest, for the Association's fiscal year as reflected in the budget adopted by the Executive Board for such year.
- (c) "Association" means the Unit Owners Association of the Condominium, which is known as the **Monument Square Condominium Association**.
- (d) "Buildings" (or in the singular, a "Building") means any residential, commercial, service or recreational structure or other improvement now or hereafter constructed on the Property.
- (e) "Bylaws" means the document having that name and providing for the governance of the Association, pursuant to Section 1603-106 of the Condominium Act, as such document may be amended from time to time.
- (f) "Common Elements" (or in the singular, a "Common Element") means those parts of the Property other than the Units as described either in the Condominium Act as being Common Elements or described herein as being Common Elements.
- (g) "Common Expenses" means expenditures made by or financial liabilities of the Association together with any allocations to reserves.
- (h) "Condominium" means the Condominium described in Section 1.1 above.
- (i) "Condominium Documents" means the Declaration, Plats and Plans, Bylaws and Rules and Regulations.
- (j) "Declarant" means **28 Monument Square, LLC**, a Maine limited liability company, its successors and assigns.
- (k) "Declaration" means this document, as the same may be amended from time to time.
- (l) "Development Rights" means those rights defined in Section 1601-103(11) of the Condominium Act, as it may be amended from time to time, including, but not limited to, those rights which the Declarant has reserved to itself, if any, to add real estate to the Condominium, to create Units, Common Elements or Limited Common Elements within the Condominium, to subdivide Units or, convert Units into Common Elements, or to withdraw any Real Estate, Units, or Property from the Condominium.
- (m) "Eligible Mortgage Holder" means the holder of a recorded first mortgage on a Unit, or the holder of a recorded or unrecorded Land Installment Contract, which has delivered written notice to the association by prepaid United States mail, return receipt requested, or by delivery in hand securing a receipt therefor, which notice shall state the mortgagee's name and address, the Unit Owner's name and address, and the identifying number of the Unit, and shall state that the mortgage is a recorded first mortgage. Such notice shall be deemed to have been given reasonably prior to the proposed actions described in Section 15.2 if sent at the time notice thereof is given to the Unit Owners.
- (n) "Executive Board" means the Executive Board of the Association. The terms Executive Board and Board of Directors shall be interchangeable.
- (o) "Insurance Trust Agreement" means that certain agreement, if any, between the Association and the Insurance Trustee providing for the management and disbursement of insurance proceeds in accordance with Section 16.3 hereof.

- (p) "Insurance Trustee" means the entity responsible for the management and disbursement of insurance proceeds pursuant to the Insurance Trust Agreement, if any.
- (q) "Land Installment Contract" means a contract under which the Declarant or an Owner agrees to sell or otherwise convey a Unit or other real property interest in a Unit or any portion thereof to a buyer and that buyer agrees to pay the purchase price in subsequent payments and the Declarant or Owner retains title to the Unit as security for the buyer's obligation under the Contract. The Declarant or Owner may assign its rights under the Contract to any third party.
- (r) "Limited Common Elements" (or in the singular, a "Limited Common Element") means those parts of the Common Elements allocated for the exclusive use of one or more but fewer than all of the Units, as described either in the Condominium Act as being Limited Common Elements or described herein or in the Condominium Documents as being Limited Common Elements. In the event of any discrepancy between the Condominium Act and Condominium Documents, the terms of the Condominium Documents shall control with respect to Limited Common Elements.
- (s) "Limited Common Expenses" mean: (a) the Common Expenses associated with the maintenance, repair or replacement of a Limited Common Element which shall be assessed against the Unit to which that Limited Common Element is assigned, in proportion to the relative Common Expense liabilities as between themselves, as the Executive Board may periodically define; and (b) the Common Expenses for services benefiting fewer than all the Units, which are assessed exclusively against the Units benefited in accordance with the use of such services as permitted by to Section 1603-115(c) of the Condominium Act.
- (t) "Manager" or "Managing Agent" means the agent of the management company appointed by the Association to manage the Condominium.
- (u) "Mortgagee" means the holder of any recorded mortgage encumbering one or more of the Units or the holder of a recorded or unrecorded Land Installment Contract.
- (v) "Owner" means the record owner or owners of a Unit but does not include a person or entity having an interest in a Unit solely as security for an obligation.
- (w) "Percentage Interest" means the undivided interest in the Common Elements appurtenant to a Unit, as set forth on Exhibit B attached hereto, as the same may be amended from time to time.
- (x) "Property" means the Property described in Section 1.1 above.
- (y) "Plats and Plans" means the Plat and Plans as defined in Section 1.1 above, which are recorded in the Cumberland County Registry of Deeds, and as such may be amended from time to time.
- (z) "Record" means to record in the Cumberland County Registry of Deeds.
- (aa) "Rules and Regulations" means such rules and regulations as are promulgated by the Declarant or the Executive Board from time to time with respect to the use of all or any portion of the Property.
- (bb) "Special Assessment" means an Owner's share of any assessment made by the Executive Board in addition to the Assessment.
- (cc) "Special Declarant Rights" means those rights defined in Section 1601-103 (25) of the Condominium Act, as it may be amended from time to time, including, but not limited to, those rights the Declarant has reserved to itself to complete improvements, to maintain sales offices, to use easements

through Common Elements for the purpose of making improvements within the Condominium, and to appoint or remove any officer of the Association during any period of Declarant control.

(dd) "Unit" means a physical portion of the Condominium created by this Declaration or any amendment thereto and designated for separate ownership or occupancy, the boundaries of which are described in Article 3. Except as otherwise expressly set forth herein, reference to a Unit hereunder shall include both Residential Units and Commercial Units.

Section 2.3. Provisions of the Condominium Act. The provisions of the Condominium Act shall apply to and govern the operation and governance of the Condominium, except to the extent that contrary provisions, not prohibited by the Act, are contained in one or more of the Condominium Documents.

ARTICLE 3 **UNIT BOUNDARIES**

Section 3.1. Units. This Declaration creates five (5) Units as follows: (i) two (2) residential Units identified as **Units 1 and 2** as shown on the **Plats and Plans** (the "**Residential Units**") and (ii) three (3) commercial Units identified as **Units 3, 4 and 5** as shown on the **Plats and Plans** (the "**Commercial Units**"). The maximum number of Units is five (5). The condominium building contains all five (5) condominium Units, as shown on the **Plats and Plans**. Attached as **Exhibit B** hereto is a list of all Units, their identifying numbers, common element interest, common expense liability and vote apportionment to each Unit. The Declarant reserves the right to withdraw any single Unit from the Condominium. No additional Residential Units may be created without prior site plan and, as applicable, subdivision approval from the City of Portland, Maine, in accordance with Chapter 14, Article V, Section 14-521, *et seq.*, of the City of Portland Code of Ordinances as the same may be amended.

Section 3.2. Unit Boundaries. The boundary lines of each Unit are as shown on the **Plats and Plans** and shall conform with Unit boundaries as described in the Act to the extent not described herein.

(a) The upper and lower (horizontal) boundaries of each level of each Unit shall be the following boundaries extended to the intersection with the vertical (perimeter) boundaries: (i) Upper Boundary: the plane of the ceiling of each level of the Unit; (ii) Lower Boundary: the horizontal plane of the top surface of the undecorated floor or undecorated concrete floor slab of each level, as applicable.

(b) The vertical (perimeter) boundaries of each Unit shall be the walls bounding the Unit and adjacent to either an adjoining Unit or the exterior walls of the Building extended to the intersections with each other and with the upper and lower boundaries. Anything attached by a Unit Owner to the interior surface of the exterior walls of the Building shall be a part of that Owner's Unit and shall not become a Common Element or Limited Common Element.

(c) Boundary lines shall also be the Unit-side surface of the walls and partitions of the Building which enclose such Unit and separate it from adjoining Units, if any, or Common Elements, including the thickness of the finish material such as plaster or drywall, and the exterior surface of doors, windows and storm windows, and glass walls, and their frames, sills and thresholds.

(d) Each Unit's identifying number is shown on the **Plats and Plans** and on **Exhibit B**.

Section 3.3. Relocation of Unit Boundaries. Relocation of boundaries between Units will be permitted subject to compliance with the provisions thereof in Section 1602-112 of the Condominium Act and subject to compliance with any conditions, restrictions or requirements imposed by the Executive Board. The cost for preparation and recordation of any documents required for the relocation of boundaries between Units shall be chargeable to the Units involved as a Special Assessment. Subdivision of Units is not permitted.

ARTICLE 4
DESCRIPTION AND ALLOCATION OF COMMON ELEMENTS, LIMITED COMMON ELEMENTS AND LIMITED COMMON PROPERTY

Section 4.1. Description of Common Elements. Common Elements shall consist of all of the Property except the individual Units, and shall include the land, buildings, foundations, roofs, outside walls, pipes, ducts, electrical wiring and conduits, public and private utility lines, floors and ceilings (other than the portion of the floors and ceilings which constitute a part of the Units in accordance with Section 1602-102(1) of the Condominium Act), perimeter walls of Units (other than the portion of walls which constitute a part of the Units in accordance with Section 1602-102(1) of the Condominium Act), structural parts of the buildings, including structural columns, girders, beams and supports, and any easements as set forth in Exhibit A for parking, access, and utilities; and in addition, all other parts of the Property necessary and convenient to its existence, maintenance and safety, normally in common use as defined in the Condominium Act, except such parts of the Property as may be specifically excepted or reserved herein or in any exhibit attached hereto. As provided in Section 1602-102(2) of the Condominium Act, any wires, ducts, pipes, or other fixtures located within a Unit but serving another Unit or Units are part of the Common Elements. Each Owner shall have the right to use the Common Elements in common with all other Owners, as may be required for the purposes of ingress and egress to and use, occupancy and enjoyment of the respective Owners and guests, tenants, and other authorized occupants, licensees, and visitors of the Owner. The use of the Common Elements and the rights of the Owners with respect thereto shall be subject to and governed by the provisions of the Act and Condominium Documents. Without limitation, the Common Elements shall specifically include the following:

(a) Grounds. The land, lawns, trees, any forested areas, signage, any common paved areas, walkways, or driveways as identified on the Plats and Plans, and any common facilities or storage buildings;

(b) Systems & Utilities. Sewer Pump Station and Sanitary sewer to each Unit, if any, electric distribution to each Unit meter, water distribution to each Unit master valve, storm and Unit drainage system, water lines servicing more than one Unit (in foundation, basement, and exterior walls), sewer lines up to Unit outlet (in foundation, basement, and exterior walls), electrical wiring from meter and serving more than one Unit (in foundation and exterior walls), master electrical panel, laundry piping and valves, life safety equipment (excluding smoke detectors);

(c) Interior Structure & Fixtures. Interior sub flooring (sub floor sheathing and wood, and sub floor concrete); and

(d) Exterior Structure & Fixtures. Roofing (all roof framing and covering), chimneys and flues, exterior walls, studs (excepting, however, studs that are not load bearing and are added by an owner), joists, any load bearing portions of the buildings, shutters, attic structural elements (framing, floor, and insulation), foundation walls, all floor slabs, garage slab floors, if any, exterior foundation drains, interior foundation drains, front and rear steps and railings, sun rooms (roofing, walls, foundation, if any), and dormers (roofing and walls, if any, but excluding new dormer construction).

(e) Other. 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.

(f) Elevator. The elevator and all related components shall be common elements.

Section 4.2. Description of Limited Common Elements. Limited Common Elements shall mean those portions of the Buildings defined as such pursuant to Sections 1602-102(2) and (4) of the Condominium Act or as identified and designated as Limited Common Elements on the Plats and Plans, or by Section

4.3 hereof. Those portions of the Limited Common Elements serving only the Unit above, below or adjacent to such Limited Common Element, as the case may be, are Limited Common Elements allocated only to the Unit that they serve. Limited Common Elements serving only the Residential Units of the Condominium, or allocated only to the Residential Units of the Condominium as shown on the Plans or as otherwise described in this Declaration, are hereinafter referred to as the “**Residential Limited Common Elements.**” Limited Common Elements serving only the Commercial Unit of the Condominium, or allocated only to the Commercial Unit of the Condominium as shown on the Plans or as otherwise described in this Declaration, are hereinafter referred to as the “**Commercial Limited Common Elements.**”

Section 4.3. Specified Limited Common Elements. Without limitation, the following portions of the Buildings or the Property are hereby designated as Limited Common Elements: shutters, awnings, window boxes, any individual Unit mailboxes, doorsteps, stoops, steps, porches, balconies, patios, decks, basement storage areas, any garage areas, attic spaces, flues and all exterior doors and garage doors, and windows or other fixtures designed to serve a single Unit but located outside a Unit’s boundaries are limited common elements allocated exclusively to that Unit. Additionally, certain specified Limited Common Elements are allocated to particular Units as designated on the Plans and Plans, which specified Limited Common Elements expressly include without limitation the following:

(a) Storage Spaces. As shown on the Plats and Plans, there are storage spaces allocated as Limited Common Elements to the Units.

(b) HVAC Components. Those components of the heating, ventilation, and air conditioning system, if any, including but not limited to all furnaces, blowers, compressors, ducts, and vents (the “**HVAC Components**”) shall be Limited Common Elements to the Units they serve.

Section 4.4. Locations of Common and Limited Common Elements. The locations of the Common Elements and Limited Common Elements are shown on the Plats and Plans. Pursuant to Section 1602-102(4) of the Condominium Act, a shutter, awning, window box, doorstep, stoop, balcony, porch, deck, or patio, if any, shown adjacent to a Unit is a Limited Common Element appurtenant to that Unit.

Section 4.5. Reserved Common Elements. The Executive Board shall have the power in its discretion from time to time to grant revocable licenses in designated Common Elements to the Association or to any Owners and to establish a reasonable charge to such Owners for the use and maintenance thereof. Such designation by the Executive Board shall not be construed as a sale or disposition of the Common Elements.

Section 4.6. Alteration of Common Elements by the Declarant. The Declarant reserves the right to modify, alter, remove or improve portions of the Common Elements, including without limitation, any equipment, fixtures and appurtenances, when in the Declarant’s judgment it is necessary or desirable to do so, until the expiration of the applicable warranty period.

ARTICLE 5 MAINTENANCE RESPONSIBILITIES

Section 5.1. Maintenance Responsibilities. Notwithstanding the ownership of the various portions of the Common Elements and the Units by virtue of the foregoing boundary descriptions, the Units and Common Elements shall be maintained and repaired by each Unit Owner and by the Association in accordance with the provisions of Section 1603-107 of the Act, except as expressly set forth to the contrary herein.

Section 5.2. Maintenance of Limited Common Elements. The maintenance, repair and replacement of Limited Common Elements created, if any, shall be the responsibility of and at the expense of the Association, except as otherwise noted in the Condominium Documents. Notwithstanding the foregoing, the Association may designate all or a portion of its maintenance obligations for the Commercial Limited Common Elements to the Commercial Unit Owner.

Section 5.3. Maintenance of Common Elements. The Association, or the Managing Agent of the Association in accordance with Article 7, shall be responsible for the maintenance, repair and replacement (unless, in the opinion of the Board of Directors such expense was necessitated by the negligence, misuse or neglect of a Unit Owner) of all of the Common Elements whether located inside or outside of the Units, the cost of which shall be charged to the Unit Owners as a Common Expense except as otherwise provided herein with regard to Limited Common Elements. The maintenance, repair and replacement of Common Elements located within a Unit, for which the Unit Owner is not responsible, to the extent required for the functioning of or for connecting utilities to the Property and Units, shall be furnished by the Association as part of the Common Expenses.

Section 5.4. Maintenance of Unit. Each Unit Owner shall keep and maintain his Unit including the building, equipment, appliances and appurtenances in good order, condition and repair and in a clean and sanitary condition, whether such maintenance and repair shall be structural or non-structural, ordinary or extraordinary, and shall do all redecorating, painting and varnishing which may at any time be necessary to maintain the good appearance and condition of his Unit. No Unit Owner shall sweep or throw, or permit to be swept or thrown, from his Unit any dirt, debris or other substance. In addition, each Unit Owner shall be responsible for all damage to any other Units or to the Common Elements resulting from his failure or neglect to make any of the repairs required by this Article. Each Unit Owner shall perform his responsibility in such manner as shall not unreasonably disturb or interfere with the other Unit Owners. Each Unit Owner shall promptly report to the Executive Board or the managing agent any defect or need for repairs for which the Association is responsible. No Unit Owner shall change the exterior color of his or her Unit nor alter the exterior materials or structure without the written approval of the Board of Directors. All exterior maintenance shall be undertaken so as to maintain the general character and quality of the condominium. No work shall be undertaken without all necessary State and local permits and approvals, and copies of all such permits and approvals shall be given to the Association.

Section 5.5. Liability of Owner. Each Unit Owner shall be liable for, and the Association shall have a lien against his Unit for, the expense of maintenance, repair or replacement of any portion of another Unit or the Common Elements, including Limited Common Elements, of another Unit caused by such Unit Owner's act, neglect or carelessness or by that of any member of such Unit Owner's family, or such Unit Owner's guests, employees, agents, lessees, or their pets, and the Association shall have the right to cure, correct, maintain, repair or replace any damage or disrepair resulting from such act of neglect or carelessness. The Association shall also have the right to perform maintenance required of a Unit Owner under Section 5.4, but not performed by the Unit Owner and the Unit Owner shall be liable for and the Association shall have a lien against the Unit for the expense of such maintenance. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy, or abandonment of any Unit or its appurtenances. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation against such Unit Owner.

ARTICLE 6
ALLOCATION OF PERCENTAGE INTERESTS,
COMMON EXPENSES AND VOTING RIGHTS

Section 6.1. Percentage Interests. Attached as **Exhibit B** hereto is a list of all Units by their identifying number and the Percentage Interest appurtenant to each Unit within each such Unit, together with an explanation of the formula by which such Percentage Interest is determined.

Section 6.2. Common Expenses. The liability of each Unit for the Common Expenses of the Condominium shall be the same percentage share as the Percentage Interest set forth on **Exhibit B**, and as such shall be determined by the same formula by which the Percentage Interest is determined.

Section 6.3. Allocation of Owners' Voting Rights. Each Owner of a Unit shall be entitled to vote as described on **Exhibit B**. If a Unit is owned by more than one person or entity, the voting interest shall not be divided and the vote for the Unit shall be cast by only one of the Owners as determined by a majority of the Owners of such Unit.

ARTICLE 7 MANAGEMENT

Section 7.1. Managing Agent. The Association shall have the right to employ a professional experienced property management firm to act as Managing Agent to oversee the daily operation of the Condominium in accordance with the provisions of the Act and the Declaration; provided, however, that no agreement for such professional management of the Condominium may exceed a term of three (3) years but may be renewed upon consent of the Association. Such agreement shall be cancelable by either party without cause and without a termination fee upon not less than sixty (60) days nor more than ninety (90) days written notice and shall be cancelable by the Executive Board with cause upon not less than thirty (30) days written notice. Any agreement for professional management negotiated by the Declarant shall meet the requirements of this Article 7 for such agreements negotiated by the Association and shall not exceed one (1) year, but may be renewed upon consent of the Association.

Section 7.2. Maintenance Responsibilities. The Managing Agent, or the Association through the Executive Board in the absence of a Managing Agent, shall be responsible for maintenance, repair and replacement of the Common Elements and Common Property including, but not limited to, the Limited Common Elements. The cost of the provision of such services shall be a Common Expense.

ARTICLE 8 EASEMENTS

Section 8.1. Additional Easements. In addition to the easements provided for by the Act, the following easements are hereby created:

(a) All Units shall be subject to an easement in favor of the Declarant pursuant to Section 1602-115 of the Condominium Act. The Declarant reserves the right to use any Units owned or leased by the Declarant and any Common Element as models, management offices, sales offices for this and other projects or customer service offices; and the Declarant reserves the right to relocate the same from time to time within the Property; upon relocation, the furnishings thereof may be removed. The Declarant further reserves the right to maintain on the Property such advertising signs as may comply with applicable governmental regulations, which may be placed in any location on the Property and may be relocated or removed, all at the sole discretion of the Declarant. Prior to assignment as Limited Common Elements, the Declarant shall have the right to restrict the use of certain Common Element parking areas for sales purposes and to use such areas for sales purposes. Further, the Declarant shall have the right to erect temporary offices on any Common Element parking areas for models, sales, management, customer service and similar purposes. This easement shall continue until the Declarant has conveyed all Units in the Condominium to Owners other than the Declarant.

(b) The Units and Common Elements shall be, and hereby are, made subject to easements in favor of the Declarant, other Owners, appropriate utility and service companies, cable television companies and governmental agencies or authorities for such utility and service lines and equipment as may be necessary or desirable to serve any portion of the Property. The easements created by this Section

8.1(b) shall include, without limitation, rights of the Declarant, any Owner or the providing utility or service company, or governmental agency or authority to install, lay, maintain, repair, relocate and replace gas lines, pipes and conduits, water mains and pipes, sewer and drain lines, drainage ditches and pump stations, telephone wires and equipment, television equipment and facilities (cable or otherwise), electrical wires, conduits, and equipment and ducts and vents over, under, through along and on the Units and Common Elements. Notwithstanding the foregoing provisions of this Section 8.1(b), any such easement through a Unit shall be located either in, substantially the same location as such facilities or similar, facilities existed at the time of first conveyance of a Unit in the Unit by the Declarant or so as not to materially or unreasonably interfere with the use, occupancy, or quiet enjoyment of the Unit by its occupants. With respect to any utility lines or equipment serving only the Condominium and located upon the Common Elements, the Executive Board shall have the right and power to dedicate and convey title to the same to any private or public utility company. The Executive Board shall also have the right and power to convey permits, licenses and easements over the Common Elements for the installation, maintenance, repair and replacement of utility poles, lines, wires and other equipment to any private or public utility company. In addition, the Executive Board shall have the right to grant permits, licenses and easements over the Common Elements for the building and, maintenance of roads, for the protection of the natural, scenic and open space values of the Property, and for other purposes necessary for the proper operation the Condominium.

(c) The Declarant reserves for as long as it is entitled to exercise any Development Right an easement on, over and under those portions of the Common Elements not located within a Building for the purpose of maintaining and/or correcting drainage of surface water in order to maintain reasonable standards of health, safety and appearance. The easement created by this Section 8.1(c) expressly includes the right to cut any trees, bushes, or shrubbery, to grade the soil, or to take any other action reasonably determined to be necessary. The Declarant or the Association, as the case may be, shall restore the affected property as closely to its original condition as is practicable.

(d) The Common Elements (other than the Limited Common Elements) shall be, and hereby are made, subject to an easement in favor of the Owners and their invitees, employees, tenants and servants, the Association and the agents and employees of the Association for access, egress and ingress over, through and across each portion thereof, pursuant to such requirements and subject to such charges as the Executive Board may from time to time prescribe; provided that nothing contained herein shall create any access easement in favor of Owners with respect to such portions of the Common Elements which are not needed in order to gain access to one or more Units and as to which the Executive Board may from time to time determine it to be necessary or desirable to limit or control access by Owners or the occupants of Units, or both, including, by way of illustration and not limitation, machinery and equipment rooms, and any management agent's office, provided, however, that every Owner shall have an unrestricted right of ingress and egress to his Unit for his specified Period of Use. Until the Declarant conveys the last Unit to an Owner other than Declarant, the Declarant shall have the right to restrict access by Owners to management and sales offices and areas located on or in any Common Element.

(e) The Common Elements (including, but not limited to, the Limited Common Elements) and Units are subject to an easement in favor of the Declarant for the purposes of construction, reconstruction, maintenance, repair, renovation, replacement or correction of the Units or Common Elements.

(f) The Common Elements (including, but not limited to, the Limited Common Elements) shall be and hereby are made subject to an easement in favor of the Association and the agents, employees and independent contractors thereof for the purpose of the inspection, upkeep, maintenance, repair and replacement of the Common Elements, and Property (including, but not limited to the Limited Common Elements and Property).

(g) The Common Elements (including, but not limited to, the Limited Common Elements) shall be and hereby are made subject to the following easements in favor of the Units benefited:

(1) For the installation, repair, maintenance, use, removal and/or replacement of pipes, ducts, heating and air conditioning systems, electrical, telephone and other communication wiring and cables and all other utility lines and conduits which are part of or exclusively serve a single Unit and which pass across or through a portion of the Common Elements;

(2) For the installation, repair, maintenance, use, removal and/or replacement of overhead lighting fixtures, electrical receptacles and the like which are located in a portion of the ceiling, wall or floor adjacent to a Unit which is a part of the Common Elements; provided that the installation, repair, maintenance, use, removal or replacement of such fixtures, receptacles and the like does not unreasonably interfere with the common use of any part of the Common Elements or impair or structurally weaken the Buildings;

(3) For driving and removing nails, screws, bolts and the like into the Unit-side surface of walls, ceilings and floors which are part of the Common Elements; provided that such action will, not unreasonably interfere with the common use of any part of the Common Elements or impair or structurally weaken the Buildings; and

(4) For the maintenance or the encroachment of any lighting devices, outlets, medicine cabinets, exhaust fans, ventilation ducts, registers, grilles and similar fixtures which serve only one Unit but which encroach into any part of any Common Element or Limited Common Element on the date this Declaration is recorded or any amendment hereof is recorded.

(h) To the extent necessary, each Unit shall have an easement for structural support over every other Unit in the Building in which it is located, the Common Elements and the Limited Common Elements, and each Unit and the Common Elements shall be subject to an easement for structural support in favor of every other Unit in that particular Building, the Common Elements and the Limited Common Elements, if any.

(i) The Units and the Limited Common Elements are hereby made subject to the following easements:

(1) In favor of the Association and its agents, employees and independent contractors, (i) for inspection of the Units and Limited Common Elements in order to verify the performance by Owners of all items of maintenance and repair for which they are responsible, (ii) for inspection, maintenance, repair and replacement of the Common Elements and Property or the Limited Common Elements and Property situated in or accessible from such Units or Limited Common Elements or both, (iii) for correction of emergency conditions in one or more Units or Limited Common Elements, or both, or casualties to the Common Elements and Property, the Limited Common Elements and Property and/or the Units, and (iv) to do any other work reasonably necessary for the proper maintenance of the Condominium, it being understood and agreed that the Association and its agents, employees and independent contractors shall take reasonable steps to minimize any interference with an Owner's use of his Unit resulting from the Association's exercise of any rights it may have pursuant to this Section 8.1(f)(1) and the following Section 8.1(f)(2) or both:

(2) In favor of the Owner benefited thereby and the Association and its agents, employees and independent contractors, for the installation, repair, maintenance, use, removal and/or replacement of pipes, ducts, electrical, telephone, telegraph or other communication systems and all other utility lines and conduits which are part of the Common Elements and which pass across or through a portion of one or more Units.

(j) If construction, reconstruction, repair, shifting, settlement or other movement of any portion of the Condominium results either in the Common Elements encroaching on any Unit, or in any Unit encroaching on the Common Elements or on any other Unit, a valid easement shall exist during the period of the encroachment for the encroachment and for the maintenance thereof.

(k) All easements, rights and restrictions described and mentioned in this Declaration are easements appurtenant, running with the land and the Property, including by way of illustration but not limitation the Units and the Common Elements, and (except as expressly may be otherwise provided herein or in the instrument creating the same) shall continue in full force and effect until the termination of this Declaration.

Section 8.2. Reservation of Easement Rights. Until the construction, marketing and sale of all Units is completed, the Declarant reserves the right to grant to any third party any license or easement in, on, over or through the Property, in addition to and not in limitation of those set forth above, which license or easement is determined by the Declarant, in its reasonable judgment, to be necessary for the development or improvement of the Property. Any such license or easement granted hereunder may be recorded by the Declarant at its sole cost and expense. The Association, at the request of the Declarant, shall execute and deliver in recordable form any instrument or document necessary or appropriate to confirm the grant of such license or easement.

Section 8.3. Additional Easements, Covenants, Restrictions. The Property is also subject to any easements and restrictions as shown on the Plats and Plans.

ARTICLE 9
RESTRICTIONS ON USE, SALE AND LEASE OF
UNITS AND/OR UNITS

Section 9.1. The following restrictions shall apply to the use of the Condominium:

(a) Residential and Commercial Use.

(1) Use of Residential Units. The Residential Units and associated Residential Limited Common Elements (with the exception of any such Units during the time period when they are being used by the Declarant as a sample, model or sales office) are restricted to residential use. The Residential Units may not be used for any other purposes by the Owner or any future Owner. No present or future owner of any Residential Unit shall permit his or her Unit to be used or occupied for any purpose other than as a single-family residence. Notwithstanding any of the foregoing, an Owner may use a Residential Unit for the purpose of a home office, provided, however, that any such use complies with all applicable state and local laws and ordinances, and that such use is otherwise consistent with the Condominium Documents.

(2) Use of Commercial Units. Subject to the prohibitions established in this Section, the Units may be used for any general commercial purpose allowed in accordance with applicable state and federal laws, and as permitted by local zoning and land use ordinances and regulations. Each Unit may be used and occupied subject to all restrictions contained in this Declaration, the Bylaws, and the rules and regulations of the Association, as promulgated and amended from time to time. No Commercial Unit shall be used for residential purposes, defined as any overnight occupancy by any person, nor for any light or heavy industrial or manufacturing purposes. No Commercial Unit shall be used as a pawn shop or for retail sales of adult entertainment or drug paraphernalia.

(b) Obstruction of Common Elements. No Owner may obstruct the Common Elements in any way. No Owner may store anything in or on the Common Elements without the prior written consent of the Executive Board.

(c) Quiet Enjoyment. No Owner may carry on any practice, or permit any practice to be carried on, which unreasonably interferes with the quiet enjoyment of the occupants of any other Unit. The Property is to be maintained in a clean and sanitary condition, and no Owner may place any garbage, trash or rubbish anywhere in the Property other than in his own Unit and in or on such parts of the Common Elements as may be designated for such purpose by the Executive Board.

(d) Fire Hazards. No Unit shall be used, occupied or kept in a manner that in any way increases the fire insurance premiums for the property without the prior written permission of the Executive Board.

(e) Signs. No sign of any character shall be erected, posted, or displayed upon, in, from or about any Unit or Common Element, without the prior written approval of the Executive Board or a committee designated by the Executive Board, which approval shall not be unreasonably withheld, except for such signs as may be posted by the Declarant for promotional or marketing purposes herein described, or signs allowed by any rules promulgated in writing by the Association. Once approval has been granted, the Unit owner seeking the sign shall have the authority to erect the approved sign. The Executive Board may also erect one or more publicly displayed, adequately sized, directional and identifying sign with the name and location of each occupant of the Units. Any signs shall be in compliance with applicable zoning ordinances; all costs to design, fabricate, install, maintain, repair and replace such signage shall be the responsibility of the Unit owner installing the sign or of the Commercial Unit owners if the sign is intended to benefit the Condominium as a whole.

(f) Pets and Animals.

(1) No animals, except as common household pets in accordance with the Rules and Regulations, shall be kept or maintained on the property, nor shall common household pets be kept, bred or maintained for commercial purposes on the Property. Owners are responsible for immediate clean-up of pet waste. Unless otherwise permitted by the Board, authorized pets shall not be permitted outside of Units unless they are accompanied by an adult person and carried or leashed. The Board of Directors may make further provisions in the Rules for the control and regulation of household pets in the Condominium. The owner of a Unit where a pet is kept or maintained shall be responsible and may be assessed by the Board of Directors for all damages to the Property resulting from the maintenance or conduct of said pet, and any costs incurred by the Association in enforcing the Rules prescribed or to be prescribed by the Board of Directors for the control and regulation of pets in the Condominium and each such Owner shall be deemed to indemnify and hold the Board harmless against such loss or liability resulting from said pet.

(2) Notwithstanding anything herein to the contrary, the following aggressive dog breeds are prohibited: Akita; American Staffordshire Terrier (a.k.a. Pit Bull); Bernese Mountain Dog (a.k.a. Bernese Cattle Dog); Canario (a.k.a. Pressa Canario); Chow Chow (a.k.a. Chow); Doberman Pinscher; German Shepherd; Great Dane; Huskies (including American, Eskimo, and Greenland Huskies but not including Siberian Huskies); Karelian Bear Dog (a.k.a. Laika); Malamute (a.k.a. Alaskan Malamute); Mastif; Rhodesian Ridgeback; Rottweiler; Saint Bernard; and Staffordshire Bull Terrier (a.k.a. Pit Bull); provided however, that service dogs are exempt from the foregoing prohibition regardless of breed. The Association may further regulate or exclude from the Condominium additional specific breeds or species of dogs or other pets as determined by the Board to be necessary for the safety and quiet enjoyment of the Condominium and as necessary to conform with any insurance requirements relating to the Condominium.

(g) Rules and Regulations. The Executive Board shall promulgate reasonable Rules and Regulations, not in conflict with the provisions of this Declaration, concerning the use and enjoyment of the Property. Copies of the then current Rules and Regulations and any amendments thereto shall be furnished to all Owners by the Association promptly after the adoption of such Rules and Regulations and any amendments thereto. Notwithstanding the foregoing, no rule or regulation that limits or restricts the uses of the Commercial Units as permitted in this Declaration, including without limitation any rule or regulation relating to hours of operation, signage, commercial uses allowed, the nature of goods, equipment, or materials that may be stored, kept, displayed, used, or sold, or any other matter affecting the business operation of the Commercial Units, shall be effective without the consent of all Commercial Unit Owners.

(h) Alterations to Units.

(1) Interior Unit Alterations: Except as otherwise provided herein, no Unit shall be substantially altered, remodeled or renovated without the prior written approval of the Executive Board of the Association or a committee appointed by the Board pursuant to the By-Laws. Substantial alteration includes but is not limited to alterations that may impair the structural integrity or mechanical systems of the Building, lessen the support of any portion of the Condominium, or jeopardize the soundness or safety of the Property. Prior written approval shall not be required for minor interior alterations or renovations that do not affect the structural integrity of any Common Elements. For purposes of this paragraph, the term "minor alterations or renovations" shall specifically include, without limitation, the following: interior painting or wallpaper installation; carpet or flooring installation; refinishing, replacement, or repair of interior cabinetry, built-in storage or display cases; installation or replacement of lighting fixtures or bathroom fixtures; removal or construction of non-load-bearing walls and partitions, and remodeling projects that do not affect the structural integrity of any Common Elements.

(2) Exterior Unit Alterations: No Unit Owner shall alter the exterior appearance of a Unit (including, but not limited to, the exterior surfaces of roofs, walls, windows, or doors) without the prior written approval of the Executive Board of the Association or a committee appointed by the Board pursuant to the By-Laws.

(3) Common Elements: Owners shall not erect fences, signs, canopies, clotheslines or other structures, plant or remove trees or shrubs, materially alter the grading or landscaping, or do any other thing which affects the appearance from the exterior of the Units or grounds, including Limited Common Elements, except with the written permission of the Executive Board or a Committee established by the Board

(i) Connection of Adjoining Units and Limited Common Areas. If the record Owners of the subject Unit(s) affirmatively elect, with the written approval of the Board of Directors of the Association based on each Owner's compliance with the standards set forth hereinafter, all to be evidenced by a recorded instrument duly executed and acknowledged, 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), 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 for the installation of stairs, doors, windows and frames appurtenant thereto. The participating Owners shall be strictly liable for any resulting damage. 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 Common Elements; and shall strictly comply with all fire, building code and other governmental laws, ordinances and requirements.

Any such Unit Owner or his 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 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.

(j) Labor, Mechanic's Liens. No Owner shall cause any material to be furnished to his Unit or any labor to be performed therein or thereon except in the manner set forth in subparagraph (h) and (i) above. Each Owner shall indemnify and hold the other Owners of his Unit harmless against any loss, damage or claim arising out of his breach of the provisions of this Section 9.1, including but not limited to the costs of removing any unauthorized improvements, any repairing and restoring the Unit to substantially its condition prior to such alteration, remodeling, renovation or repair and the cost of removing, bonding, defending or paying any mechanic's or materialmen's liens.

(k) Trash and Storage. Trash, garbage and other waste shall be kept only in sanitary containers and shall be disposed of in accordance with rules and regulations established by the Executive Board. No articles of personal property belonging to any Unit Owner shall be stored in any portion of the Common Elements except in a storage area specifically designated by the Executive Board or the managing agent, if any.

(l) Unit 1 Right to Construct Roof Deck. If the record Owner of Unit 1 elects by written notification to the Board, but without the approval of the Board except as otherwise set forth herein, that portion of the Common Elements located between said Unit 1 and the roof area above such Unit identified on the Plans (the "Unit 1 Roof Area") may be thereby subjected to an easement in favor of such Unit running from the Unit to the Unit 1 Roof Area, for: (1) the removal and alteration of any intervening partition and the creation of an aperture therein for passage back and forth between the two areas; (2) ingress and egress through said aperture for the purpose of access between the two areas; and (3) the installation of a decking surface over the Unit 1 Roof Area, which shall be a Limited Common Element of such Unit, together with any stairs or related improvements appurtenant thereto; subject, however, to the following: (i) The Owner of such Unit shall be strictly liable for any resulting damage to the Unit, other Units, the Common Elements, any Limited Common Elements, or the Property; (ii) the 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 Common Elements, as may be reasonably required by the Board; and (iii) the Owner shall strictly comply with all fire, building code and other governmental laws, ordinances and requirements. The Unit 1 Owner and the Owner's respective heirs, mortgagees or assigns, may at any time revoke such election by written notice to the Board, and thereafter may seal up the aperture and/or remove the improvements, at all times preserving the structural integrity, the mechanical and utility systems and support of all portions of the Common Elements. Nothing contained herein shall be deemed to merge or otherwise affect the separate identity, configuration or the boundaries of said Unit area.

Section 9.2. Sale and Lease of Units.

(a) Leasing By Declarant. The Declarant shall have the right to operate any Units owned by the Declarant as a rental project. The Declarant may establish and maintain in the Units and Common Elements, all offices, signs and other accoutrements normally used in the operation of, such rental properties in the sole discretion of the Declarant. Such operation shall be for the benefit of the Declarant and neither the Association nor any Owner (other than the Declarant) shall have any right or interest in the profits or losses thereof. There shall be no mandatory rental program offered to the Owners by Declarant, Managing Agent or any third parties.

(b) Leasing by Residential Unit Owners Other Than Declarant. A Residential Unit Owner other than the Declarant may lease his or her unit only with prior written approval from the Executive Board. The Executive Board may prescribe by resolution a form of lease or specific provisions to be included in any lease of a Residential Unit owned by a party other than the Declarant, and thereafter no Residential Unit Owner other than the Declarant shall execute a lease of his Residential Unit that is not in compliance with such resolution. Each tenant and lease shall be subject to the covenants, restrictions and conditions set forth in the Declaration.

(c) Leasing by Commercial Unit Owner Other Than Declarant.

(1) Written Lease Required. All leases of the Commercial Unit or any portion thereof must be in writing. The written lease of any unit must: (a) require the lessee to comply with this Declaration, the Bylaws and any rules and regulations of the Association; (b) provide that failure to comply therewith constitutes a default under the lease; and (c) provide that the Association has the power, but not the obligation, to terminate the lease and to bring summary proceedings to evict the tenant in the name of the lessor thereunder if any violation of this Declaration, the Bylaws and any rules and regulations is not cured within sixty (60) days of prior written notice to the tenant or such additional time as is necessary provided that the tenant promptly commences cure and diligently pursues cure to completion. Notwithstanding the contents of any lease, the rights of any tenant of a Commercial Unit shall be subject to, and each such tenant shall be bound by, the covenants and restrictions set forth in the Declaration, Bylaws and Rules and Regulations, and default thereunder shall constitute a default under the lease. Each Commercial Unit Owner, promptly following the execution of any lease of a unit, shall forward a conformed copy thereof to the Association.

(2) Pre-Approval of Proposed Tenant, Lease and Use Required. The Commercial Unit Owner may lease his Unit or any portion thereof at any time, provided, however, the Executive Board must approve the tenant, form of Lease, and the use to which the Commercial Unit shall be put by tenant prior to the commencement of any lease term, which approval shall not be unreasonably withheld or denied. The Executive Board may reasonably deny approval of any tenant where use of a Commercial Unit or portion thereof is not permitted as a matter of right under applicable laws, codes or ordinances or where the proposed use is not compatible with the permitted uses of the Condominium established in Section 9.1(a).

(c) This Section 9.2 shall not be deemed or construed to impair a Mortgagee's right to foreclose, accept a deed in lieu of foreclosure or sell or lease a Unit so acquired by the Mortgagee.

Section 9.3. Time Share Ownership Prohibited. No ownership interest in any Unit shall or may be subdivided to permit "time sharing" or any other devices to effect interval ownership. For the purposes of this subsection, such devices shall be deemed to include, without limitation, the use of corporations, partnerships and tenancies in common in which four or more persons not members of a single household have acquired by means other than inheritance, devise or operation of law, a direct or indirect, equitable or legal, right to occupy or arrangement, formal or informal regarding occupancy of the same Unit.

ARTICLE 10

DEVELOPMENT RIGHTS AND SPECIAL DECLARANT RIGHTS

Section 10.1. General Development Rights. In addition to the easement rights reserved in Article 8, the Declarant reserves to itself and for the benefit of its successors and assigns the following rights:

(a) Until the construction, marketing and sale of all Units is completed, to connect with and make use of utility lines, wires, pipes and conduits located on the Property for construction and sales purposes, provided that the Declarant shall be responsible for the cost of services so used;

(b) Until the construction, marketing and sale of all Units is completed, to use the Common Elements for ingress and egress, for the repair and construction of Units and Common Elements including the movement and temporary storage of construction materials and equipment, and for the installation of signs and lighting for sales and promotional purposes;

(c) Until the construction, marketing and sale of all Units is completed, including any future Units which may be created under this Declaration, to subdivide or convert Units into Common Elements, to withdraw Units or real estate from the Condominium and any and all other Development Rights as are now allowed or in the future may be allowed by the Condominium Act. The locations and dimensions of the land subject to withdrawal are shown on the Plats and Plans. No land may be withdrawn from the Condominium if a Unit has been legally located on such land unless the Owner and any Eligible Mortgage Holder of the Unit have consented. No easement rights may be withdrawn in connection with such withdrawn land across any existing Unit unless the Owner and any Eligible Mortgage Holder of the Unit have consented. Once such land and associated easements have been withdrawn, they shall no longer be subject to the terms of this Declaration or any of the covenants and restrictions set forth herein. Any withdrawal of land must be structured so that the balance of the Condominium complies with applicable zoning and subdivision ordinance requirements. Declarant reserves the right to withdraw portions of said land at different times and in separate portions with boundaries other than those depicted on the Plats and Plans and in such order as it deems appropriate, provided, however, that land other than that depicted on the Plats and Plans shall not be withdrawn. Otherwise no consent of the Association, any Unit owners or the Association is required. Once such land has been withdrawn it shall be released from all terms, covenants and restrictions set forth in this Declaration, and it may be developed and used in any manner permitted by local land use ordinances and regulations as they may vary; and

(d) Until the construction, marketing and sale of all Units is completed, to complete all improvements shown on the Plats and Plans, to relocate any improvements shown on the Plats and Plans, construct additional Common Element improvements on any part of the Property, to exercise the Development Rights set forth herein, to maintain models and sales offices and to exercise the easements as set forth in Article 8 hereof, to make the Condominium part of a larger condominium, to make the Condominium subject to a master association, to appoint or remove any officer or Executive Board member during any period of Declarant control of the Association and any and all other Special Declarant Rights as are now allowed or in the future may be allowed by the Condominium Act. The real estate subject to these Development Rights and Special Declarant Rights is all of the Property, except those portions lying within the boundaries of declared Units and upon which declared Units are located.

(c) Appoint and remove members of the Board of Directors and Officers of the Association in accordance with Section 12.1.

Section 10.2. Special Declarant Rights

(a) Withdrawal of Unit. In accordance with and subject to the Condominium Act, the Declarant reserves the right, but not the obligation, until the construction, marketing and sale of all Units is completed to withdraw any single Unit from the Condominium, thereby creating a total of four (4) units. In the event the Declarant exercises this right, the Declarant shall record an Amendment to this Declaration that withdraws the Unit from the Condominium and adopts a new Exhibit B. The new Exhibit B will provide a revised percentage interest in common elements and a revised percentage of common expense liability for each Unit.

(b) Installation of Elevator. In accordance with and subject to the Condominium Act, the Declarant reserves the right, but not the obligation, until the construction, marketing and sale of all Units is completed to install an elevator within the approximate location shown on the Plans. The Declarant reserves the right to determine the final location of the elevator.

Section 10.3. Exercise of Rights. The exercise of the Development Rights and Special Declarant Rights reserved herein shall be in accordance with and governed by the provisions of the Condominium

Act, including without limitation Section 1602-110 of the Act. To exercise the Development Rights reserved in Section 10.2 of this Declaration, the Declarant will prepare, execute and record an amendment to this Declaration withdrawing the Unit selected for withdrawal. A copy of all amendments to this Declaration prepared by Declarant shall be forwarded to Eligible Mortgage Holders upon request. Further, in accordance with Section 1602-109(f) of the Condominium Act, the Declarant will either record new Plats and Plans or record an affidavit that the Plats and Plans previously recorded conform to the requirements of the Act.

Section 10.4. Amendment. This Article 10 shall not be amended without the written consent of the Declarant duly recorded in the Cumberland County Registry of Deeds.

ARTICLE 11

UNITS SUBJECT TO CONDOMINIUM DOCUMENTS, EMINENT DOMAIN

Section 11.1. Applicability of Condominium Documents. Each present and future Owner, tenant, occupant and Mortgagee of a Unit therein shall be subject to and shall comply with the provisions of the Act, and with the covenants, conditions and restrictions as set forth in the Condominium Documents and the deed to such Unit; provided that nothing contained herein shall impose upon any tenant of a Unit or Mortgagee any obligation which the Act or one or more of such documents, or both, make applicable only to Owners (including, without limitation, the obligation to pay assessments for Common Expenses). The acceptance of a deed or mortgage to any Unit therein, or the entering into of a lease or the entering into occupancy of any Unit therein shall constitute an agreement that the provisions of the Act and the covenants, conditions and restrictions set forth in the Condominium Documents and the deed to such Unit therein are accepted and ratified by such grantee, Mortgagee or tenant. All of such provisions shall be covenants running with the land and shall bind any person having at any time any interest or estate in such Unit, as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage, contract or lease thereof. The Association and any aggrieved Owner shall have a right of action against Owners who fail to comply with the provisions of the Condominium Documents, the Act, or with decisions made by the Association or the Executive Board. Aggrieved Owners shall have similar rights of action against the Association.

Section 11.2. Eminent Domain.

(a) **Entire Unit.** If any Unit shall be taken or condemned by any authority having the power of eminent domain, or if part of a Unit is taken or condemned by any authority having the power of eminent domain leaving the Unit Owner with a remnant which may not practically or lawfully be used for any purpose permitted by this Declaration, the award for such taking or condemnation shall be paid to the Unit Owner as compensation for his Unit and its Allocated Interest in the Common Elements, whether or not any Common Elements are taken or condemned. Upon such taking or condemnation, unless the decree provides otherwise, that Unit's entire Allocated Interests shall be automatically reallocated to the remaining Units in proportion to the respective Allocated Interests of those Units prior to the taking or condemnation, and the Association shall promptly prepare, execute and record as a Common Expense an amendment to this Declaration reflecting such reallocation. Any remnant of a Unit remaining after part of a Unit is taken or condemned under this Section 11.2 shall thereafter be a Common Element.

(b) **Part of Unit.** Except as otherwise provided in Section 11.2(a), if part of a Unit is taken or condemned by any authority having the power of eminent domain, any award therefor shall be paid to the Owner of such Unit as compensation for the reduction in value of the Unit and its Allocated Interest in the Common Elements, whether or not any Common Elements are taken or condemned. After such part of a Unit is taken or condemned: (1) That Unit's Allocated Interests shall be reduced in proportion to the reduction in relative square footage of floor area of the Units as determined by the Executive Board; and (2) The portion of the Allocated Interests, Common Element Interest, Votes and Common Expense

Liability which has been divested by virtue of the taking or condemnation from the partially-acquired Unit shall be automatically reallocated to such Unit and the remaining Units in proportion to the respective Allocated Interests appurtenant to each of the Units before the taking or condemnation, and the Association shall promptly prepare, execute and record as a Common Expense an amendment to this Declaration reflecting such reallocation, with the partially taken or condemned Unit participating in the reallocation on the basis of its reduced Allocated Interests.

(c) Common Elements. If part of the Common Elements shall be taken or condemned by any authority having the power of eminent domain, the Association shall represent the Unit Owners in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority, and the portion of the award attributable to the Common Elements taken shall be paid to the Association for the use and benefit of the Unit Owners and their Mortgagees as their interests may appear. Each Unit Owner appoints the Association as attorney-in-fact for this purpose. The Association shall divide any portion of remaining Common Elements among the Unit Owners and their Mortgagees, in proportion to their respective interests in the Common Elements prior to such taking or condemnation, but the portion of the award attributable to the acquisition of any Limited Common Element shall be equally divided among the Owners of the Units to which such Limited Common Element was allocated at the time of such taking or condemnation. The Association shall promptly prepare, execute and record as a Common Expense an amendment to this Declaration reflecting such reallocation.

(d) Decree, Prior Liens. The court decree shall be recorded. Notwithstanding anything to the contrary in this Article, lien holders on any Unit, Common Element or Limited Common Element, shall have a lien on any such awards in order of priority of their respective liens.

ARTICLE 12 EXECUTIVE BOARD OF THE ASSOCIATION

Section 12.1. Members.

(a) Number, Election, Appointment.

(1) The initial Executive Board shall consist of five (5) members. While the number of Executive Board members is five, each Unit owner shall have a right to a seat on the Executive Board unless an Owner waives this right. The members of the initial Executive Board shall be appointed, removed and replaced from time to time by the Declarant without the necessity of obtaining resignations. The Declarant-appointed members of the Executive Board, which may include the Declarant, shall be replaced in accordance with the provisions of paragraph (b) of this Section 12.1.

(2) In the event that the Declarant withdraws a Unit in accordance with Section 10.2 of this Declaration, the number of Executive Board members shall be reduced to three (3) members. If this occurs during the period of Declarant control, the three members shall be appointed, removed and replaced as described above. After the period of Declarant control, the three members shall be selected as follows: the Commercial Unit Owners shall elect two (2) members of the Executive Board and the Residential Unit Owners shall elect one (1) member of the Executive Board.

(3) The individuals elected or appointed by the Commercial Unit Owners may be (i) a Commercial Unit Owner, or (ii) an officer, member, shareholder or partner of a Commercial Unit Owner, as applicable, or (iii) an agent or representative of a Commercial Unit Owner that is a corporate entity or partnership, provided that such agent or representative is duly authorized in writing by such Owner.

(b) Not later than the earlier of (i) sixty (60) days after the conveyance of 75% of the Units to Owners other than the Declarant or (ii) seven (7) years following conveyance of the first Unit to an Owner other than the Declarant (the “**Period of Declarant Control**”), all members of the Executive Board appointed by the Declarant shall resign and the Owners (including the Declarant to the extent of any Units owned by the Declarant at that time) shall elect new members of the Executive Board in accordance with the Bylaws.

(c) The Executive Board shall possess all of the duties and powers granted to the Executive Board by the Act.

Section 12.2. Disputes.

(a) Regarding Owners, Condominium, and Condominium Documents. Subject to Section 12.2(b), in the event of any dispute or disagreement between any Owners relating to the Property, or any questions of interpretation or application of the provisions of the Condominium Documents, the determination thereof by the Executive Board shall be final and binding on each and all such Owners. Notwithstanding the foregoing, any deadlock among the Owners or Executive Board that relates to the budget or any of the material matters set forth in Article 18 shall be submitted to binding arbitration, or alternatively to mediation if all the parties agree thereto, in accordance with the rules of the American Arbitration Association, which shall take place in Portland, Maine. The Executive Board shall have the authority to seek a declaratory judgment or other appropriate judicial relief in order to assist it in carrying out its responsibilities under this Section 12.2. All costs of obtaining such a judgment shall be borne by the disputants, or in the absence of disputants, by the Association as a Common Expense.

(b) Disputes with Declarant. In any dispute between one or more Unit Owners and the Declarant regarding the Common Elements, the Board of Directors shall act for the Unit Owners, and any agreement with respect thereto by the Board shall be conclusive and binding upon the Unit Owners. All claims, disputes and other matters in question between the Declarant, on the one hand, and the Association or any Unit Owners on the other hand, arising out of or relating to, a Unit, the Common Elements, the Limited Common Elements, this Declaration, the Bylaws, or the deed to any Unit or the breach thereof, or the course of dealing between any Unit Owner, the Association and the Declarant, except for claims which have been waived by the acceptance of a deed, shall be decided by binding arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then obtaining unless the parties mutually agree otherwise in writing. The Arbitration shall take place in Portland, Maine, unless the parties mutually agree to another location. This agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law. The award rendered by the arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof. Notice of the demand for arbitration shall be filed in writing with the other parties and with the American Arbitration Association. The demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations or other principals of law and equity.

Section 12.3. Abating and Enjoining Violations by Owners. The violation of any Rules and Regulations adopted by the Executive Board, the breach of any provision contained in the Bylaws or the breach of any provision of this Declaration or the Act by any Owner or tenant of such Owner, shall give the Executive Board the right, in addition to any other rights to which it may be entitled, to enjoin, abate or remedy by appropriate legal proceedings, either by law or in equity, the continuance of any such breach.

ARTICLE 13
LIMITATION OF LIABILITY

Section 13.1. Limited Liability of the Executive Board. The Executive Board, and its members in their capacity as members, officers and employees:

(a) Shall not be liable for the failure of any service to be obtained by the Executive Board and paid for by the Association, or for injury or damage to persons or property caused by the elements or by another Owner or person on the Property, or resulting from electricity, gas, water, rain, dust or sand which may leak or flow from the outside or from any part of the Buildings, or from any of its pipes, drains, conduits, appliances, or equipment, or from any other place unless in each such instance such injury or damage has been caused by the willful misconduct or gross negligence of the Association or the Executive Board;

(b) Shall not be liable to the Owners or any Mortgagees as a result of the performance of the Executive Board members' duties for any mistakes of judgment, negligence or otherwise, except for the Executive Board members' own willful misconduct or gross negligence;

(c) Shall have no personal liability in contract to an Owner, any Mortgagee, or any other person or entity under any agreement, check, contract, deed, lease, mortgage, instrument or transaction entered into by them on behalf of the Executive Board or the Association in the performance of the Executive Board members' duties;

(d) Shall not be liable to an Owner, or such Owner's tenants, employees, agents, customers or guests, for loss or damage caused by theft of or damage to personal property left by such Owner or his tenants, employees, agents, customers or guests in a Unit, or in or on the Common Elements or Limited Common Elements, except for the Executive Board members' own willful misconduct or gross negligence;

(e) Shall have no personal liability in tort to an Owner, any mortgagee, or any other person or entity, direct or imputed, by virtue of acts performed by or for them, except for the Executive Board members' own willful misconduct or gross negligence in the performance of their duties; and

(f) Shall have no personal liability arising out of the use, misuse or condition of the Buildings, or which might in any other way be assessed against or imputed to the Executive Board members as a result of or by virtue of their performance of their duties, except for the Executive Board members' own willful misconduct or gross negligence.

Section 13.2. Indemnification. Each member of the Executive Board in his capacity as an Executive Board member, officer or both, shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed upon him in connection with any proceeding in which he may become involved by reason of his being or having been a member and/or officer of the Executive Board, or any settlement of any such proceeding, whether or not he is an Executive Board member, officer or both at the time such expenses are incurred, except in such cases wherein such Executive Board member and/or officer is adjudged guilty of willful misconduct or gross negligence in the performance of his duties or any other standard imposed by the Condominium Act; provided that, in the event of a settlement, this indemnification shall apply only if and when the Executive Board (with the affected member abstaining if he is then an Executive Board member) approves such settlement and reimbursement as being in the best interests of the Association. The indemnification by the Owners set forth in this Section 13.2 shall be paid by the Association on behalf of the Owners and shall constitute a Common Expense and shall be assessed and collectible as such. Such right of indemnification shall not be deemed exclusive of any other rights to which such Executive Board member and/or officer may be entitled as a matter of law or agreement or by vote of the Owners or otherwise.

Section 13.3. Joint and Several Liability of Owners and Lessees. Each Owner shall be jointly and severally liable with any tenants of the Unit owned by such Owner for all liabilities arising out of the ownership, occupancy, use, misuse, or condition of any Unit or any portion of the Common Elements or Limited Common Elements.

Section 13.4. Defense of Claims. Complaints filed in any State or Federal court brought against the Association, the Executive Board or the officers, employees or agents thereof their respective capacities as such, or the Condominium as a whole, shall be directed to the Executive Board of the Association, which shall promptly give written notice thereof to the Owners and the holders of any mortgages and such complaints shall be defended by the Association. The Owners and the holders of mortgages shall have no right to participate other than through the Association in such defense. Complaints of a nature specified in Section 13.3 hereof against one or more but less than all Owners shall be defended by such Owners who are defendants themselves and such Owners shall promptly give written notice of the institution of any such suit to the Association and to the holders of any mortgages encumbering such Units.

ARTICLE 14

ASSESSMENTS: LIABILITY OF OWNERS

Section 14.1. Power to Assess. The Association, acting through the Executive Board in accordance with the Bylaws, shall have the power to fix and determine, from time to time, the sums necessary and adequate to provide for the Common Expenses, including, but not limited to such amounts as are necessary for the maintenance, repair and replacement of the Common Elements and Limited Common Elements as set forth in Section 7.2 hereof, such amounts as are necessary for uncollectible Assessments, budget deficits; such expenses as are necessary for the Association's share of any common expenses for any master association which the Association may now or hereafter be a member of; such reserves as are hereinafter described and such additional reserves as the Executive Board shall deem necessary or prudent, and such other expenses as are specifically provided for in the Condominium Act, this Declaration or the Bylaws. The Association shall establish an adequate reserve fund for maintenance, repair and replacement of those Common Elements, Limited Common Elements and Limited Common Property for which the Association is responsible which are anticipated to require replacement, repair or maintenance on a periodic basis, and to cover any deductible amount for insurance policies maintained by the Association. The reserve fund shall be funded as a part of the Common Expenses.

Section 14.2. Assessments for Limited Common Expenses. The Association, acting through the Executive Board in accordance with the Bylaws and as circumstances may reasonably require, shall assess Limited Common Expenses as follows: (i) If a Limited Common Expense only benefits a single Unit, that Limited Common Expense may be assessed solely against the Unit benefited; and (ii) If a Limited Common Expense benefits more than a single Unit but fewer than all the Units, that Limited Common Expense may be assessed exclusively against the Units benefited in equal proportion between such Units, or, at the election of the Executive Board, in proportion to the relative Common Expense liabilities of such Units as between themselves, as the Executive Board may periodically determine, as those Common Expense liabilities may be changed as provided in Section 6.2 and Exhibit B.

Section 14.3. Special Assessments. If the cash requirement estimated at the beginning of any fiscal year shall prove to be insufficient to cover the actual Common Expenses for such fiscal year for any reason (including by way of illustration and not limitation, any Owner's non-payment of his Assessment or municipal assessments not yet assessed), the Executive Board shall have the power, at any time it deems necessary and proper, to levy one or more Special Assessments against each Owner. Special Assessments shall be due and payable in the manner and on the date set forth in the notice thereof.

Section 14.4. Payment of Assessments. Each Owner, including the Declarant to the extent it is the owner of any unsold Units, shall pay all Assessments levied by the Association. Liability for such assessments shall be determined in accordance with the formula set forth in Exhibit B hereto. Penalties for delinquent assessments shall be set forth in the Rules and Regulations of the Condominium.

Notwithstanding anything herein to the contrary, and with respect to any assessments levied by the Association against Units owned by the Declarant, the Declarant in its discretion may elect: (a) in lieu of paying any monthly or other periodic assessments, to make an annual contribution to the Association on or before the last day of each calendar year in an amount equal to the value of services actually received by Declarant as a part of the Common Expenses or Limited Common Expenses for such year; or (b) to offset against such assessments the value of either (i) amounts paid directly by the Declarant for any expenses relating to the Common Expenses or Limited Common Expenses of the Condominium, or (ii) the value of any services provided by the Declarant for the benefit of the Association that would otherwise constitute a Common Expense or Limited Common Expense of the Condominium.

Section 14.5. Failure to Fix New Assessments. If the Executive Board shall fail to fix new Assessments for Common Expenses for the subsequent fiscal year before the expiration of any fiscal year, the Owners shall continue to pay the same sums they were paying for such Assessments during the fiscal year just ended and such sum shall be deemed to be the new Assessments for the succeeding fiscal year. If the Executive Board shall change the Assessment at a later date, the difference between the new Assessment, if greater, and the previous year's Assessment up to the effective date of the new Assessment shall be treated as if it were a Special Assessment under Section 14.2 hereof; thereafter each Owner shall pay the new Assessment. In the event the new Assessment is less than the previous year's Assessment, in the sole discretion of the Executive Board, the excess either shall be refunded to the Owners, credited against future Assessments or retained by the Association for reserves.

Section 14.6. Exemption by Waiver. No Owner may exempt himself from liability for the Common Expenses by waiver of the enjoyment of the right to use any of the Common Elements or by the abandonment of his Unit or otherwise.

Section 14.7. Personal Liability of Owners. All sums assessed by the Association as an Assessment, Special Assessment or Assessment for Limited Common Expenses shall constitute the personal liability of the Owner of the Unit so assessed and also, until fully paid, shall constitute a lien against such Unit pursuant to Section 1603-116 of the Condominium Act. The Association shall take action for failure to pay any assessment or other charges pursuant to Section 1603-116 of the Condominium Act. The delinquent Owner shall be obligated to pay (a) all expenses of the Executive Board, including reasonable attorneys' fees and costs, incurred in the collection of the delinquent assessment by legal proceedings or otherwise, and (b) any amounts paid by the Executive Board for taxes or on account of superior liens or otherwise to protect its lien, which expenses and amounts, together with accrued interest, shall be deemed to constitute part of the delinquent assessment and shall be collectible as such.

Section 14.8. Liability of Purchaser of Unit for Unpaid Assessments. Upon the voluntary sale, conveyance or any other voluntary transfer of a Unit or any interest therein, the grantee thereof shall not be personally liable with the grantor thereof for all unpaid Assessments for Common Expenses, special assessments, Limited Common Expenses, which are a charge against the Unit as of the date of consummation of the sale, conveyance or transfer, unless such grantee agrees to assume the obligation therefor. A lien against the Unit so purchased for Assessments imposed pursuant to this Declaration or the Condominium Act shall not be affected by such sale, conveyance or other transfer, however.

Section 14.9. Subordination of Certain Charges. Any Assessments or any fees, charges, late charges, fines and interest that may be levied by the Association pursuant to Section 1603-102 of the Condominium Act or otherwise shall be subordinate to any first mortgage lien recorded before the due date of the Assessment or the due date of the first installment payable on the Assessment.

Section 14.10. Surplus. The Budget of the Association shall set forth general Common Expenses. Any amounts accumulated from assessments for Common Expenses in excess of the amount required for actual Common Expenses and reserves for future Common Expenses, unless otherwise directed by the

Executive Board, in its sole discretion, shall be credited to each Owner, such credit to be applied to the next Assessments of Common Expenses due from said Owners under the current fiscal year's budget, and thereafter until exhausted, or retained by the Association for reserves.

Section 14.11. Ratification of Budget. The Executive Board shall set and notice a date for a meeting of the Owners to consider ratification of a budget each year in accordance with the Bylaws of the Association. Unless at that meeting a majority of all the Owners of all Units reject such budget, such budget is deemed ratified, whether or not a quorum is present. In the event such proposed budget is rejected, the budget last ratified by the Owners shall be continued until such time as the Owners ratify a subsequent budget proposed by the Executive Board.

ARTICLE 15

RIGHTS OF MORTGAGEES, CONTRACT HOLDERS, INSURERS AND GUARANTORS

Section 15.1. Subject to Declaration. Whether or not it expressly so states, any mortgage which constitutes a lien against a Unit and an obligation secured thereby shall provide generally that the mortgage and the rights and obligations of the parties thereto shall be subject to the terms and conditions of the Act, the Declaration, the Plats and Plans and any Rules and Regulations.

Section 15.2. Rights of Eligible Mortgage Holders.

(a) The Association shall send reasonable prior written notice by prepaid United States mail to Eligible Mortgage Holders of the consideration by the Association of the following proposed actions:

- (1) The termination of the Condominium pursuant to Section 1602-118 of the Condominium Act;
- (2) A change in the allocated interest of a Unit or a change in the boundaries of a Unit or a subdivision of a Unit;
- (3) The merger or consolidation of the Condominium with another condominium;
- (4) The conveyance or subjection to a security interest of any portion of the Common Elements;
- (5) The proposed use of any proceeds of hazard insurance required to be maintained by the Association under Section 1603-113(a) of the Condominium Act, or of any condemnation proceeds, for purposes other than the repair or restoration of the damaged property;
- (6) The adoption of any proposed budget by the Executive Board and of the date of the scheduled Owners' meeting to consider ratification thereof. A summary of the proposed budget shall accompany this notice;
- (7) Any default in the performance or payment by an Owner of any obligations under the Declaration, including, without limitation, default in the payment of Common Expense liabilities;
- (b) In the event of any proposed actions described in subsection (a), paragraphs (1), (2), (3), (4), or (5) hereinabove, an Eligible Mortgage Holder shall have the right, but not the obligation, in place of the Owner to cast the votes allocated to that Unit or give or withhold any consent required of the Owner for such action by delivering written notice to the Association with a copy to the 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 Owner from exercising such right. In the event of any default described in subsection (a), paragraph (7), the Eligible, Mortgage Holder shall have the right, but not the obligation, to cure such default.

(c) In addition, an Eligible Mortgage Holder or its representative shall have the right to attend Association and Executive Board meetings for the purposes of discussing the matters described in subsection (a), paragraphs (1) through (6).

Section 15.3. Liability for Use and Charges. Any Mortgagee who obtains title to a Unit pursuant to the remedies provided in a mortgage for foreclosure of such mortgage or a deed in lieu of foreclosure shall not be liable for such Owner's unpaid assessments or charges which accrue prior to the acquisition of title to such Unit by the Mortgagee, except to the extent otherwise provided for in either of the Act and except to the extent that such Mortgagee is liable as an Owner for the payment of such unpaid assessment or charge that is assessed against the Mortgagee as a result of all Owners being reassessed for the aggregate amount of such deficiency.

Section 15.4. Condemnation Rights. No provision of this Declaration shall give an Owner, or any other party, priority over any rights of the Mortgagee of a Unit pursuant to its mortgage in the case of a distribution to such Owner of insurance proceeds or condemnation award for loss to or a taking of one or more Units and/or Common Elements.

Section 15.5. Books and Records. Any Mortgagee shall have the right exercisable by written notice to the Executive Board, to examine the books and records of the Association and to require that it be provided with a copy of each annual report of the Association and other financial data of the Association reasonably requested by such Mortgagee.

ARTICLE 16 **INSURANCE**

Section 16.1. Types and Amounts. The Association shall maintain as a Common Expense and to the extent reasonably available, the following types and amounts of insurance:

(a) Property insurance insuring against all risks of direct physical loss normally covered by the standard extended coverage endorsement and commonly insured against, including those covered by the standard "all risk" endorsement, or such other fire and casualty insurance as the Executive Board may determine provides equal or greater protection for the Owners and their Mortgagees, if any, in each case complying with the applicable requirements of Section 16.2 hereof. The insurance maintained by the Association shall cover the Property, including, but not limited to, all Common Elements and Property and Limited Common Elements and Property, the Units, to the extent required by Section 1603-113 of the Condominium Act, and all improvements, fixtures and appliances contained within the Unit and building service equipment and common equipment, fixtures, personal property and supplies owned by the Association, but excluding any improvements or appliances subsequently added by an Owner and all other personal property of the Owner. The amount of any such hazard insurance obtained pursuant to this paragraph (a) shall be equal to one hundred percent (100%) of the current replacement cost of the Condominium, including the individual Units, at the time the insurance is purchased and at each renewal date without deduction for depreciation, exclusive of land, foundations, excavation and other items normally excluded from coverage. Such hazard insurance policy may, at the option of the Association, contain a "deductible" provision in an amount not to exceed five percent (5%) of the policy face amount. Funds to cover this deductible amount shall be included in the Association's reserve fund. The named insured under the policy shall be "**Monument Square Condominium Association,**" for the use and

benefit of the individual owners, or a specified authorized representative of the Association, including but not limited to any Insurance Trustee, and the Association or its representative, as the case may be, shall be designated to represent the Owners in any proceedings, negotiations or settlements under such policy. The "loss payable" clause of such policy shall show the Association or the Insurance Trustee, if any, as a trustee for each Owner and each Mortgagee of a Unit. Such policy shall also contain a standard mortgage clause naming separately the Mortgagees of the Units, their successors and assigns. If the Executive Board fails within sixty (60) days after the date of an insured loss to initiate a claim for damages recoverable under the policy or policies obtained pursuant to this paragraph (a), any Mortgagee may initiate such a claim on behalf of the Association.

(b) Comprehensive Liability Insurance, including medical payments insurance, complying with the requirements of Section 16.2 hereof, insuring the Owners, in their capacity as Owners and Association members and any managing agent retained by the Association, against any liability to the public or to other Owners, their tenants or invitees, relating in any way to the ownership and/or use of the Common Elements, Limited Common Elements, and any other areas under the supervision of the Association and any part thereof. Such insurance policy shall contain a "severability of interest endorsement" or equivalent, coverage which precludes the insurer from denying the claim of an Owner because of the negligent acts of the Association or another Owner. Such insurance shall include coverage for bodily injury and property damage that results from the operation, maintenance or use of the Common Elements and Limited Common Elements, any liability resulting from lawsuits related to employment contracts in which the Association is a party, water damage liability, liability for non-owned and hired automobiles, liability for property of others, and such other risks as are customarily covered in similar projects. The amount of such liability insurance shall be at least \$1,000,000.00 for bodily injury and property damage for any single occurrence. The scope and amount of coverage of all liability insurance policies shall be reviewed at least once each year by the Executive Board and may be changed in its discretion provided that such policies shall continue to comply with the requirements of this Section and Section 16.2 hereof. To the extent reasonably available, Mortgagees shall be named, upon their written request, as additional insureds under the Association's liability policy or policies.

(c) Such worker's compensation insurance as applicable laws may require.

(d) Insurance to satisfy the indemnification obligation of the Association and all Owners set out in Section 13.2 hereof if and to the extent available, including but not limited to insurance coverage commonly referred to as "Directors and Officers Insurance."

(e) If at any time it is determined that all or any part of the project's improvements are within a special flood hazard area, a master or blanket policy of flood insurance covering the Property, including but not limited to, all Common Elements and Limited Common Elements and property, the Units and all improvements, fixtures and appliances contained within the Unit or the value thereof, and building service equipment and common equipment, fixtures, personal property and supplies owned by the Association, but excluding any improvements or appliances subsequently added by a Owner and all other personal property of the Owner. The amount of any such flood insurance obtained pursuant to this paragraph (e) shall be equal to the lesser of one hundred percent (100%) of the insurable value of the property insured or the maximum coverage available under the appropriate National Flood Insurance Administration program. Such flood insurance policy may, at the option of the Association, contain a "deductible" provision in an amount not to exceed \$25,000.00. Funds to cover this amount shall be included in the Association reserve fund.

Section 16.2. Required Provisions. Insurance obtained by the Association shall be in accordance with the following provisions:

(a) All policies shall be written with a company authorized to do business in the State of Maine and, for the hazard insurance policy described in Section 16.1(a) hereof, such company must hold a general policy holder's rating of at least "A" by Best's Insurance Reports, or by an equivalent rating bureau should Best's Insurance Reports cease to be issued.

(b) Exclusive authority to adjust losses under policies hereafter in force on the Property shall be vested in the Executive Board or its authorized representative.

(c) Each Owner may obtain additional insurance at his own expense; provided, however, that: (1) such policies shall not be invalidated by the waivers of subrogation required to be contained in policies required by this Declaration; and (2) no Owner shall be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount which the Association may realize under any insurance policy which the Association may have in force on the Property at any particular time.

(d) Any Owner who obtains individual insurance policies covering any portion of the Property other than personal property belonging to such owner shall be required to file a copy of such individual policy or policies with the Association within thirty (30) days after purchase of such insurance.

(e) With respect to the insurance policies described in subsection (a) and (b) of Section 16.1 issued to the Association, and covering all or any part of the Property, the Association shall cause such policies to provide that: (1) Each Owner is an insured person under such policies with respect to liability arising out of his ownership of an undivided interest in the Common Elements or membership in the Association; (2) The insurer waives its right to subrogation under the policy against any Owner or members of his household; (3) No act or omission by any Owner, unless acting within the scope of his authority on behalf of the Association will void such policies or be a condition to recovery under such policies or prejudice the coverage under such policies in any way; (4) If at the time of a loss under such policies there is other insurance in the name of a Owner covering the same risk covered by the policy, the Association's policy provides primary insurance; (5) The liability of the insurer shall not be affected by, and the insurer shall not claim, any right of set-off, counterclaim, apportionment, proration, or contribution by reason of any other insurance obtained by or for any Owner; (6) The insurer shall be relieved from no liability for loss occurring while the hazard to the Property is increased, whether or not within the knowledge or control of the Executive Board, or because of any breach of warranty or condition or any other act or neglect by the Executive Board or any Owner or any other person under either of them; (7) Such policies may not be cancelled nor may coverage thereunder be substantially changed (whether or not requested by the Executive Board) except by the insurer giving at least thirty (30) days prior written notice thereof to the Executive Board, the Insurance Trustee, if any, Owners, and every other party in interest who shall have requested such notice of the insurer; and (8) The insurer will recognize any Insurance Trust Agreement entered into by the Association.

Section 16.3. Insurance Trustee and Power of Attorney. Notwithstanding any of the provisions and requirements of this Article relating to property or liability insurance, the Executive Board may designate as an insured, on behalf of the Association, the Association's authorized representative, including any trustee with whom the Association may enter into any Insurance Trust Agreement or any successor to such trustee (hereinafter referred to as the "Insurance Trustee"), who shall have the exclusive authority to negotiate losses under any policy, providing such property or liability insurance.

Section 16.4. Repair of Damage or Destruction to Condominium. The repair or replacement of any damaged or destroyed portion of the Condominium shall be done in accordance with and governed by the provisions of Sections 1603-113(e) and (h) of the Condominium Act.

Section 16.5. Additional Insurance. Nothing in this Declaration shall be construed to limit the authority of the Executive Board to obtain additional insurance that it deems advisable.

ARTICLE 17
ASSIGNABILITY OF DECLARANT'S RIGHTS

The Declarant may assign any or all of its rights or privileges reserved or established by this Declaration or the Act in accordance with the provisions of the applicable Act.

ARTICLE 18
AMENDMENT OF DECLARATION

Pursuant to Section 1602-117 of the Condominium Act and except as provided herein for amendments which may be executed by the Declarant, the Association or certain Owners, this Declaration may be amended only by vote or agreement of owners of Units to which at least sixty-seven percent (67%) of the votes in the Association are allocated. In addition, approval of amendments of a material nature must be obtained from Eligible Mortgage Holders representing at least 51% of the votes of Units that are subject to mortgages held by Eligible Mortgage Holders. A change to any of the following, except where such change may be effected by the Declarant, would be considered as material:

- (a) reallocation of interests in the Common or Limited Common Elements, or rights to their use;
- (b) boundaries of any Unit;
- (c) restoration or repair of the Condominium (after a hazard damage or partial condemnation) in a manner other than that specified in the Condominium Documents; or
- (d) any action to terminate the legal status of the Condominium after substantial destruction or condemnation occurs.

If the amendment is not of such a material nature, such as the correction of a technical error or the clarification of a statement, the approval of an Eligible Mortgage Holder may be assumed when that eligible Mortgage Holder has failed to submit response to any written proposal for an amendment within thirty (30) days after the proposal is made.

ARTICLE 19
TERMINATION

The Condominium may be terminated only by agreement of the Owners of Units to which eighty percent (80%) of the votes in the Association are allocated; provided, however, that if the Condominium is being terminated for reasons other than substantial destruction or condemnation of the Condominium, the termination of the Condominium must also be approved by Eligible Mortgage Holders of Units to which at least sixty-seven percent (67%) of the votes of Units subject to mortgages held by Eligible Mortgage Holders are allocated. Termination of the Condominium will be governed by the provisions of Section 1602-118 of the Condominium Act.

ARTICLE 20
ATTORNEY IN FACT

Each Owner by his acceptance of the deed or other conveyance vesting in him a Unit does hereby constitute and appoint the Managing Agent acting from time to time with full power of substitution, as his true and lawful attorney in his name, place and stead to enter into all agreements which the Managing Agent is authorized to enter into pursuant to the terms of this Declaration and which the Managing Agent in its discretion may believe are necessary and proper to carry out the agent's responsibilities and duties. Each Owner stipulates and agrees that the Power of Attorney created by this Article 20 is coupled with an interest. The action of the Managing Agent in settling any claim for damage to any personal property shall be binding upon each Owner in the absence of fraud or clear mistake.

ARTICLE 21
GENERAL PROVISIONS

Section 21.1. Headings. The headings used in this Declaration and the table of contents are inserted solely as a matter of convenience for the readers of this Declaration and shall not be relied upon or used in construing the effect or meaning of any of the provisions of this Declaration.

Section 21.2. Severability. The provisions of this Declaration shall be deemed independent and severable, and the invalidity or unenforceability of any provision or portion thereof shall not affect the validity or enforceability of any other provision or portion hereof unless such deletions shall destroy the uniform plan of development and operation of the Condominium which this Declaration is intended to create.

Section 21.3. Applicable Law. This Declaration shall be governed and construed according to the laws of the State of Maine.

Section 21.4. Interpretation. The provisions of this Declaration shall be liberally construed in order to effect Declarant's desire to create a uniform plan for development and operation of the Condominium.

Section 21.5. Effective Date. This Declaration shall become effective when it and the Plats and Plans have been recorded.

Section 21.6. Notices. Unless otherwise provided by the Condominium Documents, all notices and other communications required or permitted to be given under or in connection with this Declaration shall be in writing and shall be deemed given when delivered in person or on the third business day after the day on which mailed by regular U.S. mail, postage prepaid, addressed to the address maintained in the register of current addresses established by the Association.

Section 21.7. Exhibits. All exhibits attached to this Declaration are hereby made a part of this Declaration.

Section 21.8. Pronouns. Wherever used, the singular number shall include the plural, the plural the singular and the use of any gender shall include all genders.

Section 21.9. Disclaimers Regarding Commercial Units. The Commercial Units of the Condominium are subject to the following waivers and disclaimers, which are deemed acknowledged and agreed to by any future Commercial Unit Owner by virtue of such Owner's acceptance of a deed conveying ownership of any such Commercial Unit:

(a) Waiver of Provisions, Rights and Remedies. All Commercial Units of the Condominium are to be used for nonresidential purposes. In accordance with Section 1604-101 of the Act, each Commercial Unit Owner, his heirs, successors and assigns, by acceptance of a deed to his Unit, and each tenant and their respective invitees, guests, licensees, servants, agents, employees and any other person or persons who shall be permitted to use such Unit, the Common Elements, or both, by virtue of ownership, rental or occupancy of such Unit, the Common Elements, or both, waive and relinquish the application of the provisions, rights, and remedies provided in Article 4 of the Act, except as applied in Sections 21.9 (b) and (c) hereunder.

(b) Disclaimer of Implied Warranties. Declarant hereby expressly disclaims and excludes any and all implied warranties with respect to the Commercial Units and any Common Elements or Limited Common Elements relating thereto, including without limitation any implied warranties of quality as set forth in Section 1604-113 of the Act. All Commercial Units are sold "as is" and "with all faults" in accordance with Section 1604-114 of the Act.

(c) Statute of Limitations. With respect to any express warranty or other warranty not hereby waived, each Commercial Unit Owner, his heirs, successors and assigns, by acceptance of a deed to such Unit, and each tenant and their respective invitees, guests, licensees, servants, agents, employees and any other person or persons who shall be permitted to use such Unit, the Common Elements or both, agree to reduce the period during which a judicial proceeding for any breach must be commenced to two (2) years as permitted pursuant to Section 1604-115(a) of the Condominium Act.

IN WITNESS WHEREOF, 28 Monument Square, LLC, has caused this Declaration to be sealed with its corporate seal and signed in its corporate name by David Verrill, its Manager, thereunto duly authorized, this _____ day of the month of _____, 2008.

SIGNED, SEALED AND DELIVERED
In the presence of:

28 Monument Square, LLC

By _____
Name: David Verrill
Its: Manager

STATE OF MAINE
COUNTY OF _____

_____, 2008

Then personally appeared the above-named _____, the Manager of 28 Monument Square, LLC, and acknowledged the foregoing to be his free act and deed in his said capacity and the free act and deed of said company.

Before me,

Notary Public/Attorney at Law
Printed Name: _____
Commission Expires: _____

Declaration of Condominium
Monument Square Condominium
28 Monument Square, Portland, Maine

EXHIBIT A

A certain lot or parcel of land with the buildings thereon situated in Portland, in the County of Cumberland and State of Maine, and bounded and described as follows:

Beginning on the street at the line of the division between the premises and land now or formerly of John B. Brown on the westerly side thereof, as established by Division Deed between Andrew L. Emerson Clapp and said Brown, dated September 11, 1851, and recorded in Cumberland County Registry of Deeds, in Book 231, Page 293; thence running southeasterly by the said division line to a passageway in the rear of said premises; thence running by said passageway to the line of division between these premises and land now or formerly of Benjamin Willis lying on the easterly side thereof, as established by Division Deed between Andrew L. Emerson Clapp and said Willis, dated September 11, 1851, and recorded in said Registry of Deeds, in Book 231, Page 330; thence running northwesterly by the line of said Willis' land to the street; and thence running westerly by the street to the first bound.

Said premises are numbered twenty-seven to thirty-one on Monument Square in said Portland, and contain three thousand one hundred nine (3,109) square feet, more or less.

Said premises are hereby conveyed with and subject to certain rights in the common passageway in the rear of said premises, party wall agreements and other easements, particularly set forth in the following agreements; namely, agreement between Benjamin Willis and Andrew L. E. Clapp, dated September 11, 1851, and recorded in Cumberland County Registry of Deeds, in Book 231, Page 330; agreement between John B. Brown and Andrew L. E. Clapp, dated September 11, 1851 and recorded in said Registry of Deeds, in Book 231, Page 293; agreement between John B. Brown, Andrew L. E. Clapp, Alpheus Shaw, Ezekiel Whitman and Benjamin Willis, dated September 11, 1851, and recorded in said Registry of Deeds, in Book 231, Page 331; and agreement between J.B. Brown & Sons, James P. Baxter, Bessie A. Donahue, Fred N. Dow, Malcolm F. Hammond and Charles Q. Clapp, dated April 11, 1913, and recorded in said Registry of Deeds, in Book 910, Page 187; and said premises are hereby conveyed with all rights and benefits provided for said premises in said agreements and subject to all burdens imposed on said premises in said agreements.

The premises herein conveyed are subject to the rights and easements granted by Larry H. Rose and Marie C. Rose a/k/a Surplus Store, to Public Cable, d/b/a Time Warner of Maine, by instrument dated October 1, 1998 and recorded in the Cumberland County Registry of Deeds in Book 15936, Page 77

Meaning and intended to describe the property conveyed to 28 Monument Square, LLC, by deed of John B. Cohen dated January 27, 2007, and recorded in the Cumberland County Registry of Deeds in Book 25131, Page 173.

EXHIBIT B

DECLARATION OF CONDOMINIUM

MONUMENT SQUARE CONDOMINIUM

**PERCENTAGE INTERESTS IN COMMON ELEMENTS AND
PERCENTAGE OF COMMON EXPENSE LIABILITY**

UNIT #	Unit Percentage Interest	Vote
Residential Units		
1	TBD%	1
2	TBD%	1
Commercial Units		
3	TBD%	1
4	TBD%	1
5	TBD%	1

A Unit's Percentage Interest and percentage of Common Expense liability shall be determined by dividing the unit's square footage by the total square footage of all the units.