

- (7) convertibility of Units into common elements or common elements into Units, except pursuant to the exercise of development rights by the Declarant;
- (8) expansion or contraction of the Condominium, or the addition, annexation or withdrawal of property to or from the Condominium, except pursuant to the exercise of development rights by the Declarant;
- (9) insurance or fidelity bonds;
- (10) leasing of Units;
- (11) imposition of any restrictions on a Unit Owner's right to sell or transfer his or her Unit;
- (12) a decision by the Association to establish self-management when professional management had been required previously by the Declaration or the Bylaws or by an Eligible Mortgage Holder;
- (13) restoration or repair of the Condominium (after a hazard damage or partial condemnation) in a manner other than as specified in the Declaration or the Bylaws;
- (14) any action to terminate the legal status of the Condominium after substantial destruction or condemnation occurs; or
- (15) any provisions that expressly benefit mortgage holders, insurers or guarantors.

An addition or amendment to the Condominium Documents shall not be considered material if it is for the purpose of correcting technical errors.

An Eligible Mortgage Holder who receives a written request by certified or registered mail, return receipt requested to approve a proposed addition or amendment and who fails to submit a response within thirty (30) days after it receives proper notice of the proposal, shall be deemed to have approved such request.

Section 11.4. Rights of Mortgage Holders, Insurers and Guarantors.

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

(1) any condemnation or casualty loss that affects either a material portion of the Condominium or the Unit securing the mortgage;

(2) any sixty (60) day delinquency in the payment of common expenses or other charges owed by the owner of any Unit on which it holds the mortgage;

(3) a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and

(4) any proposed action that requires the consent of a specified percentage of the Eligible Mortgage Holders.

(b) To receive such notice, the mortgage holder, insurer or guarantor shall send a written request therefor to the Association, stating its name and address and the Unit number or address of the Unit on which it holds, insures or guarantees the mortgage.

Section 11.5. Condemnation Rights. No provision of this Declaration shall give a Unit 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 Unit owner of insurance proceeds or condemnation award for loss to or a taking of one or more Units and/or common elements.

Section 11.6. Books and Records. The Association must have current copies of the Condominium Documents concerning the Condominium as well as its own books, records and financial statements available during normal business hours or under other reasonable circumstances for inspection by Unit Owners or by holders, insurers and guarantors of first mortgages that are secured by Units in the Condominium. In addition, when the Condominium consists of fifty (50) or more Units, the Association must provide an audited statement for the preceding fiscal year if any holder, insurer or guarantor of any first mortgage that is secured by a Unit in the Condominium submits a written request for such a statement. Any mortgage holder has the right to have an audited statement prepared at its own expense when a project consists of fewer than fifty (50) Units.

Section 11.7. Rights of First Refusal. Notwithstanding anything to the contrary elsewhere contained in this Declaration, the Bylaws or the Rules and Regulations, in the

event that the Unit Owners in the future adopt any right of first refusal (which right may be adopted only by amending this Declaration) in the case of the sale of any Unit, such right of first refusal shall not affect, impair or apply to the right of any mortgagee to: (1) foreclosure or take title to the Unit pursuant to the remedies provided in the mortgage, (2) accept a deed (or assignment) in lieu of foreclosure in the event of a default by a mortgagor, or (3) sell or lease a Unit acquired by the procedures hereinabove set forth.

ARTICLE 12

TERMINATION

Except in the case of a taking of all the Units by eminent domain, the Condominium may be terminated only by agreement of the Unit Owners of Units to which eighty percent (80%) of the votes in the Association are allocated and such agreement must also be approved by Eligible Mortgage Holders representing at least fifty-one percent (51%) of the votes of Units subject to mortgages held by Eligible Mortgage Holders; 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 representing at least sixty-seven percent (67%) of the votes of Units that are subject to mortgages held by Eligible Mortgage Holders. Termination of the Condominium will be governed by the provisions of Section 1602-118 of the Condominium Act.

ARTICLE 13

MISCELLANEOUS

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

Any dispute or disagreement between Unit Owners with respect to interpretation or application of this Declaration or the Bylaws or Rules and Regulations shall be determined by the Executive Board, which determination shall be final and binding on all parties.

If any term, covenant, provision, phrase or other element of this Declaration, the Bylaws, any deed to a Unit, or the Rules and Regulations is held to be invalid or unenforceable for any reason whatsoever, such holdings shall not affect, alter, modify, or impair in any manner, any other term, covenant or provision, phrase or other element of such documents.

Any Unit Owner in default in the payment of any amount due the Association or in violation of any provision of the Condominium Act, this Declaration, the Bylaws, or the Rules and Regulations of the Association, which violation continues for thirty (30) days after notice thereof by the Association to the Unit Owner may be prohibited by the Executive Board from the use and enjoyment of any and all of the common elements not essential to access to the Unit, in addition to all other remedies, including penalties and fines, available to the Board.

In any dispute between one or more Unit Owners and the Declarant regarding the common elements, the Executive Board 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, this Declaration, the Bylaws, or the deed to any Unit or the breach thereof, except for claims which have been waived by the acceptance of a deed, shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then obtaining unless the parties mutually agree otherwise. 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.

This Declaration is independent of any requirements or restrictions imposed by the ordinances of the City of Portland. Nothing in this Declaration relieves any person of any obligation to comply with such ordinances. The City of Portland has no authority or responsibility to enforce the provisions of this Declaration.

IN WITNESS WHEREOF, the Declarant has executed this Declaration this _____ day of _____, 2005.

WITNESS:

Christopher P. Sarchi

Kristi A. Sarchi

STATE OF MAINE

COUNTY OF CUMBERLAND, ss.

_____, 2005

Personally appeared the above-named Christopher P. Sarchi and Kristi A. Sarchi and acknowledged the foregoing Declaration to be their free act and deed.

Before me,

Notary Public/Attorney at Law

Print name