

AFTER RECORDING RETURN TO:

Jensen Baird
10 Free St., P.O. Box 4510
Portland, Maine 04112

**AMENDED AND RESTATED
DECLARATION OF SIMPLICITY COURT CONDOMINIUM**

TABLE OF CONTENTS

ARTICLE 1 CREATION OF THE CONDOMINIUM

- 1.1 Submission of Property.
- 1.2 Applicability.
- 1.3 Defined Terms.
- 1.4 Interpretation.

ARTICLE 2 DESCRIPTION OF PROPERTY

- 2.1. Description of the Property.
- 2.2 Location and Dimensions of Buildings and Units.
- 2.3 Recorded Plat and Plans.
- 2.4 Condominium Documents.

ARTICLE 3 DESCRIPTION OF CONDOMINIUM UNITS

- 3.1 Creation of Units.
- 3.2 Description of the Units.
- 3.3 Unit Boundaries.
- 3.4 Allocated Interests.
- 3.5 Alterations by Unit Owner.
- 3.6 Optional Limited Common Element Improvements Installed by Declarant.

ARTICLE 4 COMMON ELEMENTS, LIMITED COMMON ELEMENTS

- 4.1 Common Elements.
- 4.2 Limited Common Elements.
- 4.3 Common Elements to Remain Undivided.
- 4.4 Alteration of Common Elements
- 4.5 Exterior Improvements and Limited Common Elements.
- 4.6 Solar Panels.

ARTICLE 5 DEVELOPMENT RIGHTS; BUILDING PHASING

- 5.1 Declarant Rights.
- 5.2 Restrictions
- 5.3 Assignment
- 5.4 Amendment, Waiver, Etc.

ARTICLE 6 CONDOMINIUM ASSOCIATION

- 6.1 The Association.

- 6.2 Board of Directors Powers.
- 6.3 Rules and Regulations.

ARTICLE 7 ASSOCIATION ASSESSMENTS ON UNIT OWNERS

- 7.1 Common Expenses, Limited Common Expenses and Service Charges
- 7.2 Allocation and Payment of Common Expense Assessments.
- 7.3 Service Charges.
- 7.4 Borrowing and Pledge
- 7.5 Payment of and Lien for Assessments, Service Charges, Etc.
- 7.6 Liability/Resale Certificate.
- 7.7 Initial Working Capital Fund.
- 7.8 Budget.

ARTICLE 8 MAINTENANCE RESPONSIBILITIES AND USE RESTRICTIONS

- 8.1 General Maintenance Responsibilities
- 8.2 Maintenance of Common Elements.
- 8.3 Maintenance of Limited Common Elements.
- 8.4 Maintenance of Unit/Repair Responsibility
- 8.5 Liability of Owner.
- 8.6 Use and Occupancy Restrictions.
- 8.7 Use of Common Elements.
- 8.8 Parking.
- 8.9 Leasing and Renting
- 8.10 No Liability of Association.

ARTICLE 9 EASEMENTS & RESERVED RIGHTS

- 9.1 Utilities, Pipes and Conduits.
- 9.2 Access.
- 9.3 Association Access to Units.
- 9.4 Encroachments.
- 9.5 Ancillary Easements through Common Elements.
- 9.6 Third-Party Easements

ARTICLE 10 RIGHTS OF MORTGAGE LENDERS ON UNITS

- 10.1 Right to Mortgage.
- 10.2 Identification of Mortgages.
- 10.3 Mortgage Foreclosure and Dispositions.
- 10.4 Eligible Mortgage Holder.
- 10.5 Mortgagee Approval Rights.
- 10.6 Mortgagee Priority.
- 10.7 Records.

ARTICLE 11 INSURANCE

- 11.1 General.
- 11.2 Property and Casualty Insurance.
- 11.3 Liability Insurance.
- 11.4 Additional Required Provisions.
- 11.5 Other Insurance.

- 11.6 Memoranda and Cancellation.
- 11.7 Owner's Separate Insurance.

ARTICLE 12 DAMAGE OR DESTRUCTION

- 12.1 Repair.
- 12.2 Utility Services/Limitation of Liability.

ARTICLE 13 TERMINATION

- 13.1 Termination.
- 13.2 Effect of Termination.

ARTICLE 14 EMINENT DOMAIN

- 14.1 Acquisition of Unit(s).
- 14.2 Acquisition of Common Elements.
- 14.3 Rights of Association and Mortgage Holders.

ARTICLE 15 AMENDMENTS

- 15.1 General.
- 15.2 Proviso; Consent of Declarant.
- 15.3 Notice, Execution and Recording.
- 15.4 Notice and Challenge.

ARTICLE 16 GENERAL PROVISIONS

- 16.1 Enforcement.
- 16.2 Units Not Yet Separately Assessed.
- 16.3 Conflict.
- 16.4 Severability.
- 16.5 Waiver.
- 16.6 Captions.
- 16.7 Gender, Number, Etc.
- 16.8 Power to Interpret.
- 16.9 Disputes with Declarant and Arbitration.

ARTICLE 17 NOTICES

- 17.1 Notices.

EXHIBITS

- Exhibit A Legal Description of Land
- Exhibit B Allocated Interests

Prepared by: Rebecca D. Shiland, Esq.
 Jensen Baird
 10 Free St., P.O. Box 4510
 Portland, Maine 04112

CERTIFICATE OF ADOPTION

Amended and Restated Declaration and Bylaws

of

DECLARATION OF SIMPLICITY COURT CONDOMINIUM

The undersigned officers of the **SIMPLICITY COURT CONDOMINIUM ASSOCIATION**, a Maine nonprofit corporation (the "Association") being the association of Unit Owners for the **SIMPLICITY COURT CONDOMINIUM** (the "Condominium") located in the Town of Scarborough, County of Cumberland and State of Maine originally established pursuant to the Maine Condominium Act under a Declaration recorded by **SIMPLICITY COURT LLC**, a Maine limited liability company ("Declarant") dated June 16, 2024 and recorded in the Cumberland County Registry of Deeds in Book 40201, Page 74, as amended of record (collectively the "Original Declaration") hereby certify that this **AMENDED AND RESTATED DECLARATION OF SIMPLICITY COURT CONDOMINIUM** a set forth below were duly adopted by approval of more than sixty-seven percent (67%) of all votes in the Association at a duly-noticed meeting held on _____, 2024 pursuant to the Maine Condominium Act, chapter 31 of Title 33 of the Maine Revised Statutes of 1964, as amended ("Condominium Act"), and the Maine Nonprofit Corporation Act, Title 13-B of the Maine Revised Statutes, there being no Eligible Mortgage Holders, and that copies of this Amended and Restated Declaration has been sent to all Unit Owners.

ARTICLE I CREATION OF CONDOMINIUM

§1.1 Submission of Property. The Condominium Property consists of the land located in the Town of Scarborough, County of Cumberland and State of Maine described in **Exhibit A**, the buildings and improvements located thereon and subject to and together with all easements, rights, privileges and appurtenances thereto (collectively the "Property"), which Property is hereby submitted to and shall be governed by the Condominium Act in accordance with this Declaration, and is a condominium as defined in Section 1601-103(7) of the Condominium Act known as Simplicity Court Condominium ("Condominium").

The name of the Unit Owners' association is Simplicity Court Condominium Association, a Maine nonprofit corporation (the "Association") formed under the Maine Non-Profit

Corporation Act, 13-B M.R.S.A. Section 101 et seq.

The Condominium consists of the Property described in **Exhibit A**. Pursuant to this Declaration and the Act, the Condominium consists of eight (8) residential condominium units (individually, a "Unit" and collectively, the "Units"), which Units are identified as Units 1-8 (defined below), together with associated Limited Common Elements.

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

§1.3 Defined Terms. Capitalized terms not otherwise defined in this Declaration or on the Plat and Plans shall have the meanings specified in the Condominium Act.

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

ARTICLE 2 DESCRIPTION OF PROPERTY

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

The location and dimensions of the Property included in the Condominium are depicted on the "Condominium Plat, Simplicity Court Condominium, Scarborough, Maine" prepared Owen Haskell, Inc., dated February 27, 2023, as amended, and recorded in the Cumberland County Registry of Deeds in Plan Book 223, Page 179 (the "Plat").

§2.2 Location and Dimensions of Buildings and Units. The term "Building" means any building erected or to be erected on the Property containing one Unit, as well as other improvements comprising a part of a building or intended to be used for purposes incidental to the use of a building. The areas in which Buildings and other improvements which may be erected on the Property, including the Common Elements, are shown on the Plat.

§2.3 Recorded Plat and Plans. The original Plat and any amendments thereto shall be recorded with this Declaration in the Cumberland County Registry of Deeds.

§2.4 Condominium Documents. "Condominium Documents" means this Declaration, the Plat, the Bylaws of the Association, and the Rules and Regulations adopted by the Board of Directors, and any amendments to any of the foregoing adopted from time to time.

ARTICLE 3 CONDOMINIUM UNITS

§3.1 Creation of Units. Units 1, 2, 3, 4, 5, 6, 7, and 8, together with associated Limited Common Elements, are created under this Declaration.

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

Each Unit consists of the entire Building in which it is located and includes the following items:

- (a) The foundations, roof, walls, doors, windows, gutters, chimneys, flues and all portions of the building in which the Unit is located;
- (b) All utility lines, pipes, wires, electrical and transmission wires and conduits, sprinkler and life safety systems, distribution pipes, and water and septic utility lines located within the Building or mounted on its exterior walls (excepting lines and equipment owned by public and municipal utilities, if any);
- (c) All exterior and interior portions of the Buildings, including all structural components, flooring, floor coverings, walls and ceilings and all other materials within the Building;
- (d) Plumbing, electrical, heating, lighting, ventilating and air conditioning systems, pipes, wires, conduits and other components located within the Building or servicing only one Unit, any even if located outside of a Unit's boundaries as depicted on the Plans; and
- (e) The exterior doors, screen and storm doors, exterior windows and their screens and frames, glass, tracks, hardware, locks, screens, flanges, sills and all other components of prefabricated doors and windows.

A Unit generally does not include utility lines running through a Unit which serve more than one Unit, which serve the Common Elements, or which serve another Unit.

Each Unit and the Common Elements shall have any easement for lateral and subjacent

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

§3.3 Unit Boundaries. The boundaries of each Unit subsequently created under this Declaration shall be shown on the Plat and Plans, and shall consist of:

(a) *Horizontal Boundary:* The upper and lower boundaries of each Unit are generally the following boundaries extended to an intersection with the vertical (perimeter) boundaries:

1. Upper Boundary: There is no upper boundary of a Unit.
2. Lower Boundary: The horizontal or outermost planes at the lower or outer surfaces of the foundation, with the foundation constituting part of the Unit.

(b) *Vertical Boundaries:* The vertical boundaries of each Unit shall be the vertical planes at the outermost exterior surfaces of the exterior walls, eaves and canopies, extended to the intersections with each other and with the horizontal boundaries.

(c) *Interior Space.* All other spaces, interior partitions and other fixtures and improvements within the boundaries of a Unit are a part of the Unit.

(c) *Interior Finishes.* The Unit shall include all wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, wallpaper, carpeting, finished flooring and any other materials constituting any part of the finished surfaces thereon located within the boundaries of the Unit.

(d) *Interior Space.* All other spaces, interior partitions and other fixtures and improvements within the boundaries of a Unit are a part of the Unit.

(e) *Relocation & Subdivision.* Neither the relocation of boundaries between Units nor the subdivision of Units is permitted.

§3.4 Allocated Interests. The term "Allocated Interests" means the Common Element Interest, the Common Expense Liability and the voting rights in the Association allocated to each Unit pursuant to this Declaration. The term "Common Element Interest" means the percentage of undivided interest in the Common Elements appurtenant to each Unit. The term "Common Expense Liability" means the allocation to each Unit of the respective liability for Common Expenses. Generally the Common Expense Liability allocated to a Unit is a percentage equal to the Common Element Interest appurtenant to such Unit. The Allocated Interests of each Unit shall be set forth in **Exhibit B**.

The percentage of each Unit's Common Element Interest and Common Expense Liability

is allocated by a formula represented by a fraction wherein the numerator is one (1), and the denominator is the total number of Units in the Condominium which have been declared, subject to rounding in order to permit ease of administration, provided however that the percentage stated in **Exhibit B** (as it may be amended) shall control in any event.

Each Unit shall have one (1) vote, provided however that the number of votes stated in **Exhibit B** (as it may be amended) shall control in any event.

§3.5 Alterations by Unit Owner. Subject to this Declaration, the Bylaws and the Rules and Regulations of the Association as amended from time to time, a Unit Owner may make nonstructural improvements and alterations within the interior of the Unit that do not affect the exterior appearance of the Unit or the Common Elements. However, no Unit Owner may make any improvements or alterations or do any work whatsoever which would impair the structural integrity or mechanical systems, or life safety systems of a Building, lessen the support of any portion of the Condominium, or jeopardize the soundness or safety of the Property.

No Unit Owner shall alter any of the Common Elements or paint or otherwise change the appearance of the Common Elements (including without limitation the Limited Common Elements) or paint or otherwise change the exterior appearance of the Unit (including, but not limited to, erecting, placing or posting any object, sign, clothesline, speaker, light, flag, or thing in any windows except window treatments), without first obtaining the prior written approval of the Board of Directors of the Association. The standard for approval of such improvements shall include, but not be limited to, aesthetic consideration, materials to be used, harmony with the external design of the existing Buildings and structures and the location in relation to surrounding structures and topography.

§3.6 Optional Limited Common Element Improvements Installed by Declarant.

The Unit Owner may request the Association perform maintenance, repairs and replacement to additional Limited Common Element improvements installed by Declarant serving such Owner's Unit, the expense of which shall be assessed as a Service Charge, all subject to the agreement of the Association in its discretion, which shall become binding only by a written acceptance signed by an authorized officer thereof.

**ARTICLE 4
COMMON ELEMENTS, LIMITED COMMON ELEMENTS**

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

- i. The land, together with the benefit of and subject to all the accompanying rights and easements described in Exhibit A, pedestal mounted cluster mailboxes, benches and trash receptacles, project identification sign, retaining walls, guardrails, landscaping, vegetation, trees, snow storage areas, two common parking spaces and one handicapped parking spaces, if any, paved access drive aisles, private access drives, and adjacent sidewalks;

- ii. All utility lines, pipes, wires, electrical and transmission wires and conduits, any life safety systems, distribution pipes, pumping station, stormwater and drainage system facilities, and water and sewer utility lines which serve more than one Unit or which serve the Common Elements (excepting lines and equipment owned by public and municipal utilities or installed pursuant to easements serving other persons); and
- iii. All other parts of the property necessary or convenient to its existence, maintenance and safety or normally in common use, except as otherwise expressly provided in this Declaration.

The paved access drive aisles and private access drives are subject to reserved perpetual easements in favor of the Association, all Unit Owners, the Declarant and their invitees, employees and contractors for passage on foot and by motor vehicle.

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

§4.2 Limited Common Elements. The term "Limited Common Elements" means those portions of the Common Elements where the exclusive use is reserved to one or more, but fewer than all, of the Units in accordance with this Declaration. Limited Common Elements, consist of the following:

- i. For each Unit, the lawn, landscaping and other areas adjoining such Units as now or hereafter shown and assigned on the Plat, as it may be amended, and now or hereafter allocated to such Units.
- ii. The open-air surface parking spaces are assigned Limited Common Elements in accordance with the Plat, which may be used by the owner of the Unit (including their guests or invitees) associated with such spaces.
- iii. Water, sewer or other utility lines, water heaters, electrical circuit breaker boxes and other fixtures designed to serve a single Unit but which are not a defined part of the Unit are Limited Common Elements allocated exclusively to that Unit;
- iv. The exterior decks, and the exterior patios and the land underneath them, other open space areas now or hereafter shown and assigned as Limited Common Elements on the Plat and Plans;
- v. The storage sheds now or hereafter shown and assigned as Limited Common Elements on the Plat and Plans;
- vi. Any other patios, porches, decks, exterior stairs and steps, stoops, if any, and any other fixture designed to serve a single Unit but located outside its Unit boundary, either as presently or hereafter built in accordance with this Declaration or shown on the Plat and Plans adjacent to a Unit and which is not defined as a part of the Unit as set forth above;

- vii. The land located below a Building or Unit; and
- viii. The portions of the Property shown on the Plat and Plans or as described as Limited Common Elements pursuant to Section 1602-102(2) and (4) of the Condominium Act.

The Limited Common Elements located along the driveways are subject to an easement for the deposit of snow and ice from the driveways.

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

§4.3 Common Elements to Remain Undivided. The Common Element Interest of a Unit shall be inseparable from each Unit, and any conveyance, lease, devise or other disposition and any mortgage or other encumbrance of any Unit shall include the Common Element Interest, whether or not expressly referred to in the instrument making such transfer. The Common Elements shall remain undivided and no action for partition or division of any party shall be permitted, unless otherwise provided by law and permitted by this Declaration.

§4.4 Alteration of Common Elements by the Declarant. The Declarant reserves the right to modify, alter, repair or improve portions of the Common Elements, including without limitation, any equipment, fixtures and appurtenances, and further reserves an easement over the Limited Common Elements in order to discharge its obligations and to exercise any Declarant rights, whether arising hereunder or under the Condominium Act.

§4.5 Exterior Improvements and Limited Common Elements.

A. Conditions Precedent. If the record owner(s) of the subject Unit(s) affirmatively elect, upon application to and subject to the written approval of the Board of Directors of the association based on each owner's compliance with the standards set forth hereinafter, all to be evidenced by a recorded instrument duly executed and acknowledged setting forth the requirements itemized below, then:

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

(ii) for the installation of doors, windows, skylights and frames thereto subject to the following limitations and requirements, compliance with which shall be as specified and approved by the Board of Directors in their discretion prior to construction:

(a) The improvements shall be of first quality, permanent construction and shall be

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

Board may approve; and

The Association may require a cash bond or other assurances of compliance with the foregoing standards. During construction the Unit Owner shall provide builder's risk insurance at the cost of the Owner and shall name the Association as an additional insured. The Unit Owners shall be strictly liable for any resulting damage caused by defective construction of the improvements, including without limitation post construction rot and water damage to the Unit and other Common Elements.

B. Post Completion. Upon completion of the improvements in accordance with this Section and occupancy, the Unit Owner shall be fully responsible for the costs of maintenance, repair, insurance and replacement of such improvements at the Unit Owner's expense in a neat and attractive appearance.

Upon completion of the improvements in accordance with this Section and occupancy, the Association shall provide exterior maintenance and repairs to the same extent as the Common Element improvements but at the cost of the Unit Owner, and shall obtain hazard insurance on the improvements under the Association's master insurance policy (see Article 10 below), the expense of which shall be assessed as a Limited Common Expense or Service Charge, as the Executive Board may approve in accordance with Article 6 of this Declaration or as may be set forth in a separate recorded Agreement between the Unit Owner and the Association if required by the Executive Board, which agreement shall control in the event of any conflict with this Section that cannot be otherwise resolved. The Unit Owner shall provide all interior maintenance.

C. Revocation. After first obtaining the Board's written approval of such Unit Owner's plan to remove the improvement(s), any Unit Owner or his or her respective heirs, mortgagees or assigns, may at any time revoke such election by instrument duly executed by such Unit Owner(s) and the Board and duly recorded, and thereafter may remove the improvements, seal up passageways and/or remove the stairs, doors and their frames, and/or install a permanent wall, floor ceiling or other partitions, at all times in accordance with the plans approved in writing by the Board and preserving the structural integrity, the mechanical and utility systems and support of all portions of the Property. Nothing contained herein shall be deemed to merge or otherwise affect the separate identity, configuration or the boundaries of any Units.

§4.6 Solar Panels. Any Unit Owner or group of Unit Owners desiring to install a solar panel system (a "Solar Panel System") in the Common Elements or Limited Common Elements, or on the roof of a Unit, must complete an application in a form approved by the Board of Directors, and submit such application, together with plans and specifications for the proposed installation, to the Board of Directors, for review and approval.

The Plans and Specifications for the Solar Panel System must be reasonably satisfactory to the Board of Directors and include as-built plans depicting the location, size, materials and color of the Solar Panel System, and appurtenances such as wiring, including how and where all wiring or conduit will be anchored. A structural engineering assessment of the roof structure and an analysis of the roof warranty may also be required, but only if the Board of Directors reasonably determines an actual need for such assessment and analysis.

No installation of a Solar Panel System shall be performed unless and until the Board of Directors has approved the application for installation including the plans and specifications, contractor's insurance and permits, which approval shall not be unreasonably withheld, conditioned or delayed. Thereafter, the approval be in the form of a recordable easement agreement.

As a condition of approval the Unit Owner will be required to enter into a recordable easement agreement with the Association for the exclusive use of the Common Element or Limited Common Element in a form to be reasonably determined by the Board of Directors.

The Easement Agreement will be prepared by the Association's counsel and will include but not be limited to the following conditions:

A. The Unit Owner is responsible for the cost to install, repair and maintain the Solar Panel System.

B. The Unit Owner is responsible for any damage attributable to the installation of the Solar Panel System and will indemnify and hold harmless the Association and the other unit owners from any harm or damage caused by the Solar Panel System.

C. The Unit Owner must insure the Solar Panel System at his/her cost and expense and name the Association on the certificate of insurance as an additional insured. The form and amount of the insurance must be satisfactory to the Board of Directors.

D. If the unit is sold or transferred, the new unit owner will be subject to the same conditions set forth in the easement agreement which will run with the Unit.

E. All costs incurred by the Association related to the application for installation of the Solar Panel System including but not limited to the Association's attorneys' fees for drafting, completing and recording the easement agreement will be paid by the Unit Owner.

F. If repairs to the roof are required at any time in the sole discretion of the Board of Directors the Unit Owner will be responsible for removal and replacement of the Solar Panel System within a time frame determined by the Board of Directors.

The Board of Directors may, in its sole discretion, impose additional reasonable conditions in connection with the approval of any Unit Owner or group of Unit Owners Solar Panel System located on the Buildings.

ARTICLE 5 DECLARANT'S RIGHTS; BUILDING PHASING

§5.1 Declarant Rights. The Declarant reserves the rights:

(a) Until the expiration of any applicable warranty established by law or agreement, the Declarant, its contractors, agents and employees shall have the right of entry into a Unit and the Common Elements to perform warranty-related work, whether for the benefit of than Unit or any other Unit;

(b) Until twenty (20) years from the date of the recording of this Declaration to grant easements for all purposes from time to time for the benefit of third parties including affiliates of the Declarant, including easements for access, utilities, drainage, excavation, alternation of the surface of the earth, connection to utility and sewer lines, and the installation, use, maintenance, repair and replacement of utility lines, poles, conduits, facilities and equipment, pavement, culverts, drainage ditches and swales;

(c) Those rights established under the Condominium Act.

§5.2 Restrictions. The exercise of Development Rights shall be subject to the following restrictions:

- i) No changes shall be made by the Declarant or any other person to the road, utility, drainage, stormwater maintenance improvements or any other improvements located in the Common Elements forming part of the Property (whether located on land owned in fee or easement areas) required in order to comply with the Town of Scarborough and Maine Department of Environmental Protection's applicable requirements, unless such changes are first approved by applicable governmental bodies with jurisdiction; and
- ii) No changes shall be made to the site or subdivision approvals from the of Town of Scarborough Planning Board, unless any applicable approval is received to the extent applicable.

§5.3 Assignment. All or any part of the rights, powers or reservations of Declarant contained in this Declaration may be assigned by Declarant from time to time to any person(s) or entity(ies) which will assume the duties and obligations of Declarant related to the rights, powers or reservations assigned. Upon the recording of an assignment of such rights, powers or reservations pursuant to which the assignee assumes the duties and obligations of Declarant related thereto, the assignee shall become a successor Declarant as to such rights, powers or reservations assigned and shall have the same rights and powers and be subject to the same duties and obligations as are given to and assumed by Declarant herein, and Declarant shall be relieved from all liability with respect to the rights, powers, reservations, duties and obligations hereunder which are assumed by the assignee.

§5.4 Amendment, Waiver, Etc.

ARTICLE 5 and Section 4.4 shall not be amended or waived nor shall any Bylaws or Rules and Regulations be adopted or amended which may infringe on the foregoing without the consent of the Declarant duly recorded in said Registry of Deeds.

The rights and benefits of ARTICLE 5 and all other rights of Declarant set forth in this Declaration, the Bylaws or otherwise, as amended from time to time, may be transferred in

whole or part by recorded instrument specifically referring to this Section and executed by Declarant and its successor or assignee.

The Declarant shall have the right to waive the Development and Special Declarant reserved hereunder in whole or part by an written instrument provided that such waiver shall only be effective upon recording in said Registry of Deeds and such waiver shall be subject to the limitations of Section 1603-103(d) of the Act regarding Declarant Control of the Association.

ARTICLE 6 CONDOMINIUM ASSOCIATION

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

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

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

§6.2 Board of Directors Powers.

A. General. Except as otherwise provided in Section 1603-103(b) of the Condominium Act, in this Declaration, the Board of Directors may act on behalf of the Association and shall have all of the powers necessary or appropriate for the administration of Association.

B. The affairs of the Association shall be governed by Board of Directors composed initially of not less than three (3) natural persons, who shall be elected by the Unit Owners voting as a class. A majority of the Members of the Board of Directors elected by the Unit Owners shall be Unit Owners or spouses of Unit Owners or in the case of a Unit Owner which is a corporation, limited liability company, partnership, trust or estate or other legal entity, a designated agent thereof.

§6.3 Rules and Regulations.

The Board of Directors shall have the power from time to time to adopt, amend and enforce Rules and Regulations relative to the operation, use and occupancy of the Units and the Common Elements, consistent with the provisions of this Declaration, Bylaws and the

Condominium Act including, but not limited to, the appointment of such committees and the enactment and enforcement of such enforcement procedures and penalties for violations as the Board of Directors shall deem appropriate. Any such Rules and Regulations shall be adopted or amended, by means of appropriate resolutions duly approved by the Board of Directors after first giving the Unit Owners notice and an opportunity to be heard but the failure of a Unit Owner to receive notice shall not affect the validity of the Rules and Regulations. Notice of such Rules and Regulations and any amendment thereto shall be sent to each Unit Owner or occupant of a Unit promptly after the adoption thereof, and they shall bind all Unit Owners, their heirs and assigns, any all tenants, invitees, guests and other persons entering upon the Property.

ARTICLE 7 FINANCIAL MATTERS

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

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

The term "Service Charges" is defined in Section 7.3 hereinbelow.

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

§7.2 Allocation and Payment of Common Element Expenses. The total amount of Common Expenses shall be assessed to the Units as follows:

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

(b) If the Board of Directors determines that a Limited Common Expense benefits more than a single Unit in a manner which is uniquely disproportionate in relation to the general relative Common Expense Liabilities among all Units, then such Limited Common Expense may then be assessed solely against the benefited Units in proportion to the relative benefit received

by such Units, all as the Board of Directors may periodically determine in its discretion. If a Limited Common Expense only benefits a single Unit as the Board of Directors may periodically determine in its discretion, that Limited Common Expense may then be assessed solely against the Unit benefited.

(c) For electricity, telephone, internet data, cable television services, and sewer serving each Unit, each Unit Owner shall promptly pay the bills for such services consumed or used in his or her Unit.

The expenses of electricity serving the Common Elements and water serving the Common Elements and/or the Units, if not separately metered, shall be assessed to each Unit as a Common Expense, subject to the option of the Association to sub-meter and then separately charge for water, and propane centrally supplied to the Units as Service Charges. At the election of the Board of Directors, the expense of capital improvements, major repairs or renovations to the water and sewer supply systems may be assessed either as a Common Expense or as a Service Charge.

(d) Any electricity, water, sewer and fuel serving the Common Elements and the expenses for the maintenance, repair and replacement of these systems, if any, shall be assessed as a Common Expense.

(e) Common Expenses, Special Assessments, Service Charges and penalties, fines, interest and costs of collection and enforcement including reasonable attorneys' fees, all as provided in the Condominium Act, the Declaration, Bylaws and the Rules and Regulations.

(f) In order to fund significant improvement, repair or renovation projects and associated costs as the Board of Directors may approve, the Association may make special assessments for such Common Expenses or Limited Common Expenses payable either in a single installment or payable in installments over a period of months and/or years, all on such further terms and conditions and such interest rate as may be approved by the Board of Directors ("Special Assessments"). If any portion of the Special Assessments is due *after* the end of the Association's current budget year, then the affirmative approval of a majority in interest of all the Unit Owners shall be required. If the Special Assessments due in full *prior* to the end of the Association's current budget year, the normally applicable Unit Owners' budget ratification requirements shall apply, except as otherwise provided below.

If the amount of a proposed Special Assessment does not exceed two (2) months regular common charges, the Executive Board may make the Special Assessment immediately in accordance with the terms of the Board's vote, without need for budget ratification by the Unit Owners.

7.3 Service Charges. The Association shall have the express power to separately assess a Unit and the owner thereof as a "Service Charge" for services rendered to that Unit or its Limited Common Elements, for common expenses incurred as a result of misconduct of a Unit Owner or family member, guest, invitee or tenant of a Unit Owner, and for the costs of electricity, water and sewer, and propane fuel and propane system operation, maintenance, repair

and replacement, if any, which are not separately billed by the electricity, water, sewer or propane supplier as permitted by Section 1603-115(c) of the Condominium Act and the Bylaws. Such Service Charge assessments shall constitute a lien on the Unit with the same status as a lien for Common Expense Liability assessments under the Condominium Act, this Declaration and Bylaws, which lien for Service Charges may be foreclosed in like manner as a mortgage on real estate. The recordation of this Declaration constitutes record notice of the lien. Service Charges shall include without limitation:

- (i) If a Unit Owner, members of his or her family, guests or tenants requests the Association or its agent to perform repair and maintenance work on his or her Unit or its Limited Common Elements, or damages the Common Elements or safety systems or fails to perform maintenance and repair work required, the expense thereof as determined by the Board of Directors or its designee may be assessed as a Service Charge;
- (ii) Fees, if any, which may be established by the supplier for the delivery, consumption and maintenance of electrical, water, and sewer, propane and/or other utility services and equipment. Electricity and water and sewage services supplied to each Unit, if not separately metered and billed by the public utility supplier, may be measured separately by such methods and systems established by the Board of Directors in their discretion. At the election of the Board of Directors, the expense of maintenance and repair, capital improvements, major repairs or renovations to the electrical or water and sewer systems may be assessed either as a Common Expense or as a Service Charge;
- (iii) Fees, if any, which may be established by the Board of Directors, for cable television, internet and telephone services and equipment, if not separately billed by the utility supplier;
- (iv) Increases in the Association's insurance premiums for permanent building improvements and betterments to Units or the Limited Common Elements installed by Unit Owners and insured at the request of the Unit Owner with the Association's hazard insurance carrier, as determined by the Board of Directors; and
- (v) Common Expenses caused by the misconduct of any Unit Owner or such Unit Owner's guest, invitee, family member or tenant.

§7.4 Borrowing and Pledge. The Board of Directors shall have power to borrow and to pledge, assign and grant a security interest covering all Association revenues including Assessments for Common Expenses, Limited Common Expenses, Special Assessments, and Service Charges in order to raise funds for repairs, renovations, improvements and associated costs and expenses with respect to the Common Elements and related charges. The exercise of such power is subject to the approval of a majority in interest vote of the unit owners as required by the Maine Condominium Act.

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

Each Unit Owner shall pay to the Association or its designee the following amounts: (i)

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

Each Unit Owner shall pay his or her share of assessments for Common Expense assessments, Limited Common Expense assessments, Special Assessments and Services Charges without setoff or deduction.

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

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

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

(b) If any Unit Owner shall fail or refuse to pay to the Association when due his or her share of the Common Expense assessments, Limited Common Expense assessments, Special

Assessments, and Services Charges, user fees, fines or penalties, thereafter the amount thereof shall bear interest at the rate of Eighteen percent (18%) per annum or such other rate as may be set by vote of the Board prior to the date on which the payment came due. Such amounts with such late charges in such amount as may be determined by the Board of Directors, interest and all costs of collection, including reasonable attorneys' fees, shall constitute a lien on the unit of such Unit Owner. Unless otherwise determined by the Board, a late charge in the amount of ten percent (10%) of the delinquent payment shall apply when any payment due to the Association is more than thirty (30) days past due, which late charge shall be immediately due and payable. If such late charges and Common Charges, Limited Common Charges and Services Charges are not paid within thirty (30) days of when they were due, then interest shall be charged on all past due amount calculated retroactively back to the date when originally due.

(c) If such payments are not received within ninety (90) days after they become due, the Board shall have the power to exercise and enforce any and all rights and remedies provided in the Maine Condominium Act, this Declaration or these Bylaws or otherwise available at law or in equity for the collection of all unpaid amounts and, if available, all possessory remedies against the delinquent owner's unit under the Forcible Entry and Detainer Laws of Maine, as amended from time to time; in such event the Association may suspend any right or privilege appurtenant to the Unit including without limitation parking (but not including parking within the garages) and voting rights and the prohibition of the use of the Common Elements, but the Association may not deny all means of access to the Unit or withhold services provided to a unit or a unit owner by the Association if the effect of withholding the service would be to endanger the health, safety or property of any person. The delinquent unit owner or other occupant shall be required to pay to the Association a reasonable rental for such unit until sale or foreclosure.

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

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

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

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

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

Upon a default in the payment of any amount due the Association or a violation of any provision of the Condominium Act, this Declaration, the Bylaws, or the Rules and Regulations of the Association, which violation continues after ten (10) days' notice from the Association to the Unit Owner, then that Unit and its occupants may be excluded from the use and enjoyment of any and all of the Common Elements not essential to access to the Unit, including but not limited to the right to park in any Limited Common Element parking assigned to the Unit, and services may be withheld, in addition to all other remedies available to the Board of Directors but the right to physically gain access the Unit shall not be suspended and the Association may not withhold services provided to a Unit or a Unit Owner if the effect of withholding the service would be to endanger the health, safety or property of any person.

§7.6 Liability/Resale Certificate. Multiple owners of a Unit shall each be jointly and severally liable for all Common Expenses, Limited Common Expenses, Special Assessments, Service Charges, interest, fees, penalties and costs of collection. In the transfer of a Unit, the grantee(s) of such Unit shall be jointly and severally liable with the grantor for all unpaid Common Charges, assessments and Service Charges, penalties, fees, interest and costs of collection outstanding at the time of the grantor's transfer, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore. A grantee receiving a conveyance of a Unit shall not be prevented from exercising any right to recover from the grantor such amounts paid for those Common Expense assessments, Service Charges, etc. arising prior to the conveyance.

A grantee or proposed purchaser for a Unit under a purchase and sale contract may obtain a statement from the Association setting forth the amount of the then outstanding unpaid common charges, assessments and Service Charges, late fees, interest and costs of collection against the Unit and such other items required by the Condominium Act, upon payment of such fee as may be established from time to time by the Board of Directors. The Association has no obligation to subsequently update the information contained in such statement. The grantee shall not be liable for, and the Unit conveyed shall not be subject to a lien for any unpaid amounts due from the grantor before the statement date in excess of the amount set forth in the statement as of its effective date except interest, late fees and costs of collection accruing thereafter.

§7.7 Initial Working Capital Fund. A segregated working capital fund for the Association shall be established into which each Unit purchaser shall pay the Association an

amount equal to two (2) months common charges per Unit, at the time of initial transfer of title from the Declarant other than transfers to a successor Declarant. Such fund shall be held in a segregated account, owned by and in the name of the Association, established at a Maine financial institution insured by the Federal Deposit Insurance Corporation or other equivalent federally sponsored insurance. Such funds shall be used for such purposes as may be established by the Board of Directors from time to time, including without limitation the funding of repairs, improvements, reserves and operating deficits.

No purchaser shall be entitled to a refund of such monies from the Association upon any subsequent transfer of a Unit.

§7.8 Budget. A proposed budget or any amendment to the budget adopted by the Association's Board of Directors shall be deemed to be ratified by the Unit Owners unless rejected by a two thirds (66 2/3%) in interest vote of all Unit Owners at a meeting, whether or not a quorum is present.

Within thirty (30) days after the Board's adoption of any proposed budget or amended budget, the Board of Directors shall provide a summary of the budget to all the Unit Owners, and shall set a date for a meeting of the Unit Owners to consider ratification of the budget not less than ten (10) nor more than thirty (30) days after mailing of the summary. In the event the proposed budget is rejected, the periodic budget last ratified by the Unit Owners shall be continued until such time as the Unit Owners ratify a subsequent budget proposed by the executive board.

The Board of Directors shall have the power to expend funds and incur expenses out of the reserves even if not set forth in the budget but if the amount of such reserve expenditures may be reasonably anticipated to cause the aggregate amount of all such expenditures to exceed 10% of the budget (including contributions to reserves) then such expenditure shall require budget ratification by the Unit Owners in accordance with the requirements set forth above.

The requirements for the adoption and Unit Owners' approval of Special Assessments are set for in Subsection 7.2(g) above.

ARTICLE 8 MAINTENANCE AND USE

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

§8.2 Maintenance of Common Elements. Generally the Association shall be responsible for the maintenance, repair and replacement of the Common Elements, including but not limited to landscaping, lawn care, sewer, snowplowing of the parking areas, parking spaces, and paved walks that are Common Elements or Limited Common Elements, area and street

lighting and trash pickup (unless provided by the municipality or The Downs – Town Center Residential Master Association, or any other master association) and, all as determined by the Board of Directors.

If such repair or replacement of the Common Elements shall be necessitated by the negligence, neglect or misconduct of fewer than all of the Unit Owners, such cost shall be assessed to the Unit Owners responsible as a Service Charge.

§8.3 Maintenance of Limited Common Elements. Generally the Association shall maintain, repair and replace the Limited Common Elements, all as determined by the Board of Directors; provided, however, that each Unit shall be responsible for providing the ordinary maintenance and repair of individual Limited Common Element exterior decks, porches and patios, and maintaining the sewer line leading from the Unit to the point where it connects to the common line, but the Association may elect to provide ordinary maintenance and repair services for such components, assessing the Units therefore as a Limited Common Expense assessment, a Service Charge or as a part of the general Common Expense assessments.

Each Unit Owner shall be responsible for the removal of snow and ice from the patio, porch and deck, or Limited Common Elements appurtenant to the Unit, but the Association may elect to provide such services and assess the Units therefore as a Service Charge or as a part of the general Common Charges.

The Association may assess the costs of maintenance, repair and replacement of Limited Common Expenses applicable to the particular Unit(s) to which they are appurtenant if the item giving rise to the expense shall be disproportionately for the benefit of such Unit(s) only, as may be determined from time to time by the Board of Directors in its discretion.

If such repair or replacement of the Limited Common Elements shall be necessitated by the acts, omissions, negligence, neglect or misconduct of fewer than all of the Unit Owners, in which case such cost shall be assessed to the Unit Owners responsible as a Service Charge, as determined by the Board of Directors.

§8.4 Maintenance of Unit/Repair Responsibility. Each Unit Owner shall keep and maintain his or her Unit and its equipment, appliances and appurtenances in good order, condition and repair and in a neat, clean and sanitary condition, whether such maintenance and repair shall be structural or non-structural. Each Unit Owner shall maintain, repair and replace the exterior lights and light bulbs controlled from inside the Units, the door bells, and the vents and ducts which serve their Unit exclusively.

Each Unit Owner shall do all painting, cleaning, staining and varnishing of the Unit exterior and interior, replacement of exterior siding and trim, repair and replacement of the roof, all of which at any time may be necessary to maintain the good appearance and condition of such Unit. The Unit Owner shall clean the interior and exterior glass surfaces of windows, maintain all exterior and interior finishes and trim on doors and windows, repair broken or damaged glass, including the cleaning and repair of glass and the ordinary maintenance and repair of screens, locks, hinges, tracks, and knobs, paint the exterior surface of the Unit, and maintain and replace

the roof of the Unit.

For Units with exterior accessories and improvements, if any, installed by or at the request of the Unit Owner or any prior Unit Owner as set forth in Sections 3.5 and 4.5, such items shall be maintained, repaired and replaced by the Association but each Unit Owner shall pay the Association for its costs of maintaining, repairing and replacing such items as a Limited Common Expense.

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

Only ordinary household waste in normal quantities shall be deposited into the sewage system. No person shall pour any grease, paint, solvents, oil or non-household chemicals other substances which may be identified in the Rules and Regulations into the sewage system or storm drains.

Each Unit Owner shall be responsible for all damage to his or her Unit, to any other Units or to the Common Elements resulting from his or her failure or negligence to make any of the repairs required by this Article. Each Unit Owner shall perform his or her responsibilities in such manner as shall not unreasonably disturb or interfere with the other Unit Owners. Each Unit Owner shall promptly report to the Board of Directors or the managing agent any defect or need for repairs for which the Association is responsible.

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

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

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

- (a) *Units.* No Unit shall be used or occupied for any purpose other than a single family

residence with only one complete set of housekeeping facilities, provided, however, that an occupant of a Unit may conduct business activities within the confines of such Unit so long as no signs are displayed, the Unit is not used for meeting with customers or third parties and there is no noticeable increase in deliveries, all except as otherwise permitted by the Board of Directors in its discretion.

Further provided that nothing in this Declaration or the Bylaws shall be construed to prohibit the Declarant from exercising any easements and Special Declarant Rights and Development reserved by the Declarant, including without limitation promotional, marketing, sales office or display purposes, sales of Units and for customer service purposes, or from leasing Units owned by Declarant as provided in this Declaration.

(b) *Maximum Number of Unit Occupants.* A maximum number of four (4) persons may occupy a Unit; provided, however, that the Executive Board may establish Rules and Regulations allowing for exemptions to this restriction to accommodate temporary guests or to comply with applicable law. For purposes hereof, an "occupant" shall be defined as a person who stays in a Unit overnight.

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

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

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

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

(e) *Pets and Animals.* Except for household pets permitted below, the maintenance, keeping, boarding and/or raising of animals, including without limitation laboratory animals, livestock, poultry or reptiles of any kind, regardless of number, is prohibited within any Unit or upon the Common Elements. A total of up to two (2) dogs, cats and other ordinary household pets may be kept in a Unit, subject to such additional and more restrictive Rules and Regulations as established from time to time by the Board of Directors, and to local and state ordinance, statutes and regulations, and ordinances. In any event all pets and animals shall be restrained so

as not to become noisome, bothersome or offensive to other persons, as determined by the Board of Directors.

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

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

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

(f) *Fire Safety and Noise Control.* No person shall impair or remove or alter the any acoustical, sound-deadening, or fire-resistant material or smoke detector from the walls, floors or ceilings of a Unit without replacing the same with materials of equal or greater such qualities after securing proper written permission from the Board.

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

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

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

Additional major appliances, including without limitation hot tubs, generators and furnaces and permanently installed space heaters may not be installed in a Unit or Limited Common Elements except with the prior written consent of the Board of Directors.

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

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

(k) *Water Heaters, Hoses and Vents.* The Association may adopt Rules and Regulations requiring the periodic replacements of or specifying the types of water heaters and washing machine hoses. No exhaust fans shall be vented directly into the attic areas and all such fans must vent directly into the open air.

(l) *Smoking Prohibition.* Smoking shall be prohibited anywhere in the Condominium, including the Units, Common Elements, and any Limited Common Elements, except in such areas, if any, as the Board may designate by Rule from time to time as areas in which Smoking is permitted.

No owner or any other person shall Smoke or permit Smoking by any occupant, agent, tenant, invitee, guest, friend, or family member which would violate this Section.

(i) Definition of Smoking. The term "Smoking" shall include (1) carrying, burning, or otherwise handling or controlling any lit or smoldering product containing tobacco, cloves, marijuana, or similar or related products, such as cigarettes, cigars, hookahs and pipes and (2) the use of devices to inhale an aerosol containing nicotine or marijuana, , sometimes known as "electronic nicotine delivery systems", "vaping" or "e-cigarettes." The term "Smoke" shall include all the products and residue of Smoking.

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

(iii) Rules. The Board may adopt Rules and Regulations in order to implement or clarify the provisions of this Section.

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

If, at the conclusion of the hearing, the Board determines in its discretion that a

material Smoking violation has occurred, the then Board may impose a charge of up to \$50.00 for each single occurrence, in addition to all other rights and remedies of the Association. Upon a second Smoking violation, the charge for each incident constituting a violation shall increase to \$250 per incident in addition to all other rights and remedies of the Association including the recovery of its legal expenses.

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

(l) *Reserved.*

§8.7 Use of Common Elements. Subject to this Declaration, the Bylaws, or the Rules and Regulations adopted from time to time by the Board of Directors pursuant to its powers, each Unit Owner, occupant, tenant, guest, visitor and invitee may use the Common Elements in common with all other Unit Owners and their occupants, tenants, guests, visitors and invitees, in accordance with the single family residential purposes for which they are intended, without hindering or encroaching upon the lawful rights of the other Unit Owners, upon the following terms:

(a) *Motor Vehicles, etc.* Passenger vehicles and pickup trucks may be kept or stored on the Property, as well as any other type of vehicle not prohibited by applicable ordinances of the Town of Scarborough and that fits within the open-air parking spaces assigned as Limited Common Elements. Vehicles must be in operable condition and fully licensed and inspected for operation on public highways. Parking is further regulated in Section 8.8 below.

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

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

(c) *Signs.* No signs of any character shall be erected, posted or displayed from any Unit, Common Element or Limited Common Element without the prior written approval of the Board of Directors, except for such signs as may be posted by the Declarant for the promotional or marketing purposes as permitted herein or as permitted by the Condominium Documents. The Board of Directors may also erect or authorize directional, speed control, safety, anti-solicitation, and identifying sign(s) listing the name and location of each occupant of the Units.

(d) *Obstruction/Storage.* No Unit Owner shall obstruct any of the Common Elements, another Unit's Limited Common Elements, or another Unit's garage, nor shall any Unit Owner place or store anything on any of the Common Elements except those areas designated for parking by the Condominium Documents or as permitted by the Board of Directors pursuant to the Rules and Regulations.

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

§8.8 Parking. Motor vehicles and passenger trucks may be parked only in those portions of the Common Elements or Limited Common Elements designated from time to time by the Board of Directors for parking spaces.

No parking shall be permitted in areas posted against parking by the Board of Directors, nor shall any person park so as to block access to a parking space assigned to another Unit Owner.

Other than the Limited Common Element spaces assigned to Units as provided herein and on the Plat, spaces which the Board of Directors may allocate from time to time, or as specified above, any Common Elements designated as spaces for parking shall be used by the Unit Owners on "first come, first served" basis, except as the Board of Directors may otherwise determine or as otherwise provided in the Condominium Documents.

All vehicles must be in operable condition and fully licensed and insured for operation on public highways. No inoperable vehicles may be kept or parked or stored on the Property.

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

The Board of Directors may adopt such Rules and Regulations as it deems necessary or appropriate to further regulate and restrict parking and the use and storage of motor vehicles generally.

§8.9 Leasing and Renting

(a) No Unit may be leased for transient purposes and no Unit may be leased for a period of less than seven (7) consecutive days, except at the discretion of the Board of Directors. 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 lease or occupancy agreement which contains the following provisions, which shall automatically be incorporated into every lease, rental, license and every other form of rights to occupy a Unit (collectively sometimes referred to herein as "Lease"):

- (i) The tenant and all other guests, occupants of each Unit shall comply with the Declaration, the Bylaws, and the Rules and Regulations of the Association, and a failure to comply constitutes a default under the Lease and any other rights to occupy a unit;
- (ii) The Board of Directors has the power to terminate the Lease and/or to bring summary proceedings to evict all tenants, guests or other occupants in the name of the Unit Owner after thirty (30) days prior written notice to the Unit Owner in the event of an uncured default by any tenant, guest or other occupant of a Unit in the performance of the Lease or this subsection, but that no notice period need be given in the event of a threat to personal safety or property; and
- (iv) In the event that the payment of Common Expenses, Limited Common Expenses, Assessments, Service Charges and/or other amounts due to the Association becomes more than ninety (90) days past due, the Association may require the tenant or other occupant to pay directly to the Association the rent on the Unit in an amount of up to the balance of current and delinquent Common Expenses and other unpaid amounts outstanding, subject to the rights of any recorded first mortgage or Eligible Mortgage Holder which has exercised an assignment of rents. The Association's notice to the tenant or other occupant shall be conclusive and binding on the tenant and occupants as to the obligation to pay the rent directly to the Association and as to the amount of Common Expenses and other amounts due. The Unit Owner shall have ten (10) days after such notice is sent to file an objection with the Board of Directors, which objection must be in writing and signed under oath under the pains and penalties of perjury, must contain a short and plain statement of any alleged errors by the Association, and shall include copies of cancelled checks or other written evidence of objection or miscalculation of the amounts due. The Unit Owner must state what amounts, if any, which the Unit Owner admits is owed to the Association.

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

Each Unit owner of a Unit shall, promptly following the execution of any written lease of a Unit, forward a true copy thereof to the management company for the Association. Provided, however, that for Units that are leased for periods of thirty (30) days or less, the requirement to provide a copy of a written lease may be satisfied by the Unit owner providing proof to the Board that the tenants agreed to the Declaration, Bylaws and Rules and Regulations as part of the booking process for the Unit and providing the Board with the names and contact information for the tenants.

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

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

If such violation(s) is(are) not remedied within said period if applicable, then the Unit Owner shall at his or her own cost and expense immediately institute and diligently evict all tenants, guests or other occupants of the Unit on account of such violation(s). In the event the Unit Owner fails to so act promptly, then the Board of Directors shall have the right, but not the duty, to institute and prosecute such eviction as attorney-in-fact for the Unit Owners and at the Unit Owner's sole cost and expense, including all legal fees and costs incurred. Said costs and expenses shall be due and payable upon demand by the Association and shall be deemed to constitute a lien on the particular Unit involved, and collection thereof may be enforced by the Board of Directors in the same manner as the Board of Directors is entitled to enforce collection of Common Expenses and all other amounts due to the Association.

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

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

No Owner may exempt him or herself from liability for or otherwise withhold payment of assessments for Common Expenses or Service Charges for any reason whatsoever, including, but not limited to, nonuse of the Common Elements, nonuse of services provided by the Association or its agents, the Association's failure to perform its obligations required hereunder, an inconvenience or discomfort arising from the Association's performance of its duties, or from any action taken by the Association to comply with any law, ordinance, or order of any other governmental authority.

ARTICLE 9 EASEMENTS

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

§9.2 Access. Subject to the terms of this Declaration, the Bylaws and the Rules and Regulations, each Unit Owner shall have an easement in common with all other Unit Owners to use the Common Elements as a means of access to and from his or her Unit. In the event that a Unit is not in good standing in the payment of all amounts due to the Association and in the performance of other obligations under this Declaration, then the rights to use all or any portion of the Common Elements may be suspended and services may be withheld in accordance with Rules and Regulations adopted by the Board of Directors but the right to physically gain access the Unit shall not be suspended and the Association may not withhold services provided to a Unit or a Unit Owner by the Association if the effect of withholding the service would be to endanger the health, safety or property of any person.

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

Keys (including electronic keys and key cards) to locked entry doors to every Unit, and any other locked door within the Unit where integral utility or other Common Element or

Limited Common Element systems are housed, shall be provided to the Association in order to allow access by the Association and under the direct supervision of the Association's management company as may be authorized by the Board of Directors. If such keys are not provided, the Association and its agents shall have no liability for any damage to doors and/or windows created by gaining entry into a Unit in the event there is a reasonable belief that circumstances exist for which entry is authorized.

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

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

- (i) For the installation, repair, maintenance, use, removal and/or replacement of pipes, ducts, heating and air conditioning systems, electrical, data, cable television, telephone and other communication wiring and cables and all other utility lines and conduits which are a part of or serve any Unit and which pass across or through a portion of the Common Elements.
- (ii) For the installation, repair, maintenance, use, removal and/or replacement of lighting fixtures, electrical receptacles, panel boards and other electrical installations which are a part of or serve any Unit but which encroach into a part of a Common Elements adjacent to such Unit; provided, however, that the installation, repair maintenance, use, removal or replacement of any part of the Common Elements shall not adversely affect either the thermal, fire safety or acoustical character of the building or impair or structurally weaken the building.
- (iii) For driving and removing nails, screws, bolts and other attachment devices into the Unit side surface of the studs which support the sheet rock or plaster perimeter walls bounding the Unit, the bottom surface of joists above the Unit and the top surface of the floor joists below the floor of a Unit to the extent such nails, screws, bolts and other attachment devices may encroach into a part of a Common Element adjacent to such Unit; provided, however, that any such action will not unreasonably interfere with the common use of any part of the Common Elements, or adversely affect either the thermal, safety, or acoustical character of the buildings or impair or structurally weaken the

buildings.

§9.6 Third-Party Easements. The Property, Common Elements (including, but not limited to, the Limited Common Elements) and Units are benefited and/or burdened by certain rights, easements, restrictions, covenants and conditions described in Exhibit A below, and in such other instruments of record in the Cumberland County Registry of Deeds which affect the Property, Common Elements (including, but not limited to, the Limited Common Elements) and Units. The easements referenced in this Section 9.6 include, but are not limited to, a walking path easement for the benefit of the general public as shown on the Plat.

ARTICLE 10 RIGHTS OF MORTGAGE LENDERS ON UNITS

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

§10.2 Identification of Mortgagee. Upon request of the Board of Directors, each Unit Owner who mortgages his or her Unit shall notify the Board of Directors in writing of the name and address of his or her Mortgagee(s).

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

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

§10.4 Eligible Mortgage Holder. "Eligible Mortgage Holder" means the holder of record of a recorded first Mortgage encumbering a Unit (a "Mortgage").

Eligible Mortgage Holders shall have all rights specified in the Condominium Act. The Board shall cause notice to be sent to the Eligible Mortgage Holders (and any insurers or guarantors of such mortgages identified in the request), if any, of any one or more of the

following events affecting the mortgaged Unit(s):

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

§10.5 Mortgagee Approval Rights. For a material amendment to the Declaration or any of the actions specified below but subject in any event to the provisions of the Condominium Act, an Eligible Mortgage Holder shall have the right but not the obligation in place of the Unit Owner to cast the votes allocated to that Unit or give or withhold any consent required of the Unit Owner for such action by delivering written notice to the association with a copy to the Unit Owner prior to or at the time of the taking of the proposed action, which notice shall be sent by prepaid United States mail, return receipt requested, or by delivery in hand. Failure of the Eligible Mortgage Holder to so exercise such rights shall constitute a waiver thereof and shall not preclude the Unit owner from exercising such right. An amendment affecting any of the following is considered material:

- i. Voting rights in the Association;

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

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

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

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

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

§10.7 Records. An Eligible Mortgage Holder may examine the books, records and accounts of the Association at reasonable times. The Association shall maintain current copies of this Declaration, the Association's articles of incorporation, Bylaws, and other Rules and Regulations concerning the Condominium as well as other records it is required to keep pursuant to Section 6.1 of its Bylaws available for inspection by any Eligible Mortgage Holder, insurers, and guarantors of first mortgages that are secured by Units available during normal business hours. Upon written request, any Eligible Mortgage Holder may obtain an audited statement of the Association's fiscal affairs prepared by an independent certified public accountant once the Condominium has been established for a full fiscal year, which preparation shall be prepared at the Eligible Mortgage Holder's expense.

ARTICLE 11 INSURANCE

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

The Board of Directors is hereby irrevocably appointed as attorney-in-fact for each Unit Owner and for each Mortgagee and Eligible Mortgage Holder and for each owner of any other interest in the Property, for purchasing and maintaining the insurance required or permitted to be acquired by the Association hereunder, for the collection and disposition of any such insurance, for the negotiation of losses and execution of releases of liability, and for the execution of all

documents, and performance of all other acts necessary to accomplish these purposes.

§11.2 Property and Casualty Insurance Coverage Each Unit owner shall be responsible for maintaining in effect fire and casualty insurance policy as the Unit owner deems appropriate covering the Unit and any improvements in the Limited Common Elements, and furniture, furnishings or other personal property supplied or installed by Unit owners. The Association shall not be responsible for insuring the buildings and improvements on a Unit against loss or damage. Such policy shall cover the interests of and name as insureds the Association, the Board of Directors, and all Unit owners and their Mortgagees as their insurable interests may appear. To the extent required by the Act, the Association shall maintain fire and casualty insurance covering any insurable parts of the Common Elements.

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

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

- i. The insurer waives any right to claim by way of subrogation against the Association, the Board of Directors, the managing agent or the Unit Owners, and their respective agents, employees, guests and, in the case of the Unit Owners, the members of their households;
- ii. Each Unit Owner is an insured person under the policy with respect to liability arising out of the ownership of an undivided interest in the Common Elements or membership in the Association;
- iii. The insurer waives its right to subrogation under the policy against any Unit Owner or members of his or her household;

- iv. No act or omission by any Unit Owner, unless acting within the scope of his or her authority on behalf of the Association, will void the policy or be a condition to recovery under the policy; and
- v. If at the time of a loss under the Association's policy, there is other insurance in the name of a Unit Owner covering the same risk covered by the policy, the Association's policy provides primary insurance except with respect to any applicable deductible or excluded perils and special coverage limitations.

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

- (i) To the extent reasonably available, "directors and officers" liability insurance, to satisfy the indemnification obligations of the Association;
- (ii) Workers' compensation insurance, if and to the extent necessary to meet the requirements of law;
- (iii) Fidelity insurance covering those employees of the Board of Directors and those agents and employees hired by the Board of Directors who handle Condominium funds, in amounts as determined by the Board of Directors; and
- (iv) Such other insurance as the Board of Directors may determine, or as may be requested by a majority of the Unit Owners or as may be required by Federal National Mortgage Association guidelines or any similar replacement national secondary mortgage market guidelines (including, without limitation, fidelity bond coverage) or the Condominium Act.

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

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

§11.7 Owner's Separate Insurance. Neither the Association nor its officers, directors, agents and managers shall have responsibility for ascertaining whether or not a Unit Owner maintains personal insurance in effect, or whether all betterments, upgrades and improvements have been covered.

ARTICLE 12 DAMAGE OR DESTRUCTION.

§12.1 Repair. Any portion of a Unit or Limited Common Element appurtenant to a Unit damaged or destroyed by a casualty shall be repaired or replaced promptly by the Unit Owner unless:

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

To the extent that the Association receives any insurance proceeds from a policy held by the Association intended for repairs to a Unit or Limited Common Element, the Association shall contribute the proceeds to the repair or replacement of the damaged Unit or Limited Common Element.

§12.2 Utility Services/Limitation of Liability. Except to the extent otherwise required by law, the Association shall not be liable for the failure of water supply, sewage disposal systems, drainage, electricity, data, telephone, or other services to be obtained by the Association or for injury or damages to persons or property caused by the elements or by the owner of another Unit or by any other person, or resulting from electricity, water, snow or ice which may leak, fall or flow from or settle from another Unit or any portion of the Common Elements or Limited Common Elements or from any roof, wire, pipe, drain, conduit, appliance or equipment, even if due to the alleged fault or negligence of the Association, but these provisions shall not limit the liability of another owner or person to the damaged party nor limit the scope of insurance coverage. 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.

No set-off, diminution or abatement of assessments for Common Expenses, Limited Common Expenses, Special Assessments 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 13 TERMINATION OF CONDOMINIUM

§13.1 Termination. In accordance with the Condominium Act, the Condominium may be terminated in whole or part with the agreement of the Unit Owners to which at least one hundred percent (100%) of the Votes in the Association are allocated, and that percentage of Eligible Mortgage Holders required herein and the Condominium Act. Termination shall not bar the subsequent resubmission of the Property to the Condominium Act.

§13.2 Effect of Termination. Upon removal of the Property from the Condominium

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

ARTICLE 14. EMINENT DOMAIN.

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

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

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

§14.3 Rights of the Association and Mortgage Holders. In the event of a proposed acquisition by eminent domain, the Association shall have the right but not the obligation to act and to intervene on behalf of Unit Owners. Nothing contained in this Declaration, the Bylaws or any rule or regulation adopted by the Association, however, shall entitle any Unit Owner or other person to priority over a first mortgagee of a Unit pursuant to its mortgage instrument in the right to receive eminent domain awards for the taking of Units and/or Common Elements.

ARTICLE 15 AMENDMENTS

§15.1 General. Certain amendments to this Declaration may be made unilaterally by the Declarant in accordance with this Declaration and the Condominium Act.

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

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

The terms of the following procedures shall apply to an amendment of this Declaration:

- (i) *Development and Special Declarant Rights.* Notwithstanding any other provision of this Declaration, the Declarant acting unilaterally may record amendments to this Declaration which result from the exercise of Development and Special Declarant Rights pursuant to this Declaration and/or the Act.
- (ii) *Proposal and Notice.* An amendment to the Declaration may be proposed by either by the Board of Directors or by Unit Owners holding at least ten (10) percent of the votes in the Association. Notice of the subject matter of a proposed amendment, including the proposed text thereof, shall be included in the notice of any meeting in which a proposed amendment is to be considered, and such notice shall be given to all Unit Owners and all eligible Mortgage Holders.
- (ii) *Approval.* The amendment shall be adopted if it receives the affirmative vote or written consent of Sixty-seven percent (67%) or more of the total percentage in interest of all votes in the Association in all cases and such Eligible Mortgage Holders, if any, as may be required herein. Unit Owners and mortgagees may express their approval in writing or by proxy. Provided however that no amendment may change the class of uses to which a Unit may be put without the unanimous consent of the Unit Owners. Except as specifically provided to the contrary in this Declaration or the Act, no amendment may alter the boundaries of a Unit or the Allocated Interests allocated to a Unit without the unanimous consent of all affected owners.
- (iii) *By Written Agreement.* In the alternative, an amendment may be made by an agreement signed by the record owners of Units to which are allocated one hundred percent (100%) of the Units in the manner required for the execution of a deed and

acknowledged by at least one of them, together with any required approval by Eligible Mortgage Holders, and such amendment shall be effective when certified and recorded as provided below.

§15.2 Proviso; Consent of Declarant. No amendment of this Declaration shall make any change which would in any way affect any of the rights, privileges, powers and options of the Declarant, its successors or assigns, unless the Declarant shall approve such amendment.

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

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

ARTICLE 16 GENERAL PROVISIONS

§16.1 Enforcement. A failure to comply with this Declaration, the Bylaws, and the Rules and Regulations adopted pursuant thereto shall entitle the Association to (a) take court action, including without limitation suit for injunctive relief, and/or (b) take such further action as permitted under the Governing Documents, (c) to impose fines and penalties in accordance with the Rules and Regulations adopted from time to time, and/or (d) enter the Unit or Common Elements in which such violation or breach exists and summarily to abate and cure the violation at the expense of the Unit Owner, and the Board of Directors shall not be deemed guilty in any manner of trespass when enforcing these terms. The exercise of any one remedy shall not preclude the exercise of other remedies provided by law, the Condominium Act, this Declaration or in the Bylaws. In any such enforcement action or proceeding the Association shall be entitled to recover the costs of the proceeding, including reasonable attorney's and paralegal's fees and expenses all with interest at the rate of 18% per annum.

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

§16.2 Units Not Yet Separately Assessed. In the event that for any year real estate taxes are not separately taxed and assessed to each separate Unit Owner but are taxed on the Property as a whole, then each Unit Owner shall pay his proportionate share thereof in accordance with his respective Common Expense Liabilities.

§16.3 Conflict. If any provision of this Declaration, the Bylaws, or the Rules and

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

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

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

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

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

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

§16.9 Disputes with Declarant and Arbitration. In any dispute between one or more Unit Owners and the Declarant regarding the Common Elements, the Board of Directors shall act for the Unit Owners, and any agreement with respect thereto by the Board of Directors 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 Owner(s), on the other hand, arising out of or relating to a Unit, the Common Elements, the Limited Common Elements, this Declaration, the Bylaws, the Rules and Regulations, or the deed to any Unit or the breach thereof, or the course of dealing between any Unit Owner, the Association and the Declarant, except for claims which have been waived by the acceptance of a deed, shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then obtaining unless the parties mutually agree otherwise in writing. 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 applicable law in any court having jurisdiction thereof.

**ARTICLE 17
NOTICES**

§17.1 Notices.

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

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

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

[SIGNATURE PAGE TO FOLLOW]

WITNESS its hand and seal as of January 9, 2024.

SIMPLICITY COURT CONDOMINIUM ASSOCIATION

Wendy Dutton
Witness

By: [Signature]
Mary Axelsen, its President

Witness

By: _____
_____, its Secretary

STATE OF MAINE
COUNTY OF Cumberland, ss.

January 9, 2025

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

[Signature]
Name: Stacy A. Sullivan Allie
Attorney at Law/Notary Public

STACY A. SULLIVAN ALLIE
NOTARY PUBLIC
State of Maine
My Commission Expires April 5, 2025

SEAL

WITNESS its hand and seal as of Jan. 14,, 2025^{SR}

SIMPLICITY COURT CONDOMINIUM ASSOCIATION

Alondy Dunton
Witness

By: _____,
_____, its President

Witness

By: EB
Eric Brewer, its Secretary

STATE OF MAINE
COUNTY OF Cumberland, ss.

Jan. 14, 2025^{SA}

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

Stacy A. Sullivan Allie
Name: Stacy A. Sullivan Allie
Attorney at Law/Notary Public

STACY A. SULLIVAN ALLIE
NOTARY PUBLIC
State of Maine
My Commission Expires April 5, 2025

SEAL

EXHIBIT A
[Legal Description]

Lot 35, as and depicted on subdivision plan entitled “Sixth Amended Subdivision Plan Town Center Residential Subdivision, Scarborough Downs Road, Scarborough, Maine,” prepared for Crossroads Holdings, LLC by Owen Haskell, Inc., dated August 3, 2022, approved by the Town of Scarborough Planning Board, and recorded in the Cumberland County Registry of Deeds in Plan Book 222, Pages 446 through 448 (the “Subdivision Plan”).

This conveyance is made SUBJECT TO and TOGETHER WITH the benefit of the matters, easements, and notes set forth or referred to on the Subdivision Plan.

This conveyance is made SUBJECT TO and TOGETHER WITH the following:

1. Rights of others in and to the use of the appurtenant rights and easements, and the terms and conditions thereof, set forth in a deed from Commercial Place LLC to Davric Maine Corporation dated November 29, 2004 and recorded in the Cumberland County Registry of Deeds in Book 22087, Page 6.
2. Rights of others in and to the use of the appurtenant rights and easements, and the terms and conditions thereof, set forth in a Sanitary Sewer Line Easement from Bella Properties, LLC to Crossroads Holdings LLC, dated October 31, 2018 and recorded in the Cumberland County Registry of Deeds in Book 35274, Page 196.
3. Rights, easements, covenants and conditions set forth in a Cross Easement Agreement by and between Crossroads Holdings LLC and M&R Holdings LLC, dated December 18, 2018 and recorded in the Cumberland County Registry of Deeds in Book 35365, Page 286, as affected by an Easement Deed and Release by and between M&R Holdings LLC and Crossroads Holdings LLC, dated July 31, 2020 and recorded in said Registry of Deeds in Book 37022, Page 338, as further affected by a Release by and between M&R Holdings LLC and Crossroads Holdings LLC, dated December 14, 2022 and recorded in said Registry of Deeds in Book 39900, Page 24.
4. Rights, easements, covenants and conditions set forth in a Declaration of Covenants, The Downs – Town Center Residential Master Declaration, dated August 31, 2020 and recorded in the Cumberland County Registry of Deeds in Book 37131, Page 43, as amended by a First Amendment to Master Declaration of Covenants, The Downs – Town Center Residential Subdivision, dated December 8, 2020, and recorded in said Registry of Deeds in Book 37559, Page 346, as amended by a First Amendment to Master Declaration of Covenants, The Downs – Town Center Residential Subdivision, dated December 8, 2020, and recorded in said Registry of Deeds in Book 37559, Page 346, as amended by a Second Amendment to Master Declaration of Covenants, The Downs – Town Center Residential Subdivision, dated April 27, 2021, and recorded in said Registry of Deeds in Book 38191, Page 346, as further amended by a Third Amendment to Master Declaration of Covenants, The Downs – Town Center Residential Subdivision, dated August 10, 2021 and recorded in said

- Registry of Deeds in Book 38534, Page 156, as amended by a Fourth Amendment to Master Declaration of Covenants, The Downs – Town Center Residential Subdivision, dated November 10, 2021 and recorded in said Registry of Deeds in Book 38880, Page 186, as amended by the Fifth Amendment to Master Declaration of Covenants for The Downs – Town Center Residential Subdivision dated December 27, 2021 and recorded in said Registry in Book 39088, Page 163, as amended by a Sixth Amendment to Master Declaration of Covenants for The Downs – Town Center Residential Subdivision dated December 20, 2022 and recorded in said Registry in Book 39916, Page 116.
5. Terms and conditions set forth in a Maine Department of Environmental Protection Site Location of Development Act Long-Term Construction Project Findings of Fact and Order, Approval L-27956-26-F-N, dated May 11, 2020, and recorded in the Cumberland County Registry of Deeds in Book 36957, Page 159.
 6. Such state of facts shown and depicted on a subdivision plan entitled Fourth Amended Subdivision Plan Town Center Residential Subdivision, Scarborough Downs Road, Scarborough, Maine,” prepared for Crossroads Holdings, LLC by Owen Haskell, Inc., dated October 25, 2021 and recorded in the said Registry of Deeds in Plan Book 221, Pages 654 through 656, including but not limited to:
 - a. Private Access Drive bisecting the insured premises;
 - b. Temporary Access Easement located on the northerly side of the insured premises;
 - c. Access & Utility Easement located on the northerly side of the insured premises.
 7. Terms and conditions set forth in a Maine Department of Environmental Protection Site Location of Development Act Natural Resources Protection Act Freshwater Wetlands Alteration Water Quality Certification Findings of Fact and Order, Approvals L-27956-L3-G-N, and L-27956-TG-I-N dated June 11, 2020, and recorded in the Cumberland County Registry of Deeds in Book 37119, Page 292.
 8. Maintenance Agreement for Stormwater Management Facilities made by Crossroads Holdings LLC in favor of the Town of Scarborough, August 31, 2020 and recorded in the Cumberland County Registry of Deeds in Book 37231, Page 127.
 9. Terms and conditions set forth in a Maine Department of Environmental Protection Site Location of Development Act Natural Resources Protection Act – Freshwater Wetland Alteration Findings of Fact and Order, Approval L-27956-MX-T-N and L-27956-TG-U-N, dated September 15, 2021, and recorded in the Cumberland County Registry of Deeds in Book 38807, Page 250.

EXHIBIT B
[Allocated Interests]

<u>Unit #'s</u>	<u># Votes</u>	<u>% Interest in Common Elements</u>	<u>% Common Expense Liability</u>
1	1	12.5	12.5
2	1	12.5	12.5
3	1	12.5	12.5
4	1	12.5	12.5
5	1	12.5	12.5
6	1	12.5	12.5
7	1	12.5	12.5
8	1	12.5	12.5
	8	100%	100%

Received
Recorded Register of Deeds
Feb 06, 2025 09:43:01A
Cumberland County
Jessica M. Spaulding