

DECLARATION OF CASCO BAY CONDOMINIUM

This Declaration is made by Casco Bay Ventures, a Maine corporation with a place of business in the City of Falmouth, County of Cumberland and State of Maine ("Declarant"), as the owner in fee simple of the real estate described herein.

1. **Property.** The Declarant, owner in fee simple of the real estate described herein, hereby submits the real estate situated in Portland, Maine, hereinafter described in Exhibit A attached hereto and made a part hereof, together with the buildings and improvements already thereon and those buildings and improvements to be put thereon in the future as described more particularly hereinafter (collectively the "Property") to the provisions of the Chapter 31 of Title 33 Maine Revised Statutes Annotated, as it may be amended, known as the Maine Condominium Act (the "Act"). The Property is subject to and shall have the benefit of all easements, rights of way and matters affecting title described or referred to in Exhibit A or in the survey to which reference is hereafter made.

The plat of the land submitted to the provisions of the Act is contained in two surveys, one entitled "Existing Conditions Plan of Lots on Fore and Waterville Streets," prepared by Back Bay Boundary, Inc., dated May 15, 2001, and the second entitled "Standard Boundary Survey of #1-3 St. Lawrence Street," prepared by Back Bay Boundary, Inc., dated May 15, 2001, both recorded herewith in the Cumberland County Registry of Deeds in Plan Book 201, Page 207, and Plan Book 201, Page 206, respectively; and the plans of the buildings submitted to the provisions of the Act entitled "Vertical and Horizontal Boundaries, Casco Bay Condominium," prepared by Nemmers & Associates, Architects, including the plan of the improvements, is recorded herewith in the Cumberland County Registry of Deeds in Plan Book 201, Page 331 (collectively the "Plat and the Plans").

The unit owners' Association shall be known as "Casco Bay Condominium Association" (the "Association"). The terms used in the Declaration or the Bylaws of the Association (the "Bylaws") or in the Plat and the Plans shall generally have the meanings specified in the Condominium Act except as otherwise defined herein.

2. **Creation of Units.** Declarant hereby creates six (6) units, #A1, #A2 and #A3 (located in "Building A" as identified on the Plat and the Plans), and #B1, #B2, and #B3 (located in "Building B" as identified on the Plat and the Plans) (individually the "Unit" and collectively the "Units"). The building identified on the Plat and the Plans as "Building A" is generally located at 25 Fore Street, Portland, Maine ("Building A"), and the building identified on the Plat and the Plans as "Building B" is generally located at 3 St. Lawrence Street, Portland, Maine (individually the "Building" and collectively the "Buildings"). The location, boundaries and identifying number of the Units and the Buildings are shown on the Plat and the Plans referred to in Section 1 hereof. Declarant reserves the right to add additional structures and units as more specifically described in

Section 9(L) herein.

3. Unit Numbers and Boundaries. Reference is made to the Plat and the Plans for the identification number of each Unit and the depiction of the location and dimensions of each Unit's boundaries.

The vertical boundaries of each Unit are formed by the planes of the outermost finished surfaces of the exterior walls of the Building containing that Unit and the centerline of the wall between each Unit and the common stairways, extending vertically to the upper and lower horizontal boundaries. The horizontal boundaries of each Unit are formed by the planes of the centerline of the floor/ceiling construction between the Units; except that the upper horizontal boundary for Units #A3 and #B3 is the centerline of the ceiling construction above said Units not to include an unfinished loft area, and the lower horizontal boundary for Units #A1 and #B1 is the plane of the centerline of the floor construction between said Units and the basement. Each Unit consists of all portions of the Building within the aforesaid boundaries.

The provisions of Section 1602-112 of the Act shall govern relocation of boundaries between any two Units. The subdivision of a Unit into two or more units is prohibited.

4. Common Elements. Each Unit will be conveyed together with its respective undivided interest in the Common Elements as shown on the Plat and the Plans and as hereinafter set forth and will have the benefit of the right to use the Common Elements in common with others entitled thereto as provided by the bylaws (the "Bylaws") adopted by the Association and any rules and regulations which may be adopted by the Association.

The Common Elements consist of all portions of the Property, other than the Units, and generally consist of the land, the lawn, landscaping and all the pipes, wires, conduits, flues, ducts, pipes and other utility lines running through a Unit which serve more than one Unit or which serve the Common Elements or which serve another Unit.

Each Unit and the Common Elements shall have an easement for lateral and adjacent support from every other Unit and the Common Elements, and shall have the easement for encroachments established under Section 1602-114 of the Act.

Common Elements shall also include those parts of the Property described in the Act or the Plat and the Plans as being Common Elements. Common Elements shall include, but not be limited to, Limited Common Elements.

5. Limited Common Elements. Generally all portions of a Building, other than the Units, are Limited Common Elements allocated exclusively to the Units contained in said Building, including, but not limited to, the exterior weathering surfaces

of the Building, shingles, flashing, waterproofing, painting, siding and trim, gutters, foundation, basement, attic/loft area, walls, roofing materials, chimneys, eaves, overhangs, and porches and stairways serving more than one Unit. However, any water, sewer or other utility lines, water heaters, electrical circuit breaker boxes, exterior windows and doors, decks, porches, stairways, and other fixtures designed to serve a single Unit but not a defined part of the Unit are Limited Common Elements allocated exclusively to that Unit. Limited Common Elements shall also include those parts of the Property described in the Act and not inconsistent herewith, or the Plat and the Plans, as being Limited Common Elements.

A Unit owner shall have the exclusive use of the Limited Common Elements allocated to his or her Unit, and shall be exclusively responsible for all maintenance, repair and upkeep thereof in good condition and repair so as to maintain an appearance consistent with the appearance of the Units and other Common Elements. The responsibility for maintenance, repair and upkeep of any Limited Common Element allocated to more than one Unit, shall be shared equally among the owners of the Units so allocated. A Unit owner shall have no maintenance, repair or upkeep responsibility with respect to the Limited Common Elements allocated only to other Units.

The Association shall not be liable for the maintenance, repair or upkeep of any Unit or the Limited Common Elements. The Association may act on behalf of the Unit owners in arranging for the maintenance and repair of the Units and Limited Common Elements if the owners so elect.

6. Parking. Each Unit shall be allocated the exclusive use of one (1) off-street parking space, the location of which shall be designated by Declarant. The three (3) exclusive off-street parking spaces for Units #B1, #B2 and #B3 shall be generally located within the "Parking Area" as same is identified on the Plat and the Plans. The three (3) exclusive off-street parking spaces for Units #A1, #A2 and #A3 shall be located on that portion of the Phase II Real Estate as Declarant may from time to time designate. Declarant reserves the right to relocate the exclusive off-street parking spaces for Units #A1, #A2 and #A3 to the Parking Area, as further described in Section 9M herein.

No commercial vehicles, trailers, motor homes, or trucks with gross weight of six thousand (6,000) pounds or more, shall be permitted within any of the said off-street parking spaces. The designated off-street parking spaces shall be treated as a Common Element for maintenance purposes, meaning that the Association shall be liable for the maintenance, repair and upkeep for all of the designated off-street parking spaces.

7. Fraction of Common Element Interests, Voting Rights and Common Expense Liabilities. The percentage of undivided interests in the Common Elements, and the percentage of voting rights and common expense liabilities allocated to each Unit is equal to the percentage resulting from the reciprocal of the total number of Units in Casco Bay Condominium at any given time. As an example, when six units are created at the initial offering, the percentage of undivided interests in the Common Elements and

the percentage of voting rights and common expense liabilities allocated to each Unit shall be equal to the percentage obtained by dividing one by the total number of Units (1/6), which percentage equals approximately sixteen and 66/100 percent (16.66%). No percentage of undivided interests allocated to any Unit shall be altered except upon the unanimous vote of all Unit owners and their respective first mortgagees, except as otherwise provided herein.

Upon the addition of any Units to Casco Bay Condominium, including the addition of Units that may be created pursuant to "Phase II" as defined in Section 9(L), the percentage of undivided interests in the Common Elements and the percentage of voting rights and common expense liabilities allocated to each Unit, shall be immediately reallocated among all Units according to the formula described above in this Section 7. As an example, if "Phase II" development creates an additional five Units, the percentage of undivided interests in the Common Elements and the percentage of voting rights and common expense liabilities allocated to each Unit shall be equal to the percentage obtained by dividing one by the total number of Units (1/11), which percentage equals approximately nine and 9/100 percent (9.09%).

8. Encroachments. If any portion of the Common Elements, or of any other Unit encroaches at any time upon any Unit or upon any portion of the Common Elements, as a result of minor variations or relocation during construction, settling of the buildings, alteration or repair to the Common Elements made by or with the consent of the Executive Board of the Association (the "Executive Board"), repair or restoration of a Unit or the Building after damages by fire or other casualty, or as a result of condemnation or other eminent domain proceedings, an easement shall exist for the encroachment and for its maintenance so long as the Building stands.

9. Easements and Declarant Rights.

A. The Units and Common Elements (including the Limited Common Elements) shall be, and hereby are, made subject to perpetual easements in favor of the utility, communications 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 including the Units. The easements created by this Section 9(A) shall include, without limitation, rights to install, lay, maintain, repair, relocate and replace water mains, pipes, sewer and drain lines, fuel and gas lines, pipes and conduits, drainage ditches and pump stations, mailbox, telephone poles, wires and equipment, television and communications equipment and facilities (cable or otherwise), poles, wires, conduits, and equipment in ducts and vents over, under, through, along and on the Units, Limited Common Elements and Common Elements. With respect to any utility lines or equipment serving only the Condominium and located upon the Common Elements (including any Limited Common Elements allocated to any one Unit), the Executive Board or the Declarant shall have the right and power to dedicate and convey an easement to any private or public utility company. The Executive Board or the Declarant 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 or the Declarant shall have the right to grant permits, licenses and easements over the Common Elements (including any Limited Common Elements allocated to any one Unit) for purposes necessary for the proper operation of the Condominium.

B. The Common Elements (including any Limited Common Elements allocated to any one Unit) are subject to an easement in favor of the Association and the agents, independent contractors and employees of the Association for the access, egress and ingress over, through and across each portion thereof for the operation of the Condominium, pursuant to such requirements and subject to such charges as the Executive Board may from time to time prescribe. Every Unit owner shall have an unrestricted right of ingress to such owner's Unit.

C. The Common Elements (including any Limited Common Elements allocated to any one Unit) 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 Limited Common Elements. The Association may in its sole discretion grant easements to Unit Owners for the erection of improvements in the limited common areas appurtenant to a Unit owner.

D. Each Unit and its Limited Common Elements are subject to the following easements in favor of all other Units:

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

(2) For the maintenance or the encroachment of any lighting devices, outlets, medicine cabinets, exhaust fans, ventilation ducts, registers, grilles and similar fixtures that serve only one Unit but encroach into any part of such Unit, and/or its Limited Common Elements or common element on the date that this Declaration is recorded or any amendment thereof is recorded.

E. Each Unit shall have an easement for structural support from the other Units in the same Building and the Limited Common Elements appurtenant to the Units in that Building, and the Common Elements shall be subject to an easement for structural support in favor of the Units and the Limited Common Elements.

F. The Units and the Limited Common Elements are hereby made subject to an easement in favor of the Association and its agents, employees and independent contractors for (i) inspection of the Units and Limited Common Elements in order to verify the performance by Unit owners of all items of maintenance and repair for which they are responsible; (ii) installation, inspection, maintenance, repair, and replacement of the Common Elements situated in or accessible from such Units or Limited Common Elements or both; (iii) correction of emergency conditions in one or more Units or Limited Common Elements, or both, or casualties to the Common Elements, the Limited Common Elements and/or the Units; and (iv) any purposes set forth in Section below.

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

H. All easements, rights and restrictions described and mentioned in this Declaration are easements appurtenant, running with the land and the Property, 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.

I. Declarant reserves a Special Declarant Right and easement to enter the Property for the purposes of maintenance, repair, renovation, replacement or correction of the Units, Common Elements or Limited Common Elements. This easement shall include, without limitation, the right of vehicular and pedestrian access, the right to park motor vehicles and to engage in construction activities, including the movement and storage of building materials and equipment. Declarant further reserves an easement in the Units, Common Elements and Limited Common Elements pursuant to Section 1602-116 of the Act for the purpose of discharging Declarant's obligations and exercising the Special Declarant Right reserved pursuant to this Declaration or on the Plat and the Plans.

J. Declarant further reserves an easement to connect with and to make use of utility lines, wires, pipes and conduits located on the Property for construction purposes on the Property (Declarant shall be responsible for the cost on any services), and to use the Common Elements for access and construction activities, and for the storage of construction materials and equipment used in the completion of the Units, Limited Common Elements and Common Elements, and to permit prospective tenants, purchasers and others to visit the offices and use the Common Elements and use unsold units for sales, leasing and display purposes and to erect signs on the Common Elements.

K. Declarant shall have the right, until Declarant has conveyed all of the Units in the Condominium, including any such Units that may be created pursuant to "Phase II", to grant and reserve easements and rights-of-way through, under, over, and across the Property for constructions purposes, and for the installation, maintenance and inspection of the lines and appurtenances for public water, sewer, drainage, gas,

electricity, telephone and other utilities provided however that no such easement shall be effective until of record, that no such easements may be granted through units sold by Declarant to third parties and that the Common Elements shall be promptly restored upon installation and repair.

L. Declarant reserves a Special Declarant Right to build additional structure(s), which may include the construction of up to five (5) additional Units (hereinafter referred to as "Phase II"), upon a portion of the real estate as identified on the Plat and the Plans, and as more particularly described in Exhibit B attached hereto (hereinafter referred to as the "Phase II Real Estate"). Declarant shall become the owner of any additional Units created pursuant to Phase II. Declarant is under no obligation to build Phase II, or to erect any improvements or structures upon the Phase II Real Estate. Declarant also reserves the right to remove and/or withdraw the Phase II Real Estate from Casco Bay Condominium, and with said removal and/or withdrawal the Phase II Real Estate shall become unaffected and unencumbered by this Declaration of Condominium, the Bylaws and the Act.

M. Declarant reserves the right to relocate the exclusive off-street parking spaces provided to Units #A1, #A2 and #A3 to the "Parking Area" identified on the Plat and the Plans, if Declarant deems such relocation necessary for any reason in its sole discretion. If Declarant relocates said exclusive off-street parking spaces to the Parking Area as described herein, Units #A1, #A2 and #A3 shall not retain any right to park upon or otherwise use the Phase II Real Estate thereafter.

N. The easements and rights reserved by Declarant in the foregoing Subsection 9(I), 9(J), 9(K), 9(L) and 9(M) shall continue until Declarant has constructed and conveyed all of the Units in the Condominium, including any Units which may be created pursuant to Phase II, which Subsections shall not be amended without the written consent of Declarant. Said easements and rights of Declarant shall lapse on January 1, 2012, if not sooner exercised.

10. Eminent Domain.

A. If a Unit is acquired by eminent domain, or if a part of a Unit is acquired by eminent domain leaving the Unit owner with a remnant that may not practically or lawfully be used for any purpose permitted by this Declaration, any award therefor shall be paid to the Unit owner as compensation for such Unit and its percentage interest, whether or not any percentage of undivided interest is acquired. Upon acquisition, unless the decree otherwise provides, that Unit's entire percentage of undivided interest, votes in the Association, and common expense liability shall be re-allocated to the remaining Units in proportion to the relative interests, votes and liabilities of those Units before the taking, and the Association shall promptly prepare, execute and record an amendment to this Declaration reflecting the allocations. Any remnant of a Unit remaining after part of a Unit is taken, as determined under this Section 10(A), shall be thereafter a Limited Common Elements, subject to the provisions of Section 5 herein.

B. Except as provided in Section 10(A) above, if part of a Unit is acquired by eminent domain, any award therefor shall be paid to the Unit owner as compensation for the reduction in value of the Unit. That Unit's allocation of Common Element interests and common expense liability and voting rights shall remain unchanged.

C. If a part of the Common Elements is acquired by 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 award shall be paid to the Association for the use and benefit of the Unit owners and their mortgagees as their interests may appear. The Association shall divide any portion of the award not used for any restoration or repair of the remaining Common Elements among the Unit owners in proportion to their relative percentages of undivided interest before the taking, but the portion of the award attributable to the acquisition of a Limited Common Elements must be paid to the owner of the Unit to which that Limited Common Elements was allocated at the time of acquisition.

D. A court decree regarding any such taking shall be recorded in the Cumberland County Registry of Deeds.

E. Nothing in this Declaration, the Bylaws or any rules or regulations adopted by the Executive Board shall be deemed to give the Unit owner or any other party priority over any rights of a first mortgagee of a Unit pursuant to its mortgage documents in the case of a distribution to such Unit owner of condemnation awards for the taking of Units and/or Common Elements.

11. Restrictions on Use and Occupancy.

A. The Units are restricted to private residential use as a dwelling, including residential activities engaged in by Unit owners, members of the Unit owners' immediate family, and the guests and other authorized occupants, licensees and visitors of the Unit owners. No Unit may be used for any retail, commercial, industrial or manufacturing purpose.

B. No Unit owner may carry on any practice, or permit any practice to be carried on, that unreasonably interferes with the quiet enjoyment of the occupants of any other Unit. Each Unit and its appurtenant Limited Common Elements shall be maintained in a clean and sanitary condition by the Unit Owner.

C. No Unit shall be used, occupied or kept in a manner that in any way that would be deemed hazardous and/or result in an increase in the fire insurance premiums for a Unit beyond the standard rates for such a dwelling, without the prior written permission of the Executive Board.

D. No owner of a Unit may erect any sign on or in a Unit or any Limited Common Elements that is visible from outside such Unit without in each instance having obtained the prior written permission of the Executive Board.

E. A Unit owner, shall be absolutely liable to the other Unit owners and the family, guests, licensees and invitees of the other Unit owners for any damage to personal property caused by any pets or animals kept on the Property by such Unit owner, and for removal of waste deposits by such pets and animals. The maintenance, keeping, boarding and/or raising of animals, laboratory animals, livestock, poultry or reptiles of any kind, regardless of number, shall be and is prohibited within any Unit or upon the Common Elements, except as otherwise provided herein. Each Unit shall be allowed to keep one small orderly domestic pet such as a cat, dog, caged bird, aquarium fish or other limited species of animals that are kept inside a Unit and which do not make unreasonable noise, as may be permitted by the Executive Board in accordance with and subject to any rules and regulations adopted by the Executive Board, provided, however, that such pets are not kept or maintained for commercial purposes or breeding. No pet shall be permitted upon the Common Elements unless accompanied by a Unit owner or resident. All pets must enter and exit the Units via the back entrances.

F. The drying of laundry, or other household items, outside of any Unit and upon the Common Elements, including without limitation upon the balconies of any Unit, is strictly prohibited.

G. Security lighting shall be on from dusk until 1:00 a.m.

H. A Unit owner shall be responsible for the maintenance, cleanliness and repair of any Limited Common Elements serving such Unit, at the expense of such Unit owner, including lawns and landscaping care and mowing, and snow and ice removal.

I. Each Unit owner shall comply strictly with the Bylaws and with any rules and regulations adopted and amended from time to time by the Executive Board in its sole discretion and with the covenants, conditions and restrictions set forth in this Declaration or in the deed to a Unit. Failure to so comply shall be grounds for an action to recover damages or for injunctive relief or both maintainable by an aggrieved Unit owner.

12. Common Expenses. Each Unit owner shall pay to the Association, or its authorized representative, monthly, his proportionate share of the budgeted expenses of the Association. Each Unit's proportionate share of common expense is described in Section 7 herein. Payment thereof shall be in equal monthly amounts and subject to annual review and adjustment. In the event of the failure of a Unit owner to pay such proportionate share when due, the amount thereof together with interest at the rate of eighteen percent (18%) per annum or such other rate as may be established by the Association, such late fees as may be established by the Association, costs and reasonable attorney's fees shall constitute a lien on the interest of such Unit owner, as provided by

the Act; provided, however, that such lien shall be subordinate to the lien of all recorded first mortgages on the interest of such Unit owner, and the foreclosure of such mortgages, sale or transfer pursuant to foreclosure or transfer to the first mortgagee in lieu of foreclosure shall extinguish a subordinate lien for common charges. The entire unpaid share of the common expenses or assessments by the Association chargeable to such Unit, that become due prior to the foreclosure, shall become common expenses collectible from all owners of a Unit. Such foreclosure shall not release the delinquent Unit owners from personal liability to the Association for unpaid common expenses.

13. Maintenance. Each Unit owner shall furnish and be responsible for, at such owner's expense, all the maintenance, repairs and replacements for such owner's Unit and the Limited Common Elements allocated to such Unit; provided, however, that maintenance, repair and replacements to the exterior of the Building shall be subject to the prior approval of the Executive Board, as more specifically described herein.

The Executive Board shall ensure that the exterior portions of each Unit and the Limited Common Elements are maintained in a compatible and harmonious manner, so that each Building, and the Casco Bay Condominium as a whole, is attractive and well maintained, including without limitation the right to regulate colors, siding and roof materials, window and door alteration and the like. Any change in the colors, siding and roof materials, windows or doors, shall require the unanimous approval of the Executive Board. The Executive Board shall also be responsible to determine the material, size and color of any fencing that may surround the common area.

Each Unit owner is solely responsible for any renovations in their Unit, which must not compromise the structural integrity of the Building.

14. Association of Unit Owners. The Association shall be the governing body for the Unit owners with respect to the administration of the Property as provided by the Act, this Declaration and the Bylaws. The Association shall elect officers as provided in the Bylaws.

Each Unit owner and/or owners shall be a member of the Association. Membership shall be appurtenant to the Units, and the transfer of title to a Unit shall automatically transfer the regular membership appurtenant to that Unit to the transferee or transferees. A transfer pursuant to a mortgage, however, shall not transfer membership until foreclosure or a transfer to a mortgagee in lieu of foreclosure.

The provisions of this Declaration and the Bylaws and the rights and obligations established thereby shall be deemed to be covenants, running with the land, so long as the Property remains subject to the provisions of the Act and shall inure to the benefit of and be binding upon each and all of the Unit owners and their respective heirs, representatives, successors, assigns, purchasers, lessees, grantees and mortgagees. By the recording or the acceptance of a deed conveying a Unit or any interest therein, or any ownership interest in the Property whatsoever, the person to whom such Unit or interest

is conveyed shall be deemed to accept and agree to be bound by and subject to all of the provisions of the Act, this Declaration, and the Bylaws.

In any voluntary conveyance of a Unit, it shall be the duty of the seller to furnish the buyer with a copy of this Declaration, the Association Bylaws and rules and regulations as they may from time to time be amended. The Declarant or the Association shall make available to Unit owners, prospective purchasers, lenders and the holders, insurers and guarantors of the first mortgage on any Unit, current copies of the Declaration, Bylaws and other rules and regulations governing the Condominium, and other books, records and financial statements of the Association. This requirement may be satisfied by making the documents available for inspection upon request during normal business hours or under other reasonable circumstances. If copies are requested, the Declarant or Association may, but shall not be obligated to, make them available at a reasonable charge.

15. Executive Board.

A. The initial Executive Board of the Association shall consist of six (6) members, with each Unit voting as a class for the election of one (1) Executive Board member. The members of the initial Executive Board shall be appointed, removed and replaced from time to time by the Declarant without the need of obtaining resignations. Within sixty (60) days of the initial conveyance of each Unit, one (1) of the Declarant-appointed members of the Executive Board shall be replaced with one (1) member elected by the new owner of the each such Unit sold.

For each additional Unit created, if any, pursuant to Phase II construction, the total number of Executive Board members shall be increased by one (1). The owner of each additional Unit created shall elect the one (1) additional Executive Board member within sixty (60) days of the completion of said Unit.

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

C. In the event that the Unit owners and/or Executive Board of the Association either (i) are unable to agree upon the expenses, budget or the performance of the maintenance, repair and replacement of the Common Elements, exteriors of the Building which forms a portion of the Units or any other portion of the Condominium Premises by the Association and/or the Unit Owners in accordance with the standards specified under the Declaration, the Bylaws or any Rules and Regulations adopted by the Association, which deadlock continues for 30 days after a Unit owner and/or Executive Board member sends written notice to the other parties in interest indicating the decisions in dispute, or (ii) are so divided that affairs of the Association that the Condominium Premises are suffering or will suffer irreparable injury, then in either such event the Association shall elect an independent professional property manager to handle such duties in dispute. If the parties cannot agree on the selection of such a manager, then a

manager shall be selected in accordance with the procedures and with the powers specified below:

The party shall give notice to the other Unit owners specifying in said notice the name and address of the person designated to act as an arbitrator on his behalf. Within Twenty (20) days after the service of such notice, the other parties shall give notice specifying the name and address of the person designated to act as an arbitrator on its behalf. If the other owner fails to notify the first owner of the appointment of his arbitrator within the time above specified, then the appointment of the second arbitrator shall be made by the first arbitrator. The two arbitrators so chosen shall meet with Ten (10) days after the second arbitrator is appointed and if, by Sixty (60) days after the date of the appointment of the second arbitrator, the two arbitrators shall not agree upon the independent professional manager, they shall together appoint a third arbitrator. In the event of their being unable to agree upon such third arbitrator within Thirty (30) days after the latest date for agreement, the third arbitrator shall be selected by the parties themselves if they can agree thereon within a further period of Ten (10) days. If the parties do not so agree, then either party, on behalf of both and on notice to the other may apply to the Cumberland County Superior Court for an appointment of such third arbitrator. It shall not be an objection to the nomination by either party that the arbitrator nominated by a party is not neutral, but the third arbitrator shall be a disinterested person. The decision of the arbitrators shall be final and the expenses of arbitration shall be assessed to the Units as a common expense. All arbitrators appointed must be employed in the real estate industry, including without limitation, as managers, real estate brokers, bankers, attorneys, developers, investors or otherwise. Unless the Unit owners both agree to limit the scope of the managers duties, the independent property manager shall have full power to administer the Association, on its behalf, including (i) establishing the budget of the Association (ii) calculating, assessing and collecting common charges and service charges, (iii) management and administration of the Condominium, the Premises, the exteriors of the Units and Common Elements (iv) establishing reserves and (v) appointment and dismissal of personnel and agents for the maintenance of the Condominium. The manager's term shall continue for a minimum of One (1) year, renewable annually, unless both Unit owners agree in writing to cancel Thirty (30) days prior to the anniversary date. The manager shall be paid a reasonable fee for his services; in the event of dispute the fee amount shall be determined by the arbitrators as set forth above.

16. Notice. The Clerk of the Association shall cause notice of all meetings of members and of all proposed actions requiring vote or approval of a specified percentage of Unit owners and/or mortgagees to be sent in writing by U.S. Mail, postage prepaid or to be personally delivered, to all Unit owners and all eligible mortgage holders at the address filed with the Clerk by said owners and mortgage holders not less than five (5) days and not more than twenty-five (25) days prior to the proposed meeting or action. Such notice shall be deemed to be given when so delivered in person or on the second

business day following such mailing. Such notice may, however, set a later deadline for any proposed action, if such longer period of time is deemed necessary to obtain the required number of written approvals. Notice of meetings shall state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the Declaration and Bylaws, any budget changes and any proposal to remove an Executive Board member or officer.

17. Separate Taxation and Utilities. It is understood that real estate taxes are to be separately taxed to each Unit owner for such owner's Unit following the first assessment date after the recording of this Declaration and the corresponding percentage of ownership in the Common Elements, as provided in the Act. In the event that for any year such taxes are not separately taxed to each Unit owner, but are taxed on the Property as a whole, then each Unit owner shall pay a share thereof in accordance with such owner's relative percentage of ownership interest in the Common Elements.

Each Unit owner shall pay for such owner's telephone, electricity and other utilities that are separately metered or billed to each user by the respective utility company. Except as may otherwise be provided in Section 5 herein, utilities that are not separately metered or billed shall be treated as part of the common expense.

The real estate taxes for the Phase II Real Estate shall be separately taxed and assessed against Declarant until such time as: Declarant constructs additional Units upon the Phase II Real Estate; or Declarant's right to develop and remove the Phase II Real Estate is terminated, whether by waiver, operation of law or the failure to exercise said rights prior to the date specified in Section 9(M). If additional Units are created pursuant to Phase II, the owners of said additional Units shall become immediately responsible for the payment of real estate taxes and utilities as more specifically described in this Section 17.

18. Insurance and Related Matters. With respect to each Unit and the Common Elements, and any additional structures or Units constructed pursuant to Phase II, the Association shall maintain insurance against loss or damage by fire and such other hazards as are covered under Standard Extended Coverage Provisions and all other perils customarily covered for similar types of properties, including those covered by the standard "all risk" endorsement, for an amount sufficient to avoid the application of any co-insurance provision, and as may be further specified by the Bylaws. The proceeds of such insurance shall be used for the reconstruction of the Units and Limited Common Elements or shall be otherwise disposed of in accordance with the provisions of this Declaration and the Act; and the policies shall contain the standard mortgage clause, provided, however, that the rights of the mortgagee of a Unit under any standard mortgage clause endorsement to such policies shall be subject to the provisions in the Act with respect to the application of insurance proceeds to the reconstruction of the Units. Each Unit owner shall indemnify and save harmless the Association from any liability, claim, loss, damage, expense, action or cause of action relating to or out of such owner's respective Unit and its appurtenant Limited Common Elements. Each Unit owner and the

Association shall indemnify and save harmless Casco Bay Ventures, its officers, directors, shareholders, employees, agents, successors or assigns, from any liability, claim, loss, damage, expense, action or cause of action relating to or arising out of the construction by Declarant, its successors or assigns of additional Units pursuant to Phase II.

19. Mortgage Provisions.

- A. The Unit owner who mortgages his Unit shall notify the Executive Board of the name and address of his mortgagee and shall, upon request, file a conformed copy of the mortgage with the Executive Board.
- B. The Executive Board, whenever so requested in writing by a mortgagee of a Unit, shall promptly report to it any then unpaid common charges due from, or any other default by, the owner of the mortgaged Unit.
- C. The Executive Board, when giving notice to a Unit owner of a default in paying common charges or other violation of the provisions of this Declaration, the Bylaws or any rules and regulations, shall send a copy of such notice within Thirty (30) days after the occurrence of such default to each holder of a mortgage covering such Unit whose name and address has previously been furnished to the Executive Board.
- D. Each mortgagee of a Unit shall be permitted to examine the books, accounts and records of the Association at reasonable times on business days and to require annual reports and other financial data of the Association. If no audited financial statement is available, any holder of a mortgage on any Unit shall be allowed to have an audited statement prepared at its own expense.
- E. Notwithstanding anything to the contrary elsewhere contained in this Declaration or the Bylaws, the following provisions shall govern:
 - (1) Any first mortgagee of a Unit in the condominium will, upon request, be entitled to inspect the books and records of the Association during normal business hours.
 - (2) No provision of this Declaration or of the Bylaws shall be deemed or construed to give a Unit owner, or any other party, priority over any rights of first mortgagees of Units pursuant to their mortgages in the case of a distribution to Unit owners of insurance proceeds or condemnation awards for losses to or a taking of Units and/or Common Elements.
 - (3) A first mortgagee of a Unit shall be entitled to prompt written notification from the Executive Board of (i) any default by the mortgagor of such Unit in the performance of such mortgagor's obligations under this Declaration and/or the Bylaws that is not cured within thirty (30) days, (ii) any event of

substantial destruction to, or condemnation or governmental taking of, such Unit or any portion of the Common Elements appurtenant thereto, (iii) any lapse or modification of insurance or fidelity bond coverages, (iv) any proposed amendment under Section 19 of this Declaration and (v) any proposed action that entitles an eligible mortgage holder to notice under Section 1602-119(b) of the Act.

(4) Any first mortgagee of a Unit who obtains title to the Unit pursuant to the remedies provided in the mortgage, or through foreclosure of the mortgage, or through deed (or assignment) in lieu of foreclosure, shall take the property free of any claims for unpaid assessments or charges against such Unit that accrue prior to the acquisition of title to such Unit by the mortgagees, but such expenses or assessments shall become common expenses collectible from any subsequent owner of such Unit.

(5) So long as Declarant holds a mortgage on a Unit, that Unit owner shall not let or rent his Unit without first obtaining Declarant's prior written consent in each such instance. Notwithstanding the foregoing, any lease or rental of a Unit shall: (i) be in writing; (ii) involve the lease or rental of the entire Unit and not some lesser portion thereof; (iii) be for a term of not less than one (1) year; (iv) provide that the tenant is subject in all respects to the provisions of the Declaration, Bylaws and any rules and regulations that may be adopted by the Executive Board; and (v) provide that failure by the lessee to comply with the terms of said documents shall be a default under such lease.

20. Method of Amending Declaration. Except to the extent expressly permitted or required by the Act, this Declaration may be amended by a vote or by written approval of the Unit owners of Units to which at least sixty-seven percent (67%) of the votes in the association are allocated and written approval from eligible mortgage holders, as defined in the Act, representing at least sixty-seven percent (67%) of the votes allocated to Units that are subject to eligible first mortgages.

21. Name and Address. The name of the Condominium is Casco Bay Condominium, as shown on the survey, and the Condominium is located at 25 Fore Street and 3 St. Lawrence Street, in Portland, Maine.

22. Applicable Law; Interpretation; Severability. This Declaration shall be governed by and construed in accordance with the laws of the State of Maine. In the event of any conflict or discrepancy between this Declaration, the Bylaws and the Plat and the Plans, this Declaration shall govern. If any provision of this Declaration, the Bylaws or any rules and regulations are in conflict with any applicable laws, including the Act, then such laws shall govern and such invalid provision shall be of no force and effect, but the validity of the remainder of this Declaration, the Bylaws and any such rules and regulations shall not be affected thereby and shall remain in full force and effect as if

EXHIBIT A

Those parcels of land located within the area enclosed by the "Property Line(s)" as shown on two surveys, one entitled "Existing Conditions Plan of Lots on Fore and Waterville Streets," prepared by Back Bay Boundary, Inc., dated May 15, 2001, and the second entitled "Standard Boundary Survey of #1-3 St. Lawrence Street," prepared by Back Bay Boundary, Inc., dated May 15, 2001, both recorded herewith in the Cumberland County Registry of Deeds in Plan Book 201, Page 207, and Plan Book 201, Page 206, respectively

For Grantor's source of title reference is made to a Warranty Deed from Kevin M. Learey and Nancy A. Learey to Grantor herein, dated March 12, 2001 and recorded in the Cumberland County Registry of Deeds in Book 16088, Page 27, and a Deed of Sale of Personal Representative from Lawrence P. Davis and Marie Davis Sweatt, as Co-Personal Representatives of the Estate of John J. Davis, to Grantor herein, dated October 6, 2000 and recorded in the Cumberland County Registry of Deeds in Book 15771, Page 36.

EXHIBIT B

A certain parcel of land identified as "Phase II Real Estate" on a survey entitled "Existing Conditions Plan of Lots on Fore and Waterville Streets," prepared by Back Bay Boundary, Inc., dated May 15, 2001, recorded in the Cumberland County Registry of Deeds in Plan Book 201, Page 207.

EXHIBIT A

BYLAWS OF CASCO BAY CONDOMINIUM ASSOCIATION

These Bylaws have been adopted by the sole incorporator named in the Casco Bay Condominium Association, a Maine nonstock corporation duly organized under Title 13-B of the Maine Revised Statutes (the "Association").

ARTICLE 1 INTRODUCTORY PROVISIONS

Section 1.1 Applicability. These Bylaws ("Bylaws") shall relate solely to the property called "Casco Bay Condominium" located in Portland, Maine (the "Property"), and more fully described in the Declaration of Condominium for Casco Bay Condominium, and the Plats and Plans related thereto (collectively the "Declaration"), recorded in the Cumberland County Registry of Deeds in Portland, Maine, as the same may be amended from time to time.

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, Section 1601-101 et seq. (the "Act"). Unless otherwise provided in the Act, in the event of inconsistencies in definitions between the Act and the Declaration, the Declaration shall control.

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

Section 1.4 Office. The office of the Condominium, the Association and the Executive Board shall be located at the Condominium property, Portland, Maine, 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 and the Articles of Incorporation.

ARTICLE 2 THE ASSOCIATION

Section 2.1 Membership. The Association is a Maine nonprofit corporation, all the members of which are the Unit owners of the Property. The Declarant, being the initial owner of all Units, initially shall constitute all of the members of the Association.

A person or legal entity shall automatically become a member of the Association at the time he, she or it acquires legal title to a Unit, and he, she or it shall continue to be a member so long as he, she or it continues to hold title to such Unit. A Unit owner shall not be permitted to resign from membership in the Association prior to the time when the Unit owner transfers title to his, hers or its 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 transfer of title, but the Association may treat the prior Unit owner as the member for all purposes until satisfactory evidence of the recording of the instrument transferring title shall be presented to the Clerk. The date of recording 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. Notwithstanding any applicable theory of mortgage, no mortgage shall operate to transfer membership until either the mortgage is foreclosed or the Unit is transferred to a mortgagee in lieu of foreclosure.

Section 2.2 Meetings. Meetings of the Association shall be held at the Office of the Association unless some other place is designated by the Executive Board and shall be conducted in accordance with the following provisions:

(a) Annual Meetings

(i) The Association shall hold Annual Meetings for the purposes stated in Section 2.2(a)(ii) herein (the "Annual Meeting"). The Annual Meeting shall be held on the THIRD Tuesday of April of each year unless such date shall be a legal or religious holiday, in which event the meeting shall be held on the next following day.

(ii) The purpose of the Annual Meeting shall be to elect the members of the Executive Board and to conduct such other business as may be required or permitted by law, the Declaration or these Bylaws to be done by a vote of Unit owners.

(b) Special Meetings. The President shall call a Special Meeting of the Association if so directed by resolution of the Executive Board or upon the written request of one (1) Unit owner presented to the Clerk. The notice of any Special Meeting shall state the time, the place and purpose thereof. Such meetings shall be held within thirty (30) days after receipt by the President of said resolution or written request; provided, however, if the purpose includes the consideration of the rejection of a capital expenditure pursuant to Section 5.8 herein, such meeting shall be held within fifteen (15) days after receipt by the President of said resolution or written request.

(c) Notice. Notices of meetings of the Association shall be given to Unit owners in accordance with Section 9.3 herein, unless waived as provided herein. If a notice sent to Unit owners pursuant to the foregoing sentence includes an item on the proposed agenda which would require the approval of eligible mortgage holders pursuant to the

Declaration, a copy of such notice will also be sent to all eligible mortgage holders. All such notices shall be delivered to all Unit owners (and eligible mortgage holders, if applicable) not less than TEN (10) nor more than FORTY (40) 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 Clerk shall cause all such notices to be delivered as aforesaid. Before or after any Association meeting, any Unit owner may waive notice of a meeting in writing. A Unit owner's attendance at any Association meeting shall constitute his, her, or its waiver of notice of such meeting.

(d) Quorum. Except as set forth below, the presence in person or by proxy of Unit owners from at least sixty-seven percent (67%) of the Units entitled to vote shall constitute a quorum at all meetings of the Association. If a quorum is not present, Unit owners entitled to cast a majority of the votes represented at such meeting may adjourn the meeting to a time not less than two (2) nor more than thirty (30) days after the time for which the original meeting was called. If such adjournment is for twenty (20) days or more, notice of the adjourned meeting shall be given as provided in Section 2.2(c) herein. If, however, such adjournment is for less than twenty (20) days and the time and place of the second meeting are announced at the meeting being adjourned, then notice need not be given.

(e) Voting. Voting at all meetings of the Association shall be on the basis of the vote allocation provided in Section 7 of the Declaration. When the ownership of a Unit is in more than one person, the person owning the Unit who is present at an Association meeting will be entitled to cast the vote of such Unit. If more than one person owning a Unit is present at the meeting, then the vote allocated to the Unit will be cast in accordance with the agreement of the majority in interest of the owners of such Unit. Such majority agreement shall be deemed to exist if any one of the multiple owners of a Unit casts the vote allocated to such Unit without any protest from the other owners of such Unit being made promptly to the person presiding over the meeting. Subject to the requirements of the Act, wherever the approval or disapproval of a Unit owner is required by the 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.

Except with respect to the election of the members of the Executive Board and, except where a greater number is required by the Act, the Declaration or these Bylaws, the approval of the Unit owners that represent at least sixty-seven percent (67%) of the Units present at a given meeting, cast by the Unit owners in person or by proxy at a duly convened meeting at which a quorum is present, is required to adopt decisions at such meeting of the Association.

In all elections for Executive Board members, each Unit shall separately vote as a class for the election of one (1) Executive Board member. 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(s) are entitled.

(f) Proxies. A vote may be cast in person or by proxy. If a Unit has multiple owners, each owner may vote through a duly executed proxy. Such proxy may be granted by a Unit owner only in favor of another Unit 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 Clerk 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.

(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 the Units shall individually or collectively unanimously consent in writing to such action. Any such written consent shall be filed with the minutes of the proceedings of the Association.

(h) Conduct of Meetings. The President (or in his absence, the senior officer of the Association present) shall preside over all meetings of the Association, and the Clerk 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.

Section 2.3 Copies of Condominium Documents. The Association shall have current copies of the Declaration, these Bylaws and any other rules concerning the Property as well as its own books, records and financial statements available for inspection by Unit owners or by holders, insurers and guarantors of first mortgages secured by Units. These condominium documents shall be available during normal business hours. The Association may charge a fee for providing copies of the Condominium Documents.

ARTICLE 3 **EXECUTIVE BOARD**

Section 3.1 Composition. The affairs of the Association shall be governed by the Executive Board. The Executive Board shall initially consist of six (6) natural individuals, at least one half (1/2) of whom shall be Unit owners, designees/representatives of the Declarant or, if the Unit owner is an entity, one, and only one, of its owners or officers so designated by such entity.

Section 3.2 Election and Term of Office.

(a) Within the sixty (60) day period immediately preceding the date by which members of the Executive Board for a Unit appointed by the Declarant must resign pursuant to the Declaration, a Special Meeting of the Association shall be held at which the Unit owner entitled to vote as a class shall elect successor members of the Executive

Board to act in place of those resigning. All successor board members elected at said Special Meeting shall take office upon the resignations of the Executive Board members called for under the Declaration and shall serve until the Annual Meeting next following their election.

- (b) At the Annual Meeting of the Association, subject to the Declaration, the election of members of the Executive Board shall be held. Except as noted above, the term of office of any Executive Board member shall be fixed at one (1) year. Except as noted above, each member of the Executive Board shall hold office until the earlier to occur of:
- (i) the election of his successor;
 - (ii) his health has a significantly negative impact on his ability to discharge his duties;
 - (iii) adjudication of his incompetency;
 - (iv) his removal;
 - (v) or his resignation.

An Executive Board member may serve an unlimited number of terms and may succeed himself.

- (c) Persons qualified to be members of the Executive Board may be nominated for election only as follows:
- (i) Any Unit owner entitled to vote as a member of the class for that Executive Board members may submit to the Clerk at least five (5) days before the meeting at which the election is to be held a statement that the owner nominated is willing to serve on the Executive Board;
 - (ii) The Declarant may submit to the Clerk at least five (5) days before the meeting at which the election is to be held a statement that the person Declarant's representative nominated is willing to serve on the Executive Board; and
 - (iii) 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 (1) candidate has been nominated by the Unit owner entitled to vote as a class for that member of the Executive Board.

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 herein, 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 written request to the President made by a member of the Executive Board for a date occurring not less than three (3) and no more than twenty (20) days after receipt of such request.

In any event, the Executive Board shall meet at least one time each fiscal year (in addition to the annual meeting of the Executive Board), unless all members of the Executive Board shall waive such requirement. The Executive Board shall endeavor to meet approximately sixty (60) days prior to the beginning of the next fiscal year for the purpose of preparing a proposed budget of the Association for said fiscal year. The President shall designate the time and location of Executive Board meetings.

(b) Notice. Not less than seventy-two (72) hours prior to the time of any Executive Board meeting, unless waived as provided herein, a written notice stating the date, time and place of such meeting shall be delivered, either by hand or mail or telegram, to each Executive Board member at the address given to the Executive Board by such Executive Board member for such purpose. Before or after any Executive Board meeting, any Executive Board member may waive notice of a meeting in writing or consent in writing 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 the presence of at least one member from each of the Units shall constitute a quorum for the transaction of business, and the votes of at least sixty-seven percent (67%) of the Executive Board 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 meetings 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 at least sixty-seven percent (67%) 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, these Bylaws or the Act.

In the event of a deadlock in Executive Board or the management of the Condominium, the arbitration provisions of the Declaration shall apply.

(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. Unit owners who are not Executive Board members and eligible mortgage holders to the extent required under Section 1602 119(d) of the Act, shall have the right to attend Executive Board meetings. The Clerk shall give prior notice, in the manner provided herein, to all Unit owners and, as required under the Act, to eligible mortgage holders of each meeting.

(f) Conduct of Meetings. The President, or in the President's absence the senior officer of the Association present, shall preside over all meetings of the Executive Board and the Clerk 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.

(g) Action by Unanimous Consent Without a Meeting. Any action by the Executive Board or a Committee of 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, setting forth the action taken, at any time before or after the intended effective date of such action. Any such written consent shall be filed with the minutes of the proceedings of the Executive Board.

(h) Telephone Meetings. Executive Board meetings or meetings of any committee designated by the Executive Board may be held via conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting in such manner, without objection of the beginning of the meeting to the holding thereof in such a manner, shall constitute presence in person at such meeting.

Section 3.4 Resignation and Removal. Except with respect to members designated by Declarant, at any regular or Special Meeting of the Association duly called, any one or more of the members of the Executive Board may be removed with or without cause by Unit owners of the class entitled to elect the Board Member and a successor may then and there be elected by such Unit owners to fill the vacancy thus created. Any Unit owner proposing removal of an Executive Board member shall give notice thereof to the Clerk. Any member whose removal has been proposed by a Unit owner shall be given at least ten (10) days notice by the Clerk of the time, place and purpose of the meeting and shall be given an opportunity to be heard at the meeting. A member of the Executive Board may resign at any time and 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 the Declaration.

Section 3.5 Vacancies. Any vacancy or vacancies on the Executive Board, whether caused by resignation, removal, death, adjudication of incompetency, 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 vote of the Unit owners entitled to vote as a class for the election of that Board Member; provided that any such interim appointee of the Executive Board shall be a Unit Owner or a representative of the Declarant. Notwithstanding the preceding sentence, 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 and had not been elected by the Unit owners. If the vacancy results from removal by the Association, the election of a new member or members may be held at the same meeting where such removal takes place and notice of an election for removal shall be considered notice of an election to fill each vacancy so caused. The vote of more than fifty percent (50%) of the votes of the Unit owners of the class entitled to elect the member present at such meeting in person or by proxy shall cause the postponement of the election to a later date, but if such vacancy is not filled within sixty (60) days after it occurs, the Executive Board shall promptly thereafter elect a replacement.

Section 3.6 Compensation. No member of the Executive Board shall receive compensation for performing his duties as a member of the Executive Board.

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 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 herein.

Section 3.9 Powers of the Executive Board.

(a) Enumeration. The Executive Board shall have all of the powers and duties granted by the Act, the laws governing nonprofit corporations or both, including without limitation the following powers:

- (i) Adopt and amend Bylaws and Rules and Regulations;
- (ii) Adopt and amend budgets for revenues, expenditures and reserves, and to collect assessments for common expenses and service charges from Unit owners;
- (iii) Hire and terminate managers and other employees, agents, and independent contractors;
- (iv) Institute, defend, or intervene in litigation, arbitration, or administrative proceedings in its own name on behalf of itself or two (2) or more Unit owners on matters affecting the Condominium, and the Association shall be deemed to be the attorney-in-fact of each Unit owner for such purposes;
- (v) make contracts and incur liabilities;
- (vi) Regulate the use, maintenance, repair, replacement and modification of Common Elements and the exteriors of the Units provided, however, that the use of the Limited Common Elements may not be changed without the consent of those Unit owners affected;
- (vii) Cause additional improvements to be made as a part of the Common Elements and, if approved by the Unit Owners, the exteriors of the Units, subject to the restrictions set forth herein;
- (viii) Acquire, hold, encumber and convey in its own name any right, title, or interest to real or personal property;
- (ix) Grant easements, leases, concessions, licenses for public utilities servicing or benefiting the Premises through or over the Common Elements;
- (x) Impose and receive payments, fees, or charges for the use, rental, or operation of facilities located on the Common Elements;
- (xi) Impose charges and interest for late payment of assessments and service charges and, after notice and an opportunity to be heard, impose reasonable penalties for violations of the Declaration, Bylaws, and Rules and

Regulations of the Association;

(xii) Impose reasonable charges for the preparation and recordation of amendments to the Declaration or statements of unpaid common charges and assessments or resale certificates furnished in accordance with the Maine Condominium Act;

(xiii) Provide for the indemnification of its officers and directors and maintain directors' and officers' liability insurance;

(xiv) Exercise any other powers conferred by Declaration or Bylaws;

(xv) Exercise all other powers that may be exercised pursuant to the Maine Nonprofit Corporation Act.

The Executive Board of the Association shall manage the Condominium and exercise such powers on behalf of the Association, subject to the terms of these Bylaws, the Declaration and the Maine Condominium Act.

(b) Limitation. Nothing in this Section or elsewhere in these Bylaws shall be considered to grant to the Executive Board or the officers of the Association any powers or duties which, by law, are possessed by Unit owners. Unless otherwise provided herein or in the Declaration, the Executive Board shall comply with the instructions of the Unit owners as expressed in a resolution duly adopted at any Annual or Special Meeting of the Association.

Section 3.10 Enforcement of Declaration and Bylaws. Every Unit owner shall pay to the Association promptly on demand all costs and expenses, including reasonable attorneys' fees and expenses incurred by or on behalf of the Association, in collecting any delinquent assessments, service charges or fees due from such Unit, foreclosing its lien for assessments, collecting any penalties imposed hereunder, or enforcing any provisions of the Declaration, these Bylaws, or the Rules and Regulations against such owner or any occupant of such Unit.

Section 3.11 Rules and Regulations. In order to assist the peaceful and orderly use and enjoyment of the Buildings, Units and Common Elements of the Condominium, the Executive Board may from time to time adopt, modify, and revoke, in whole or in part, such further reasonable rules and regulations governing the Condominium as it may deem necessary, including, but not limited to, methods and procedures for enforcing compliance with the Declaration and Bylaws. Such Rules and Regulations upon adoption, and every amendment, modification, and revocation thereof, shall be sent promptly to each Unit and shall be binding upon all members of the Association and all persons present on the Condominium.

unless a special meeting of the members is called within such period and the members vote to reject such grant. No such rights may be created through any unit without the written consent of the owners thereof and that no such easement shall materially impair the use and enjoyment of the Condominium.

ARTICLE 4 OFFICERS

Section 4.1 Election. 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 officers of the Association for the following year from among the members of the Executive Board, such officers to serve for a one year term and until their respective successors are elected. The officers to be elected are: President, Clerk, Treasurer and such other officers as the Executive Board shall determine. Each officer may serve an unlimited number of terms so long as such officers continues to be re-elected 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. 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 Maine Condominium Act, 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. Unless restricted by the Executive Board, the President also shall have any or all of the power and duties ordinarily attributable to the chief executive officer of a corporation domiciled in Maine.

(b) **Clerk.** Unless otherwise determined by the Executive Board, the Clerk 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 and shall have the authority to affix the seal of the Association to any documents requiring such seal. The Clerk 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 Unit owners, as well as copies of the Declaration, the Plats and Plans, these Bylaws and

assessments shall be due and payable on the first day of each month and shall be a lien against each Unit owner's Unit as provided in the Act and the Declaration. After the end of a fiscal year, upon the request of a Unit owner or of an eligible mortgage holder, the Executive Board shall provide 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 Unit owners in accordance with their Percentage Interest and shall be payable as a Special Assessment, in such manner as the Executive Board may determine.

(b) Working Capital Fund. A working capital fund shall be established equal to at least one-sixth (1/6) of the estimated annual Common Expense liability for the first full year of operations. The proportionate share for a Unit (based on its Percentage Interest) shall be collected and transferred to the Association within thirty (30) days of the date of the sale of that Unit and the amounts so collected shall be maintained in a segregated account for the use and benefit of the Association. Such amounts shall not be considered as advance payment of regular assessments.

(c) Reserves Extraordinary expenditures not originally provided for in the annual budget that may become necessary during the fiscal year may be charged first against the working capital fund and then against the operating contingency reserve. If this fund and this reserve are deemed to be inadequate for any reason, including non-payment of any Unit owner's assessments, the Executive Board may at any time levy further assessments for Common Expenses which shall be assessed against the Unit owners in accordance with their Percentage Interests and shall be payable as a Special Assessment, in such manner as the Executive Board may determine.

(d) Service Charges. The Association shall have the express power to separately charge a Unit and the owner thereof for services rendered to that Unit. Such charges shall be a lien on the Unit with the same status as a lien for common expense assessments under the Condominium Act, this Declaration and Bylaws, which lien for service charges may be foreclosed in like manner as a mortgage on real estate. The recording of the Bylaws constitutes record notice of the lien. Service charges shall include without limitation:

(i) If a Unit owner, members of his family, guests or tenants requests the Association or its agent to perform repair and maintenance work on his Unit, or damages the Common Elements or fails to perform maintenance and repair work required for his Unit or the Common Elements, the expense thereof as determined by the Executive Board or its designee may be assessed as a Service Charge.

(ii) Fees, if any, which may be established by the Executive Board for the use and maintenance of water, sewer and/or other utility services and equipment. Likewise, water and sewage services supplied to each Unit may be measured separately by such methods and systems established by the Executive Board in

requested by any Unit owners or any member of the Executive Board.

Section 5.8 Limitations on Expenditures. Anything herein to the contrary notwithstanding, the Association, by a unanimous vote of the Association, may reject any capital expenditure approved by the Executive Board, within thirty (30) days after approval by the Executive Board.

Section 5.9 Statement of Common Expenses/Resale Certificate. The Executive Board shall promptly provide any Unit owner or proposed mortgagee so requesting the same in writing with a written statement of resale certificate including a statement of all unpaid assessments for Common Expenses due from such Unit 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 Act.

ARTICLE 6 **INSURANCE REPAIR OR RECONSTRUCTION**

Section 6.1 Insurance.

(a) The Association shall maintain, to the extent reasonably available in accordance with standard property management practices and the requirements of Eligible Mortgage Holders:

- (i) Property insurance on the Common Elements and on the Units, including any additional structures or Units constructed pursuant to "Phase II" as defined in the Declaration (exclusive of improvements and betterments installed in or about Units by Unit owners unless expressly listed and insured through the Association's policy), insuring against fire, extended coverage perils and all other risks customarily covered for similar types of properties, including those covered by the standard "all risk," vandalism, malicious mischief, windstorm and water damage endorsements, together with coverage for the payment of common expenses with respect to damaged Units during the period of reconstruction. The total amount of insurance after application of any deductibles shall be as near as is practicable to 100% of the replacement cost (unless the Executive Board elect a higher level of coverage), exclusive of land, excavations, foundations and other items normally excluded from property policies, with such deductible as determined by the Executive Board but not to exceed the lesser of \$10,000 or one percent (1.00%) of the policy face amount. All such policies shall require at least twenty (20) days notice of cancellation;
- (ii) Comprehensive general liability insurance including bodily injury, property damage and medical payments insurance and for claims related to employment contracts to which the Association is a party, hired automobile, non-owned automobile, and off-premises employee(s), in such amounts determined by the Executive Board but at least \$1,000,000.00 of bodily injury and property

- (a) The Condominium is terminated;
- (b) Repair or replacement would be illegal under any state or local health or safety statute or ordinance; or
- (c) One Hundred percent (100%) of the members vote not to rebuild, including every owner of a Unit or assigned Limited Common Element which would not be rebuilt.

The cost of repair or replacement in excess of insurance proceeds and reserves shall be a common expense; funds to cover the deductible amount shall be included in the Association's reserve account budget. If the entire Condominium is not completely repaired or replaced:

- (i) The insurance proceeds attributable to a damaged Unit and Common Elements shall be used to restore the damaged areas to a condition compatible with the remainder of the Condominium;

- (ii) The insurance proceeds attributable to each Unit, (including, without limitation, improvements constituting a permanent part of the Unit which are insured by the Association, the Unit's interest in Limited Common Elements) which is not rebuilt shall be distributed to the owners of each such Unit and the owners of the Units to which those Limited Common Elements were assigned, after payment of the holders of liens thereon in accordance with the Maine Condominium Act; and

- (iii) The remainder of the proceeds shall be held in trust to be distributed to all the Unit owners in accordance with the Maine Condominium Act.

Notwithstanding the provisions of this subsection, the Declaration governs the distribution of insurance proceeds if the Condominium is terminated. If the members vote not to rebuild any Unit, that Unit's percentage interest in the Common Elements shall be automatically reallocated to the remaining Units in proportion to their percentage interests prior to the reallocation, and the Association shall promptly prepare, execute and record an amendment to the Declaration reflecting the reallocation.

In the event of a claim under any insurance maintained by the Association, the Executive Board shall designate one or more persons to adjust the loss or otherwise negotiate with the insurer.

It shall be the responsibility of each Unit owner to procure adequate insurance covering the contents of his Unit, and any appliances, fixtures, betterments or improvements thereto installed by the owner unless that owner has elected to procure insurance under the Association's policy, or the Association's policy insures such improvements.

Section 6.3 Utility Services/Damage. The Association shall not be liable for the failure of electricity, telephone, water supply, sewage disposal systems, or other services to be obtained by the Association or paid for out of the Common Expense or service charge funds, or for injury or damages to persons or property cause by the elements or by the owner of any Unit or by any other person, or resulting from electricity, water, snow or ice which may leak, fall or flow from or settle on any portion of the Common Elements or Limited Common Elements or from any roof, wire, pipe, drain, conduit, appliance or equipment. The Association shall not be liable to the owner of any Unit for loss or damage, by theft, or otherwise, of property which may be stored upon or in any individual Unit or in any of the Common Elements or facilities. No set-off, diminution or abatement of assessments for Common Expenses or service charges, shall be claimed or allowed for the expense, damage or discomfort arising from the making of repairs or improvements to the Common Elements or facilities or to any Unit, or from any action taken by the Association to comply with any law, ordinance, or order of any other governmental authority.

ARTICLE 7
SALE, LEASE, RENTAL OR OTHER TRANSFER OF A UNIT

Section 7.1 Binding Effect. All subsequent sales, leases or other transfers of a Unit by a Unit owner shall be subject in all respects to the Declaration, Bylaws, and Rules and Regulations of the Condominium.

Section 7.2 Leasing Restrictions.

(a) No Unit may be leased for transient purposes and no Unit may be leased for a period of less than one (1) year. No portion of any Unit (other than the entire Unit) shall be leased for any period.

No Unit owner shall rent or lease a Unit other than in accordance with a written form of lease, which has been approved by the Executive Board:

(i) requiring the tenant to comply with the Declaration, these Bylaws, and Rules and Regulations;

(ii) providing that failure to comply constitutes a default under the lease;

and

(iii) providing that the Executive Board has the power to terminate the lease or to bring summary proceedings to evict the tenant in the name of the Unit owner after Thirty (30) days' prior written notice to the Unit owner, in the event of a default by the lessee in the performance of the lease.