

**DECLARATION OF CONDOMINIUM
OF
FOREST VILLAGE CONDOMINIUM NORTH**

An Age Restricted Community
With Affordable Housing Component
Created pursuant to Chapter 175, Section 175 (6) (6) of the Code
of the Town of Wells.

Declarant
Forest Village Condominium North, LLC

September 1, 2005

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DECLARATION OF CONDOMINIUM

FOREST VILLAGE CONDOMINIUM NORTH

Forest Village Condominium North, LLC is the owner of the real estate described in this document. It will be known throughout this document as the *Declarant*. It hereby creates this condominium by *Recording* this document, known as a *Declaration of Condominium*, in the York County Registry of Deeds. This condominium shall be known and hereafter referred to as Forest Village North Condominium. The date of this *Declaration* is _____

Some of the words used in this document have a special legal meaning as provided in Article 2 of this *Declaration*.

ARTICLE 1 - SUBMISSION

Section 1.1. Property.

Declarant, owner of certain property located in Wells, County of York, and State of Maine, hereby submits the real estate described in Exhibit A, which is attached to this *Declaration*, to the terms of the Maine Condominium Act, as now enacted and as it has been from time to time amended by the Maine legislature. This Act is found in Title 33, chapter 31 of the Maine Revised Statutes. The real estate submitted to the provisions of the Maine Condominium Act is known as the "*Property*". The maximum number of *Units* in the Condominium shall be 54. The initial number of *Units* shall be 14. The *Plats* and *Plans* for this condominium are *Recorded* in the York County Registry of Deeds at Condominium File _____, Page _____.

Section 1.2. Address of Condominium.

The address of the Condominium is
Forest Village Condominium North
1810 Post Road, P.O. Box 818
Wells, Maine 04090

ARTICLE 2 - DEFINITIONS

Section 2.1. Meaning of Terms.

Terms contained in The *Declaration*, *Bylaws* and *Plats* and *Plans* shall be interpreted according to the definitions found in the following section. Other terms not defined in the following section shall have the meanings given to them by the Maine Condominium Act. If the terms found in this *Declaration* are not defined in the *Declaration* or in the Maine Condominium Act, they shall have their ordinary meanings.

All defined terms are italicized and capitalized when used in this Declaration.

Section 2.2. Definitions.

The terms defined in this section have meanings which apply to the *Declaration*, the *Bylaws*, and the *Plats* and *Plans*:

- (a) "*Allocated Interests*" means the undivided ownership interest of Unit owners in the *Common Elements*, the *Common Expense* Liability and votes in the *Association* allocated to each *Unit*. The *Allocated Interests* are set out in Exhibit B to this *Declaration*.
- (a) "*Association*" means the *Unit* owner's *Association* of the Condominium, known as "Forest Village North Condominium Association".
- (j) "*Board of Directors*" means the *Board of Directors* of the Condominium *Association*. The terms "Board" and "Directors" also refer to the Board of Directors
- (b) "*Bylaws*" means the bylaws of the Forest Village North Condominium Association, as they may be amended from time to time.
- (c) "*Common Elements*" (or in the singular, a "*Common Element*") means all portions of the Condominium other than the *Units*.
- (g) "*Common Expenses*" means expenditures made by or financial liabilities of the *Association*, together with any allocations to reserves;
- (e) "*Condominium Documents*" includes the *Declaration*, *Plats* and *Plans*, *Bylaws*, and *Rules and Regulations*.
- (f) "*Declarant*" means the *Declarant* described in Section 1.1 above.
- (g) "*Declaration*" means this document, as it may be amended from time to time.
- (h) "*Development Rights*" means the rights to add real estate to the Condominium, create additional *Units*, subdivide *Units*, convert *Units* to *Common Elements*, and to withdraw land from the Condominium, reserved to a *Declarant*. The *Declarant* has reserved *Development Rights* as set out in Article 15 and elsewhere in the *Declaration*.
- (l) "*Eligible Mortgage Holder*" means the holder of a *Recorded* first mortgage on a *Unit* which has delivered written notice to the *Association* by prepaid United States mail, return receipt requested, or by delivery in hand securing a receipt therefor, which notice states the *Mortgagee's* name and address, the *Unit* owner's name and address, and the identifying number of the *Unit*, and states that the mortgage is a *Recorded* first mortgage.
- (m) "*Insurance Trust Agreement*" means any agreement between the *Association* and the *Insurance Trustee* providing for the management and disbursement of insurance proceeds in accordance with Section 9.3.
- (n) "*Insurance Trustee*" means the entity responsible for the management and disbursement of insurance proceeds according to any *Insurance Trust Agreement*.
- (o) "*Limited Common Elements*" means those parts of the *Property* either described in the Act, this *Declaration* or the *Plats* and *Plans* as being *Limited Common Elements*.

- (p) "*Mortgagee*" means the holder of any *Recorded* first mortgage encumbering one or more of the *Units*.
- (r) "*Periodic Assessment*" means the *Unit* owner's share of the anticipated *Common Expenses*, assigned by *Unit*, for each period of the *Association's* fiscal year as reflected in the budget adopted by the *Board of Directors* for such year.
- (s) "*Property*" means the property described in Section 1.1. above.
- (t) "*Plats and Plans*" means the *Plats and Plans* for the Condominium, reduced copies of which are attached to the *Declaration* as Exhibit C.
- (u) "*Record*", "*Recorded*" or "*Recording*" refers to filing as a permanent *Record* in the York County Registry of Deeds.
- (v) "*Rules and Regulations*" means the rules and regulations adopted by the *Declarant* or the *Board of Directors*.
- (w) "*Special Assessment*" means a *Unit* owner's share of any assessment made by the *Board of Directors* in addition to the *Periodic Assessment*.
- (x) "*Special Declarant Rights*") means rights reserved for the benefit of a *Declarant* to complete improvements indicated on *Plats and Plans* filed with the *Declaration*; to exercise any *Development Right*; to maintain sales offices, management offices, signs advertising the condominium and models; to use easements through the *Common Elements* for the purpose of making improvements within the condominium or within real estate which may be added to the condominium; to make the condominium part of a larger condominium or a planned community; to make the condominium subject to a master association; or to appoint or remove any officer of the *Association* or any master association or any Director or to approve any acts of the *Association* or the Board, during any period of *Declarant* control. *Special Declarant Rights* are described in Article 15 and elsewhere in this *Declaration*.
- (z) "*Unit*" means a physical portion of the Condominium designated for separate ownership or occupancy, the boundaries of which are described in Article 3.

Section 2.2-A. Definitions Relating to Affordable Housing and Elderly Housing.

The terms defined in this section are the same terms defined in Chapter 175 of the Code of the Town of Wells. These definitions shall apply to the Declaration, the Bylaws and the Plats and Plans.

(a) "Affordable Housing: A decent, safe and sanitary dwelling, apartment or other living accommodation for a household whose income does not exceed 80% of the median income for the area as defined by the United States Department of Housing and Urban Development. An owner-occupied housing unit is "affordable" to a household if the unit's expected sales price is reasonably anticipated to result in monthly housing costs (including mortgage principal and interest payments, basic utility and energy

costs) that do not exceed 33% of the household's gross monthly income. A renter-occupied housing unit is "affordable" to a household if the unit's monthly housing costs (including rent and basic utility and energy costs) do not exceed 28% to 33% of the household's gross monthly income.

(b) "Elderly Housing" means housing units occupancy of which is restricted in perpetuity to persons 55 years of age or older or, an elderly family whose head or spouse is 55 years of age or older.

Section 2.3. Provisions of the Act.

The provisions of the Maine Condominium Act shall apply to the Condominium, except to the extent that contrary provisions, not prohibited by the Act, are contained in one or more of the *Condominium Documents*.

ARTICLE 3 - UNIT BOUNDARIES AND MAINTENANCE RESPONSIBILITIES

Section 3.1. Unit Boundaries.

The boundary lines of each *Unit* are as follows:

- (1) Perimeter Boundaries: The *Unit* is the real property consisting of the space filled with air and the rights of possession therein and all improvements lying therein within the vertical planes described below and as shown on the *Plats*, and *Plans*. The boundary line between adjoining *Units* is the midpoint of the wall separating the *Units*.
- 1A) Location of Vertical Planes. The vertical planes of the *Unit* correspond with the exterior surface of the vertical walls of the building contained within the *Unit*, the *Unit* to include any finish material such as paint or stain. In addition, the *Unit* will contain all overhangs and any other structural parts of the building attached to the building but not within the vertical planes, but shall not include open decks, exterior stairs or stoops, which shall be *Limited Common Elements*. Any substantial change in the location of the vertical boundaries shall be noted on an amended plat and shall be *Recorded* in the Registry of Deeds. There are no horizontal planes.
- (2) Exclusions: Except when specifically included by other provisions of Section 3.1, the following is excluded from each *Unit*: the spaces and improvements lying outside of the boundaries described in section 3.1 (1) above, pipes, ducts, wires, conduits, drainage systems and ways, and other facilities running through or within any *Unit* for the purpose of furnishing sewerage, utility, access, water and other similar services to other *Units* or *Common Elements*. These improvements are *Common Elements*. Pipes, wires, ducts and cables are a *Common Element* up to the valve, switch or shutoff between commonly and exclusively used

portions, with the valve or switch being part of the *Unit*. Facilities serving a *Unit* and lying within the *Common Elements* are *Limited Common Elements* appurtenant to the *Unit* served.

- (3) Inconsistency with Survey: If the Survey is inconsistent with this definition, then this definition will control.
- (4) Each *Unit's* identifying number is shown on the *Plats* and *Plans* and on Exhibit C.

Section 3.1-A. Unit Boundaries.

The boundary lines of each *Unit* created by the *Declaration* as shown on the *Plats* and *Plans* is illustrative only. The exact location of unconstructed *Units* will be designated upon construction of the buildings within the *Unit*. If there is any substantial variation between the *Plats* and the actual location of the *Units* when constructed, amended *Plats* will be *Recorded* in the condominium file for the condominium at the York County Registry of Deeds.

Section 3.2. Maintenance Responsibilities.

- (a) In the Unit. The *Association* shall repair, paint, stain or otherwise maintain in an attractive condition, and replace, if necessary, as a *Common Expense*, the following portions of the *Unit*:
 - a. The exterior siding and trim and other exterior surfaces of the house structure.
 - b. The roof shingles and subroof.
 - c. The exterior windows, exterior portions of the window frames, the window screens, skylights and exterior portions of the skylight frames.
 - d. The exterior portion of the chimney extending above the roof line.
 - e. The garage doors.
 - f. The exterior doors, door frames, storm doors and screen doors, but not including any screening on screen porches.

Unit owners are responsible for maintenance of all portions of their units not maintained by the *Association*, including the foundation underneath their unit, and their chimney flues.

Any additions to the deck, including screening, require approval of the *Board*.

- (b) Decks, exterior stairs and door stoops. Decks, exterior stairs and railings and door stoops shall be maintained, repaired and replaced by the *Association* as a *Common Expense*, except as set forth below.
- (c) Decks enclosed as screened porches or as three season rooms. The *Association* shall be responsible for maintenance, repair and replacement of the exterior portions of such structures visible from outside the structure, including the screening and the exterior surface of a three season room, but the cost thereof shall be payable by the unit owners to

which the *Limited Common Element* is attached. The maintenance, repair and replacement of the interior portions of such structures, and the cost thereof, is the responsibility of the unit owners to which the *Limited Common Element* is attached. Should any such screened porches or three season rooms result in any increased insurance costs to the *Association*, the *Unit* owner shall pay such increased cost.

- (d) *Unit* owners may themselves maintain, repair and replace the items set out in subsection (c) above, but only after such prior approval and under such conditions as the *Board* shall set.
- (e) The *Declarant* alone is responsible for all expenses in connection with real estate subject to *Development Rights*.
- (f) Despite the above provisions, any portion of the Condominium for which insurance is required under the Maine Condominium Act which is damaged or destroyed shall be repaired or replaced promptly by the *Association* except under the limited circumstances set forth in Section 1603 113 (h) of the Act.
- (g) No changes to the exterior of a *Unit* or to a *Limited Common Element* or a *Common Element* may be made without approval of the *Board of Directors*.

Section 3.3. Subdivision of Units.

No *Unit* owner shall have the right to subdivide his *Unit*, either physically or into time shares.

Section 3.4. Utilities.

The cost of utility services, including, water, sewer, electricity, heat, cable, telephone or propane:

(a) Shall be billed directly, if practical, by the utility to individual *Unit* owners if the utility meters the service separately to each *Unit*, said charges not to be a *Common Expense*.

(b) Shall be billed to the *Association* and rebilled by the *Association* to individual *Unit* owners, to the extent that the cost of utility services to individual *Units* can be measured or reasonably estimated. Such charges shall not be considered a *Common Expense*, but the *Association* shall have lien rights against a *Unit* owner who doesn't pay such charges to the same extent as if it were a *Common Expense*. The liens under this subparagraph do not survive the transfer of a *Unit* to a purchaser for value.

(c) To the extent that utility services do not fall within subparagraphs (a) and (b) above, such charges shall be considered to be a *Common Expense*.

Each *Unit* owner will be responsible for the cost of installation of Internet

Services, with the approval of the *Association*. If the *Board of Directors* determines that a discounted group rate is advantageous to the *Association*, the Board may obtain such services for every *Unit* and the cost of same shall then become a *Common Expense*.

ARTICLE 4 - DESCRIPTION AND LOCATION OF COMMON ELEMENTS AND LIMITED COMMON ELEMENTS

Section 4.1. Common Elements.

The *Common Elements* are all portions of the *Property* that are not part of the *Units*. The *Common Elements* include all the land (except that land directly beneath the buildings containing *Units*) but excludes the buildings containing *Units*.

Section 4.2. Limited Common Elements.

Limited Common Elements are designated portions of the *Common Elements* which are reserved for the exclusive use of a particular *Unit* or *Units*, to the exclusion of other *Units*. They consist of the following:

- (a) If any chute, flue, duct, wire, conduit, bearing wall, bearing column or any other fixture lies partially within and partially outside of the designated boundaries of a *Unit*, any portion thereof serving only that *Unit* is a *Limited Common Element* allocated solely to that *Unit*, and any portion thereof serving more than one *Unit* or any portion of the *Common Elements* is a part of the *Common Elements*.
- (b) Any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, railings, patios and all exterior doors and windows or other fixtures designed to serve a single *Unit*, but located outside the *Unit's* boundaries, are *Limited Common Elements* allocated exclusively to that *Unit*.
- (c) All other *Limited Common Elements* are shown on the *Plats* and *Plans*. The *Units* to which they are allocated is also shown on the *Plats* and *Plans*.
- (d) parking spaces, as set forth below.

Section 4.3. Subsequent Allocation as Limited Common Elements.

There shall be no subsequent allocation of any part of the land as *Limited Common Elements*.

Section 4.4. Reserved Common Elements, Parking Spaces.

The paved area located immediately in front of the garage space for each *Unit*, as well as paved spur area in front of the *Unit*, as assigned by Declarant and shown on the *Plats and Plans* shall be considered to be a portion of the *Common Elements* reserved for the use of the *Unit* owner behind the paved area. The *Board of Directors* shall have the power in its discretion from time to time to grant revocable licenses in other portions of the *Common Elements* to the *Association* or to any *Unit* owners and to establish a reasonable charge to such *Unit* owners for the license. Such designation by the *Board of Directors* shall not be considered a sale or disposition of the *Common*

Elements.

ARTICLE 5 - THE ALLOCATED INTERESTS

Section 5.1. The Percentage Interest (Each Unit's Undivided Ownership Interest in Common Elements).

Exhibit B of this *Declaration* contains a list of all *Units* by their Identifying Number and their percentage interest. The percentage interest of each *Unit* is determined on the basis of a fraction, the numerator being 1 and the denominator being the total number of declared *Units*, as set forth in Exhibit B of this *Declaration*. The same formula shall be used to reallocate the percentage interest if *Units* are added to, or withdrawn from the Condominium and shall be effective upon *Recording* of the amendments to the *Declaration* creating or withdrawing said additional *Units*.

Section 5.2. Each Unit's Common Expense Liability.

The liability of each *Unit* for the *Common Expenses* of the Condominium shall be a fraction, the numerator being 1, and the denominator being the total number of declared *Units*, as set forth in Exhibit B to this *Declaration*. The same formula shall be used to reallocate the *Common Expense* liability when *Units* are added to or withdrawn from the Condominium and shall be effective upon *Recording* of the amendments to the *Declaration* creating or withdrawing said additional *Units*.

Section 5.3. Each Unit's Voting Rights.

Each *Unit* shall have one vote, as set forth in Exhibit B of this *Declaration*. The same formula shall be used to reallocate each *Units* voting rights when *Units* are added to or withdrawn from the Condominium and shall be effective upon *Recording* of the amendments to the *Declaration* creating or withdrawing said additional *Units*.

ARTICLE 6 - EASEMENTS

Section 6.1 Declarant's Easement Rights and Other Rights.

Until the construction, marketing and sale by *Declarant* or *Declarant's* successor, of all *Units* is completed, including the future *Units* which may be created under Section 15.1, if any, the *Declarant* shall have easement and other rights, as follows:

a. Entrance onto Property during construction; storage. For ingress and egress to the *Common Elements* and *Limited Common Elements* on behalf of itself, its agents, his agents, employees, officers, contractors, subcontractors and prospective purchasers of *Units*, including the right to park on the *Property* and to store construction materials and vehicles.

b. Models, management and sales offices. To use any *Units* owned or leased to the *Declarant* as models, management offices, sales offices or customer service offices. To maintain and operate a separate sales office or offices on the premises of any size

and to move, relocate and remove same if the sales office is not part of a *Unit*. To permit prospective tenants, purchasers and other to visit that office and use the *Common Elements* and use unsold *Units* for sales, leasing and display purposes.

c. Signs. To place signs and lighting on the *Property* during marketing of *Units*.

d. Construction and repair. To construct, maintain, repair, renovate, replace or correct the *Units*, the *Common Elements*, and the *Limited Common Elements*. To maintain and correct drainage of surface water on the *Property*, along with the right to cut any trees, bushes or shrubbery, to grade the soil, or take any other action reasonably necessary to maintain reasonable standards of health, safety and appearance. To modify, alter, remove or improve defective, obsolete or nonfunctional portions of the *Common Elements*, including equipment, fixtures and appurtenances when in the *Declarant's* judgment it is necessary or desirable to do so. Upon finishing such work, the *Declarant* shall restore the affected property as closely to its original condition as practicable.

f. Utility connections during construction. To connect with and make use of utility lines, wires, pipes and conduits located on the *Property* for construction purposes, provided that the *Declarant* shall be responsible for the cost of service so used.

g. Granting and reserving easements. The nonexclusive right to grant and reserve easements and rights-of-way (even though not depicted on the *Plats and Plans*) through, under, over and across the *Units*, *Common Elements* and *Limited Common Elements* for the installation, maintenance, repair, replacement and inspection of water, sewer, gas, electricity, telephone, cable TV and other utilities servicing the *Property*, as well as for drainage, including provisions for the installation of lines, wires, pipes, conduits and facilities servicing the *Property*. No such easement shall be effective until *Recorded*. No such easements may be granted through *Units* that have been sold by *Declarant* to consumers. The *Common Elements* shall be promptly restored upon installation and repair of any such facilities.

h. Easements for benefit of abutting property. To grant easements for the purposes of enjoyment, use, access and development of property abutting the *Property*, or located nearby, whether or not such property is made subject to this *Declaration*. The *Declarant* may reserve easement rights across Condominium land for vehicular and pedestrian access, and utilities, sufficient for full and complete development of such abutting property. Such easements include, but are not limited to, a right of ingress and egress over the *Common Elements* for construction of roads and for connecting and installing utilities on such property. *Declarant* agrees that it and its successors or assigns shall be responsible for any damage caused to the Common Area as a result of their respective actions in connection with development of such property.

(i). Robert M. Rozeff, Personal Representative of the Estate of Ida Rozeff, specifically reserved easements across the *Property*, as set forth in deed of Rozeff to the *Declarant* herein, dated June 15, 2005, recorded in the York County Registry of Deeds, Book 14496, Page 16, and was granted such rights in an easement deed recorded at Book 14496, page 19. A copy of this easement is found in Exhibit D to this *Declaration*.

The *Declarant's* rights under this section 6.1 may not be amended by the *Unit* owners and shall continue until *Declarant* has conveyed all *Units* to *Unit* purchasers, including any *Units* that may be created in the exercise of *Development Rights*.

Section 6.2. Unit Owners Easement and Other Rights.

Each *Unit* owner shall have easement rights and other rights as follows:

a. Every *Unit* owner has an unrestricted right of ingress and egress to his or her *Unit*. This right is perpetual so that it passes with the *Unit* estate as transfers of ownership of the *Unit* occur. The *Board of Directors* may by regulation limit access of *Unit* Owners to those portions of the *Common Elements*, such as machinery or equipment rooms or management offices, which it deems desirable or necessary, provided the *Unit* Owners shall nevertheless have unrestricted access to their *Unit*. Any conveyance, encumbrance, judicial sale, or other transfer (voluntary or involuntary) of an individual interest in the *Common Elements* will be void unless the *Unit* to which that interest is allocated is also transferred.

b. To use (in common with other *Unit* owners) all pipes, wires, ducts, cables, conduits, public utility lines and other *Common Elements* serving his *Unit* and located in any of the other *Units*. Each *Unit* shall be subject to an easement in favor of all 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*.

c. For the installation, repair, maintenance, use, removal and/or replacement of pipes, ducts, heating systems, electrical, 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*.

d. 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 which serve any *Unit* but which encroach into a part of a *Common Element* adjacent to such *Unit*. However, this shall not interfere with the common use of any part of the *Common Elements*, adversely affect either the thermal or acoustical character of the Building or impair or structurally weaken the Building:

e. For minor intrusions into the *Common Elements* by exhaust pipes, air conditioners and similar attachments to the outside of the *Unit*, subject to approval by the *Association* when otherwise required by this *Declaration*.

Section 6.3. Board of Directors Easement and Other Rights.

a. The *Board of Directors* shall have the right to grant to third parties additional permits, licenses and easements over and through the *Common Elements* for utilities, roads, and other purposes reasonably necessary or useful for the proper maintenance and operation of the Condominium.

b. The *Board*, officers, agents and employees, and the managing agent and every other person authorized by the *Board* has the irrevocable right and easement to have access to each *Unit* as provided in Section 1603-107(a) of the Act as may be

necessary for the inspection, maintenance, repair or replacement of any of the *Common Elements* and *Limited Common Elements* located in the *Unit* or accessible from the *Unit* for making additions or improvements to the *Common Elements*.

c. The *Board*, officers, agents and employees, and the managing agent and every other person authorized by the *Board* has the irrevocable right and easement to have access to each *Unit* to make repairs to any *Unit* if such repairs are reasonably necessary for public safety or to prevent damage to any *Unit* or *Units*, 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. In case of an emergency, such right of entry shall be immediate whether or not the *Unit* Owner is present at the time. Until the expiration of the warranty period, if applicable, such entry shall be permitted to perform warranty-related work whether or not the Owner of the *Unit* consents or is present at the time.

d. Any person or persons running the rental operation on behalf of the *Association* shall have the right and easement for access to the *Units* for purposes of conducting rental activities for the *Unit* and for the purpose of enforcing rental restrictions.

e. The Board may limit the use of *Common Element* amenities of *Unit* owners who are delinquent in payment of their *Assessments*.

Section 6.4. Encroachments.

Each *Unit* shall have an easement to the extent necessary for structural and subjacent support over every other *Unit* and over the *Common Elements*. Each *Unit* and the *Common Elements* shall be 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* encroaches upon any *Unit*, or if any *Unit* 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 or Buildings in which they are located, or other than as a result of the purposeful 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*, a valid permanent easement appurtenant to the encroaching *Units*, *Common Elements* or *Limited Common Elements* for the encroachment and for the maintenance of the same shall exist for so long as the encroachment shall exist, as long as the physical boundaries of the *Units* will be in substantial accord with the description of those boundaries that appears in this *Declaration*.

ARTICLE 7 - RESTRICTIONS ON USE AND OCCUPANCY OF UNITS AND COMMON ELEMENTS.

Section 7.1. General.

The following restrictions will apply to use generally of the Condominium.

a. Quiet Enjoyment. No *Unit* owner may carry on any practice, or permit any practice to be carried on, which unreasonably interferes with the quiet enjoyment of the occupants of any other *Unit*.

b. Alteration of Exterior Appearance; Maintenance; Mailboxes. In order to maintain consistency within the Condominium, the owner of a *Unit* shall not alter the exterior appearance of any Building, including by way of example but not by way of limitation, exterior doors, without the prior written consent of the *Board of Directors*. The *Board* may designate the type and style of mailboxes in order to maintain a consistent appearance.

c. Trash. No *Unit* owner may place any garbage, trash, or rubbish anywhere in the *Property* other than in his own *Unit* or on such other parts of the *Common Elements* as may be designated for such purpose by the *Board of Directors*.

d. Fire Insurance Premiums. No *Unit* shall be used, occupied, or kept in a manner which in any way increases the fire insurance premiums for the *Property* without the prior written permission of the *Board of Directors*.

e. Signs. Except as allowed in this Article, no owner of any *Unit* (other than the *Declarant* in connection with its marketing and sale of the *Units*) may erect any sign on or in his *Unit* or any *Limited Common Element* which is visible from outside his *Unit* or from the *Common Elements*, without in each instance having obtained the prior written permission of the *Board of Directors*.

f. Boats, Trailers, Large Vehicles. No travel or boat trailers, boats, commercial vehicles, and no vehicles exceeding 7,000 pounds gross vehicle weight shall be placed or stored on the *Property*, except by the *Declarant* in connection with construction activity on the *Property*. No automobiles shall be parked anywhere on the premises except designated areas. Parking on or alongside the interior circulation roadways within the premises is strictly forbidden, since such parking may obstruct fire and other emergency vehicles from passage within the *Property*. No unregistered vehicles shall be kept, placed or stored on the *Common Elements*.

g. Other Items on the Common Elements. No *Unit* owner may obstruct the *Common Elements* in any way. No *Unit* owner may store anything in or on the *Common Elements* without approval of the *Board of Directors*. The *Board* may, by rule, adopt policies concerning the placement of chairs, grills and other items commonly placed outdoors in the area immediately surrounding *Units*.

h. Recreational facilities. The *Board of Directors* may, by rule, enact regulations concerning the use of recreational facilities located in the Condominium.

Section 7.1-A. Affordable and Elderly Housing Provisions.

The Condominium is subject to the "Declaration of Affordable and Elderly Housing Covenants", recorded in the York County Registry of Deeds at Book _____, page _____.

Violations of these covenants shall be deemed to be a violation of this Declaration of Condominium. The Association will have all remedies given to it under the Maine Condominium Act for violations, including the power under Section 1603-102

(a) (11) of the Maine Condominium Act to assess fines for violations and for those fines to become a lien against the unit under Section 1603-116 of the Act.

This section may not be amended without approval of the Town of Wells.

Section 7.2 Pets.

Owners of *Units* may bring up to two of their own pets of the usual household type on the premises, not to exceed 65 pounds each, provided that they are leashed when outside the *Units*, and do not disturb the quiet enjoyment by others, of their *Units*. However, no lessee, tenant or guest shall be allowed to bring or keep pets on the *Common Elements* or in any *Unit*. *Unit* owners shall pick up after their pets.

Neither the provisions in this Section nor any *Rules and Regulations* enacted pursuant to this section shall be construed to limit seeing eye dogs or other animals assisting disabled persons as covered by the Americans with Disabilities Act.

Section 7.3 Occupancy, Lease and Sale of Units.

a. Use as Dwelling. The *Units* in the Condominium are restricted to residential use. The *Units* may not be used for any other purposes (including business or commercial use) by the *Unit* owner or any future *Unit* owner, except that a home office, not requiring public visitors or employees shall be allowed. No present or future owner of any *Unit* shall permit his *Unit* to be used or occupied for any purpose other than as a single family residence.

b. Limitations on Occupancy: Occupancy of a *Unit*, by *Unit* owners or lessees, shall be limited to the number of persons the *Unit* was designed to accommodate, as the same may be determined by the *Board of Directors*.

c. Sale; Right of First Refusal. A *Unit* owner may sell his *Unit* at any time. The *Association* reserves no right of first refusal or other restriction on sale. The Declarant hereby reserves for itself and for its related companies the right of first refusal to provide brokerage services for any Condominium Unit owner desiring to sell his Unit. Any owner so desiring to obtain the services of a real estate broker must first offer Declarant's related brokerage company the right to provide these services upon terms and conditions similar to those prevailing in the industry. If Declarant's related brokerage does not desire to exercise this right then Declarant's brokerage company shall provide the owner with a written waiver of such right. This Article is not intended to act as a restraint of trade and if determined by a competent court to be so, will automatically be considered void but in no event will Declarant be liable under any so-called restraint of trade law, nor will any other provision of this Declaration be affected.

d. Lease. A *Unit* owner may lease his *Unit*, subject to the following:

1. All leases must be in writing and in a form approved by the *Board of Directors* and be subject to the requirements of the *Declaration, Bylaws, Rules and Regulations* of the *Association*. The Board shall require leases to provide effective remedies to the *Association*, including the power to evict tenants, in the

event of violation of the *Declaration, Bylaws or Rules and Regulations* by tenants.

2. The minimum lease term shall initially be three months, subject to alteration by Rules adopted by the *Board of Directors*.

3. At the time of such leasing, the tenant shall be given a copy of the existing rules governing conduct.

4. Owners of *Units* shall be responsible for any actions of their tenants and guests. Owners shall pay for damage to the *Common Elements* caused by tenants or guests. Failure to pay shall subject the *Unit* owner to a statutory lien with the same remedies as set forth in Section 14.3.

5. Each tenant is hereby declared to be subject to and be bound by all of the covenants, restrictions, and conditions set forth in the *Condominium Documents*.

6. At all times occupancy of the units must comply with the provisions of the "Declaration of Affordable and Elderly Housing Covenants", recorded in the York County Registry of Deeds at Book _____, page _____.

Section 7.4 Use of Common Areas Immediately Surrounding the Units.

The *Common Elements* immediately surrounding a *Unit* may be used by adjacent *Unit* owners for such purposes as determined by the *Board of Directors*, provided that the *Unit* owner shall be responsible for property and casualty insurance on any such improvements, and for any extra costs to the *Association* for liability insurance, or any other costs, which shall be charged as an *Assessment* against that particular *Unit*, subject to the rules of the *Association*.

Section 7.5 Violation of conditions of approval.

Violation of any condition of approval of the *Property* imposed by a governmental review board or agency shall be a violation of this *Declaration* and shall subject the violator to fines and other remedies allowed by this *Declaration* and the Maine Condominium Act.

Section 7.6. Rules; Restrictions on Rulemaking.

The Board of Directors may from time to time enact reasonable *Rules and Regulations*, not in conflict with the *Declaration* or the Maine Condominium Act, as more fully set forth in the *Bylaws*. Copies of the then current *Rules and Regulations* shall be furnished to all *Unit* owners by the *Association* promptly after the adoption of such *Rules and Regulations* or any amendments of them. Copies of the then current *Rules and Regulations* shall be furnished to all *Unit* owners by the *Association* promptly after the adoption of such *Rules and Regulations* or any amendments of them, but the failure to do so shall not affect the validity of the rules. Any rules adopted by the Board may be repealed or amended by a 2/3 vote of all *Unit* Owners at a meeting specially called for that purpose.

Except as may be set forth in this *Declaration* (either initially or by amendment), all Restrictions and Rules shall comply with the following provisions:

(a) Similar Treatment. Similarly situated Owners shall be treated similarly; however, the Restrictions and Rules may vary by neighborhoods.

(b) Displays. The rights of Owners to display religious and holiday signs, symbols, and decorations inside structures or their *Units* of the kinds normally displayed in dwellings located in single-family residential neighborhoods shall not be abridged, except that the *Association* may adopt time, place, and manner restrictions with respect to displays visible from outside the dwelling.

No rules shall regulate the content of political signs; however, rules may regulate the time, place and manner of posting such signs (including design criteria).

(c) Household Composition. No rule shall interfere with the Owners' freedom to determine the composition of their households, except that the *Association* shall have the power to require that all occupants be members of a single housekeeping unit and to limit the total number of occupants permitted in each *Unit* on the basis of the size and facilities of the *Unit* and its fair use of the Common Area.

(d) Activities Within Dwellings. No rule shall interfere with the activities carried on within the confines of dwellings, except that the *Association* may prohibit activities not normally associated with property restricted to residential use, and it may restrict or prohibit any activities that create monetary costs for the *Association* or other Owners, that create a danger to the health or safety of occupants of other *Units*, that generate excessive noise or traffic, that create unsightly conditions visible outside the dwelling, or that create an unreasonable source of annoyance.

(e) Allocation of Burdens and Benefits. No rule shall alter the allocation of financial burdens among the various *Units* or rights to use the Common Area to the detriment of any Owner over that Owner's objection expressed in writing to the *Association*. except that the *Association* may charge user fees for the use of amenities in the *Common Elements*. Nothing in this provision shall prevent the *Association* from changing the Common Area available, from adopting generally applicable rules for use of Common Area, or from denying use privileges to those who are delinquent in paying assessments, abuse the Common Area, or violate the Governing Documents. This provision does not affect the right to increase the amount of assessments as provided herein.

(f) Alienation. No rule shall prohibit leasing or transfer of any *Unit*, or require consent of the *Association* or Board for leasing or transfer of any *Unit*; provided, the *Association* or the Board may require a minimum lease term. The *Association* may require that Owners use lease forms approved by the *Association*.

(g) Abridging Existing Rights. No rule shall require an Owner to dispose of personal property that was in or on a *Unit* prior to the adoption of such rule if such personal property was in compliance with all rules previously in force. This exemption shall apply only during the period of such Owner's ownership of the *Unit*, and shall not apply to subsequent Owners who take title to the *Unit* after adoption of the rule.

(h) Reasonable Rights to Develop. No rule or action by the *Association* or

Board shall unreasonably impede *Declarant's* right to develop the *Property*.

Section 7.7. Windows and Doors, Screens.

The Board may set uniform standards for the use, maintenance, repair, addition and replacement of storm windows and screens, and storm doors and screen doors. The Board may require or prohibit such doors so as to promote uniformity and may separately assess *Unit* owners affected in case additional storm windows, screen windows, screen doors or winter doors are deemed to be required.

ARTICLE 8 - RIGHTS OF MORTGAGEES, INSURERS, AND GUARANTORS

Section 8.1. Subject to Declaration.

All mortgages on *Units* are subject to the provisions of the Act, the *Declaration*, the *Plats* and *Plans* and the *Rules and Regulations*, whether the mortgage says so or not.

Section 8.2. Rights of Eligible Mortgage Holders.

- (a) The *Association* shall send reasonable prior written notice by prepaid *United States* mail to *Eligible Mortgage Holders* of the consideration by the *Association* of the following proposed actions:
- (1) The termination of the Condominium pursuant to Section 1602-118 of the Act;
 - (2) A change in the *Allocated Interest* of a *Unit*, a change in the boundaries of a *Unit* or a subdivision of a *Unit*;
 - (3) The merger or consolidation of the Condominium with another condominium;
 - (4) The conveyance or subjection to a security interest of any portion of the *Common Elements*;
 - (5) The proposed use of any proceeds of hazard insurance required to be maintained by the *Association* under Section 1603-113(a) of the Act for purposes other than the repair or restoration of the damaged property;
 - (6) The adoption of any proposed budget by the *Board of Directors* and the date of any scheduled *Unit* owners meeting to consider ratification thereof; a summary of the proposed budget shall accompany this notice; and
 - (7) Any default in the performance or payment by a *Unit* owner of any obligations under the *Declaration*, including, without limitation, default in the payment of *Common Expense* liabilities.
- (b) In the event of any proposed actions described in Subsection (a), paragraphs (1), (2), (3), (4), or (5) above, an *Eligible Mortgage Holder* shall have the right but not the obligation in place of the *Unit* owner to cast the votes assigned to that *Unit* or give or withhold any consent required of the *Unit* owner for such action. The *Eligible Mortgage Holder* does this by delivering written notice to the *Association*

with a copy to the *Unit* owner before or at the time of the taking of the proposed action. The notice shall be sent by prepaid *United States* mail, return receipt requested, or by hand delivery. Failure of the *Eligible Mortgage Holder* to so exercise such rights shall be a waiver of them and shall not prevent the *Unit* owner from exercising such rights. In the event of any default described in Subsection (a), paragraph (7), the *Eligible Mortgage Holder* shall have the right but not the obligation to cure such default.

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

Section 8.3. Rights of Mortgage Holders, Insurers, or Guarantors.

- (a) The *Association* shall send timely prior written notice by prepaid *United States* mail to holders, insurers and guarantors of the Mortgage on any *Unit* of the following matters:
- (1) Any condemnation or casualty loss that affects either a material portion of the Condominium or the *Unit* securing the Mortgage.
 - (2) Any sixty (60) day delinquency in the payment of *Periodic Assessments* or other charges owed by the owner of any *Unit* on which it holds the Mortgage.
 - (3) A lapse, cancellation, or material modification of any insurance policy maintained by the *Association*; and
 - (4) Any proposed action that requires the consent of fifty-one percent (51%) of the *Eligible Mortgage Holders*.
- (b) To receive such notice, the mortgage holder, insurer, or guarantor shall send a written request therefor to the *Association*, stating its name and address and the *Unit* number or address of the *Unit* on which it holds, insures, or guarantees the Mortgage.

Section 8.4. Liability for Use and Charges.

Any *Mortgagee* who obtains title to a *Unit* by mortgage foreclosure or a deed in lieu of foreclosure shall not be liable for such *Unit* owner's unpaid assessments or charges which accrue before the acquisition of title to such *Unit* by the *Mortgagee*, except to the extent otherwise provided for in the Act and except where such *Mortgagee* is liable as a *Unit* owner for the payment of such unpaid assessment or charge that is assessed against the *Mortgagee* as a result of all *Unit* owners being reassessed for the aggregate amount of such deficiency.

Section 8.5. Books and Records.

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

Section 8.6. Compliance with Secondary Mortgage Market.

If any provisions of this Article 8 are inconsistent with requirements of the Federal National Mortgage Association (AFannie Mae@), the *Declarant* or the *Association* may amend the said provisions by filing an amendment to this *Declaration* to bring Article 8 into compliance, without the necessity of a vote of *Unit* owners, upon receipt of a written legal opinion from an attorney that such change is authorized under this section of the *Declaration*.

ARTICLE 9 - INSURANCE

Section 9.1. Insurance Coverage Required.

- (a) Commencing not later than the time of the first conveyance of a *Unit* to a person other than the *Declarant*, the *Association* shall maintain, to the extent reasonably available:
- (1) Property insurance on the *Common Elements* and the *Units*, insuring against all risks of direct physical loss commonly insured against. The total amount of insurance after application of any deductibles shall be 100% of the actual cash value of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations and other items normally excluded from property policies. To the extent reasonably available, the property Insurance shall carry either of the following endorsements:
 - a Guaranteed Replacement Cost Endorsement (under which the insurer agrees to replace the insurable property regardless of the cost) and, if the policy includes a coinsurance clause, an Agreed Amount Endorsement (which waives the requirement for coinsurance); or
 - a Replacement Cost Endorsement (under which the insurer agrees to pay up to 100% of the property's insurable replacement cost, but no more) and, if the policy includes a coinsurance clause, an Agreed Amount Endorsement (which waives the requirement for coinsurance).
 - 2) Comprehensive Liability insurance, including medical payment's insurance, in an amount determined by the *Board of Directors* but not less than one million (\$1,000,000) for personal injury and property damage for any single occurrence, covering all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the *Common Elements*.
 - (a). Such policy shall insure *Unit* owners, in their capacity as *Unit* owners and *Association* members and any managing agent retained by the *Association*, against any liability to the public or to other *Unit* owners, their

tenants or invitees, relating in any way to the ownership and/or use of the *Common Elements*, public ways and any other areas under the supervision of the *Association* and any part thereof.

(b) Such insurance policy shall contain a "severability of interest endorsement" or equivalent coverage which prevents the insurer from denying the claim of a *Unit* owner because of the negligent acts of the *Association* or another *Unit* owner.

(c) Such insurance shall include coverage for bodily injury and property damage that results from the operation, maintenance or use of the *Common Elements*, and any liability resulting from law suits related to employment contracts in which the *Association* is a party.

(d) Broad form extended liability endorsements will also be included with such endorsements covering personal injury, contractual, broad form property damage and other commonly included perils.

(e) Liability for nonowned and hired automobiles, liability for property of others, and such other risks as are customarily covered in similar projects will also be included.

(f) The scope and amount of coverage of all liability insurance policies shall be reviewed at least once each year by the *Board of Directors* and may be changed in its discretion provided that such policies shall continue to comply with the requirements of this *Declaration*.

- (b) The insurance maintained under subparagraph (a) (1) above, to the extent reasonably available, must include the *Units* but need not include improvements and betterments installed by *Unit* owners
- (c) If the insurance described in subsection (a) is not reasonably available, the *Association* promptly shall cause notice of that fact to be hand delivered or sent prepaid by *United States'* mail to all *Unit* owners.
- (d) Insurance policies carried pursuant to subsection (a) must provide that:
 - (1) Each *Unit* owner is an insured person under the policy with respect to liability arising out of his ownership of an undivided interest in the *Common Elements* or membership in the *Association*;
 - (2) The insurer waives its right to subrogation under the policy against any *Unit* owner of the condominium or members of his household;
 - (3) No act or omission by any *Unit* owner, unless acting within the scope of his authority on behalf of the *Association*, will void the policy or be a condition to recovery under the policy; and
 - (4) If, at the time of a loss under the 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.
- (e) Any loss covered by the property policy under subsection (a), paragraph (1), and subsection (b) shall be adjusted with the *Association*, but the insurance proceeds for that loss shall be payable to any *Insurance Trustee* designated for that purpose, or otherwise to the *Association*, and not to any *Mortgagee*. The

Insurance Trustee or the *Association* shall hold any insurance proceeds in trust for *Unit* owners and lien holders as their interest may appear. Subject to the provisions of subsection (h), the proceeds shall be disbursed first for the repair or restoration of the damaged property, and *Unit* owners and lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the *Common Elements* and *Units* have been completely repaired or restored, or the condominium is terminated.

- (f) An insurance policy issued to the *Association* does not prevent a *Unit* owner from obtaining insurance for his own benefit.
- (g) An insurer that has issued an insurance policy under this section shall issue certificates or memoranda of insurance to the *Association* and, upon request, to any *Unit* owner or *Mortgagee*. The insurer issuing the policy may not cancel or refuse to renew it until 20 days after notice of the proposed cancellation or nonrenewal has been mailed to the *Association*, each *Unit* owner and each *Mortgagee* to whom a certificate or memorandum of insurance has been issued at their respective last known addresses.
- (h) Any portion of the condominium for which insurance is required under this section which is damaged or destroyed shall be repaired or replaced promptly by the *Association* unless:
 - (1) The condominium is terminated;
 - (2) repair or replacement would be illegal under any state or local health or safety statute or ordinance; or
 - (3) 80% of the *Unit* owners, including every owner of a *Unit* or assigned *Limited Common Element* which will not be rebuilt, vote not to rebuild.

The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense. If the entire condominium is not repaired or replaced:

- (1) The insurance proceeds attributable to the damaged *Common Elements* shall be used to restore the damaged area to a condition compatible with the remainder of the condominium;
- (2) the insurance proceeds attributable to *Units* and *Limited Common Elements* which are not rebuilt shall be distributed to the owners of those *Units* and the owners of the *Units* to which those *Limited Common Elements* were allocated or to their respective lien holders as their interests may appear; and
- (3) the remainder of the proceeds shall be distributed to all the *Unit* owners or lien holders as their interests may appear in proportion to the *Common Element* interests of all the *Unit* owners. If the *Unit* owners vote not to rebuild any *Unit*, that *Unit's Allocated Interests* are automatically reallocated upon the vote as if the *Unit* had been condemned under section 1601-107, subsection (a) of the Maine Condominium Act, and the *Association* promptly shall prepare, execute and *Record* an amendment to the *Declaration* reflecting

the reallocations. Notwithstanding the provisions of this subsection, section 1602-118 of the Maine Condominium Act governs the distribution of insurance proceeds if the condominium is terminated. In the event that there are multiple Buildings or locations, insurance may be written on a "blanket" basis. Such hazard insurance policy may, at the option of the *Association*, contain a "deductible" provision, in an amount to be determined by the *Board of Directors*. However, the maximum deductible amount is the lesser of \$10,000 or 1% of the policy face amount. Funds to cover these deductible amounts should be included in the operating reserve account that is maintained by the owners' *Association* but not less than \$1000.

If the *Board of Directors* fails within sixty (60) days after the date of an insured loss to start a claim for damages recoverable under the policy or policies obtained under to this paragraph (a), any *Mortgagee* may start such a claim on behalf of the *Association*.

- (i) The *Association* shall also maintain, to the extent reasonably available:
 - (1) Workers compensation. Such worker's compensation insurance as applicable laws may require. Independent contractors must provide the *Association* with appropriate certificates of insurance.
 - (2) Directors and Officers insurance. Insurance to satisfy the indemnification obligation of the *Association* and all *Unit* owners set out in Article 10, if and to the extent available, including but not limited to insurance coverage commonly referred to as "Directors and Officers Insurance".
 - (3) Bond. A blanket bond to cover treasurers and other *Association* members who handle money of the *Association*.

Section 9.2. Further Provisions.

Insurance obtained by the *Association* shall be in accordance with the following provisions:

(a) All policies shall be written with a company authorized to do business in the State of Maine and, for the hazard insurance policy described in Section 9.1. (a), such company must hold a general policy holder's rating of at least "B+" by Best's Insurance Reports at time of insurance or by an equivalent rating bureau should Best's Insurance Reports cease to be issued.

(b) The *Board of Directors*, or its representative, has exclusive authority to adjust losses under policies.

(c) Each *Unit* owner may obtain additional insurance at his own expense; provided, however, that:

- (1) such policies shall not be invalidated by the waivers of subrogation required to be contained in policies required by this *Declaration*; and
- (2) no *Unit* owner shall be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount

which the *Association* may realize under any insurance policy which the *Association* may have in force on the *Property* at any particular time.

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

(e) The liability of the insurer shall not be affected by, and the insurer shall not claim, any right of set-off, counterclaim, apportionment, proration, or contribution by reason of any other insurance obtained by or for any *Unit* owner;

(f) The insurer shall be relieved from no liability for loss occurring while the hazard to the *Property* is increased, whether or not within the knowledge or control of the *Board of Directors*, or because of any breach of warranty or condition or any other act or neglect by the *Board of Directors*, or any *Unit* owner or any other person under either of them;

(g) Such policies may not be canceled nor may coverage thereunder be substantially changed (whether or not requested by the *Board of Directors*) except by the insurer giving at least twenty (20) days' prior written notice thereof to the *Board of Directors*, the *Insurance Trustee*, if any, *Unit* owners, each holder of a first mortgage which is listed as a scheduled holder of a first mortgage in such policies, and every other party in interest who shall have requested such notice of the insurer.

(h) Insurance policies under Section 9.1 (a) shall contain a standard *Mortgagee* clause which shall:

- (1) provide that any reference to a *Mortgagee* in such policy shall mean and include all holders of mortgages of any *Unit* in their respective order and preference, whether or not named therein;
 - (2) provide that such insurance as to the interest of any *Mortgagee* shall not be invalidated by any act or neglect of the *Board of Directors* or *Unit* owners or any persons under any of them;
 - (3) Waive any provision invalidating such *Mortgagee* clauses caused by reason of the failure of any *Mortgagee* to notify the insurer of any hazardous use or vacancy, and requirement that the *Mortgagee* pay any premium thereon, and any contribution clause; and
 - (4) Provide that without affecting any protection afforded by such *Mortgagee* clause, any proceeds payable under such policy shall be payable to the *Insurance Trustee* designated by the *Board of Directors* for that purpose, otherwise to the *Association*.
- (i) Property insurance provided under Section 9.1 (a) shall contain the following endorsements:
- (1) Agreed Amount Replacement Cost and Inflation Guard Endorsement, when it can be obtained;
 - (2) Construction Code Endorsements, if there is a construction code

provision that requires changes to undamaged portions of the Building even when only part of the Condominium is destroyed by an insured hazard.

Section 9.3. Insurance Trustee and Power of Attorney.

The *Board of Directors* may designate as an insured, on behalf of the *Association*, the *Association's* authorized representative, including any trustee with whom the *Association* may enter into any *Insurance Trust Agreement* or any successor to such trustee (known as the "*Insurance Trustee*"), who shall have the exclusive authority to negotiate losses under any policy providing such property or liability insurance.

Section 9.4. Repair of Damage or Destruction.

The repair or replacement of any damaged or destroyed portion of the Condominium shall comply with Sections 1603-113(e) and (h) of the Act.

Section 9.5. Flood Insurance; Additional Insurance.

The *Board of Directors* shall carry Flood insurance if the *Property* is in a flood hazard zone as determined by federal flood hazard maps.

The *Board of Directors* may obtain additional insurance which it deems advisable.

ARTICLE 10 - LIMITATION OF LIABILITY

Section 10.1 Indemnification of Officers, Directors, Employees and Agents; Insurance.

The *Association* shall in all cases indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he is or was a director, officer, employee or agent of the *Association*, or is or was serving at the request of the *Association* as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses, including attorneys' fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding; provided that no indemnification shall be provided for any person with respect to any matter as to which he shall have been finally adjudicated in any action, suit or proceeding not to have acted in good faith in the reasonable belief that his action was in the best interests of the *Association* or, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order or conviction adverse to such person, or by settlement or plea of nolo contendere or its equivalent, shall not of itself create a presumption that such person did not act in

good faith in the reasonable belief that his action was in the best interests of the corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

Section 10.2. Successful Defense; Mandatory Indemnity against Expenses.

Any provision of subsections 10.1 or 10.3 to the contrary notwithstanding, to the extent that a director, officer, employee or agent of the *Association* has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 10.1, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses, including attorneys' fees, actually and reasonably incurred by him in connection therewith. The right to indemnification granted by this section may be enforced by a separate action against the *Association*, if an order for indemnification is not entered by a court in the action, suit or proceeding wherein he was successful on the merits or otherwise.

Section 10.3. Indemnity Made by Association.

Any indemnification under section 10.1, unless ordered by a court or required by the *Bylaws*, shall be made by the *Association* only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in section 10.1. Such determination shall be made by the *Board of Directors* by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or if such a quorum is not obtainable, or even if obtainable, if a quorum of disinterested directors so directs, by independent legal counsel in a written opinion. Such a determination, once made by the *Board of Directors* may not be revoked by the *Board of Directors*, and upon the making of such determination by the *Board of Directors*, the director, officer, employee or agent may enforce the indemnification against the *Association* by a separate action notwithstanding any attempted or actual subsequent action by the *Board of Directors*.

Section 10.4. Expenses Incurred in Civil or Criminal Action.

Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the *Association* in advance of the final disposition of such action, suit or proceeding as authorized by the *Board of Directors* in the manner provided in Section 10.3 upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount, unless it shall ultimately be determined that he is entitled to be indemnified by the *Association* as authorized in this section.

Section 10.5. Provisions of Indemnification.

The indemnification provided by this section shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any agreement,

vote of disinterested directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person. A right to indemnification may be enforced by a separate action against the *Association*, if an order for indemnification has not been entered by a court in any action, suit or proceeding in respect to which indemnification is sought.

Section 10.6. Provisions of the Maine Nonprofit Corporation Act.

The provisions of Article 10 restate the requirements of 13-B M.R.S.A, Section 714 of the Nonprofit Corporation Act. The provisions above shall be considered to be amended to conform to any mandatory provisions of Section 714 or any other applicable law.

ARTICLE 11 - UNITS SUBJECT TO CONDOMINIUM DOCUMENTS; EMINENT DOMAIN

Section 11.1. Applicability of Condominium Documents.

The provisions of *Condominium Documents*, the Act, and the deeds to *Units* shall apply to all owners, tenants, occupants and *Mortgagees* of *Units*. The acceptance of a deed or mortgage to any *Unit*, or the entering into of a lease or the entering into occupancy of any *Unit* shall constitute an agreement to comply with the Act, the *Condominium Documents* and the deed. However, nothing contained in this *Declaration* shall impose upon any tenant or *Mortgagee* of a *Unit* any obligation which the Act or the *Condominium Documents* make applicable only to *Unit* owners (including the obligation to pay assessments for *Common Expenses*). All of such provisions shall be covenants running with the land and shall bind any person having at any time any interest or estate in such *Unit*, as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease. The *Association* and any aggrieved *Unit* owner shall have a right of action against *Unit* owners who fail to comply with the provisions of the *Condominium Documents* or with decisions made by the *Association* or the *Board of Directors*. Aggrieved *Unit* owners shall have similar rights of action against the *Association*.

Section 11.2. Eminent Domain.

Whenever all or part of the *Common Elements* shall be taken, injured or destroyed by eminent domain, each *Unit* owner shall be entitled to notice of that fact and shall be entitled to participate in the eminent domain proceedings. However, the *Association* shall officially represent the *Unit* owners in such proceedings. In any proceedings for the determination of damages, such damage shall be determined for such taking, injury or destruction as a whole and not for each *Unit* owner's interest and any award for such damage shall be payable to the *Association* for the benefit of the *Unit* owners and of the *Mortgagees* of the *Units*.

Section 11.3. Unit Owner's Rights and Duties.

Each *Unit* estate owner in a condominium project shall be subject to all the rights and duties assigned to owners under the terms of this *Declaration*. When there are unsold *Units* in the project, the *Declarant* also enjoys the same rights and assumes the same duties as they relate to each individual unsold *Unit*.

ARTICLE 12 - BOARD OF DIRECTORS OF THE ASSOCIATION

Section 12.1. Members of the Board.

(a) The initial *Board of Directors* shall consist of 3 members. The members of the initial *Board of Directors* shall be appointed, removed and replaced from time to time by the *Declarant* without the necessity of obtaining resignations. The *Declarant*-appointed members of the *Board of Directors* shall be replaced with *Unit* owners other than the *Declarant* under the provisions of paragraph (b) of this Section 12.1.

(b) The transition from *Declarant*-appointed members of the *Board of Directors* to *Unit* owners other than the *Declarant* shall occur as follows:

- (1) No later than the earlier of (i) sixty (60) days after the conveyance of 75% of the maximum number of *Units* authorized under this *Declaration* *Unit* owners other than the *Declarant* or (ii) seven (7) years following conveyance of the first *Unit* to a *Unit* owner other than the *Declarant*, members of the *Board of Directors* appointed by the *Declarant* shall resign and the *Unit* owners (including the *Declarant* to the extent of *Units* owned by the *Declarant*) shall elect five (5) new members of the *Board of Directors*.
- (2) The members of this *Board of Directors* shall serve until the first regular election of the *Board of Directors* held at the first regular meeting of the *Association* held in accordance with the *Bylaws*.
- (c) The *Board of Directors* shall have all of the duties and powers granted to the *Board of Directors* by the Act.

Section 12.1-A. Power of the Board; Limitations of Authority.

Except as provided in this *Declaration*, the *Bylaws*, and in this Section, the *Board of Directors* may act in all instances on behalf of the *Association*.

The *Board* may not act on behalf of the *Association* to amend the *Declaration*, to terminate the Condominium, or to elect members of the *Board* or determine the qualifications, powers and duties, or terms of office of *Board* members, but the *Board* may fill vacancies in its membership for the unexpired portion of any term. The *Board's* authority over budgets is subject to veto by *Unit* owners in accordance with the Maine Condominium Act. Rules adopted by the *Board* may be repealed or amended by *Unit* owners in accordance with Section 7.6 of this *Declaration*.

Section 12.2. Disputes Between Unit Owners.

The *Board of Directors* has the power to decide any dispute or disagreement between any *Unit* owners other than *Declarant* relating to the *Property*. The *Board of Directors* also has the power to make a final and binding decision about the interpretation and application of the provisions of the *Condominium Documents*. The *Board of Directors* or any *Unit* owner shall have the authority to seek a declaratory judgment or other appropriate judicial relief in order to assist it in carrying out its responsibilities under this Section 12.2. All costs of obtaining such a judgment shall be borne by the disputants, or in the absence of disputants, by the *Association* as a Common Expense. Disputes between one or more *Unit* owners and the *Declarant* are governed by Section 19.8.

Section 12.3. Abating and Enjoining Violations by Unit Owners and Others.

The *Board of Directors* and any aggrieved *Unit* owner have a right of action in court to enjoin, abate or remedy any violation of the *Condominium Documents* by *Unit* owners. *Unit* owners have a similar right of action against the *Association*.

Section 12.4. Authorization to Borrow.

The *Board of Directors* shall have the authority to borrow money from lending institutions to finance operations, capital improvements or other expenditures, in such amounts and upon such terms as it deems advisable without vote of *Unit* owners. The Board is specifically given the authority to assign its right to future income to secure payment of such loans. This authorization is meant to satisfy the proviso found in Section 1603-102 (14) of the Maine Condominium Act, which allows such assignment only "to the extent the *Declaration* so provides."

ARTICLE 13 - MANAGEMENT

The *Association* may employ a professional experienced managing agent who shall oversee the daily operation of the Condominium in accordance with the Act and the *Condominium Documents*. No agreement for such professional management of the Condominium may exceed a term of three (3) years but may be renewed upon consent of the *Association*. Such agreement shall be cancelable by either party without cause and without a termination fee upon not less than sixty (60) days nor more than ninety (90) days' written notice. It can be canceled by the *Board of Directors* with cause upon not less than thirty (30) days written notice. Any agreement for professional management negotiated by the *Declarant* shall not exceed one (1) year but may be renewed upon consent of the *Association*.

ARTICLE 14 - ASSESSMENTS; LIABILITY OF UNIT OWNERS

Section 14.1. Power to Assess.

The *Association*, acting through the *Board of Directors* in accordance with the

Bylaws, shall have the power to determine the sums necessary and adequate to provide for the *Common Expenses*, including reserve funds as set forth in this Article.

The condominium is subject to the "Declaration of Affordable and Elderly Housing Covenants", recorded in the York County Registry of Deeds at Book _____, page _____.

Violations of these covenants shall be deemed to be a violation of this *Declaration of Condominium*. The *Association* will have all remedies given to it under the Maine Condominium Act for violations of rules and regulations, including the power under Section 1603-102 (a) (11) of the Maine Condominium Act to assess fines for violations and for those fines to become a lien against the unit under Section 1603-116 of the Act.

Section 14.2. Special Assessments.

If the cash requirement estimated at the beginning of any fiscal year is not sufficient, the *Board of Directors* shall have the power to levy one or more *Special Assessments* against each *Unit* owner. *Special Assessments* shall be due and payable in the manner and on the date set forth in the notice given to *Unit* owners by the *Board of Directors*.

Section 14.3. Payment of Assessments.

There will be no *Common Expense* assessments until *Declarant* relinquishes the right to name the members of the *Board of Directors* pursuant to Section 12.1 of this Declaration. Until then, the *Declarant* shall pay all the *Common Expenses*. After any assessment has been made by the *Association*, assessments thereafter must be made at least annually, based on a budget adopted at least annually by the *Association*. Assessments that are unpaid for over fifteen (15) days after the due date shall bear interest at eighteen percent (18%) per annum from the due date until paid. In the sole discretion of the *Board of Directors*, an additional assessment of \$25.00 per assessment not paid when due may be charged.

There shall be a reduced assessment for unsold *Units* created and owned by the *Declarant* which are not occupied. The size of the reduced assessment shall bear a fair and proportionate relation to the *Common Expenses* attributed with that *Unit*. *Declarant* shall pay only that portion of the *Common Expense* Assessment which benefits his unoccupied, unsold *Units*.

Section 14.4. Failure to Fix New Assessments.

If there is a failure to fix new *Periodic Assessments* as required by the *Bylaws*, the *Unit* owners shall pay the *Periodic Assessments* at the existing rate. If the *Board of Directors* changes the *Periodic Assessment* later, the difference between the new *Periodic Assessment*, if greater, and the previous *Periodic Assessment* (up to the effective date of the new *Periodic Assessment*) shall be treated as if it were a *Special Assessment* under Section 14.2; thereafter each *Unit* owner shall pay the new *Periodic Assessment*. In the event the new *Periodic Assessment* is less than the previous year's

Periodic Assessment, the *Board of Directors* may refund the surplus to the *Unit* owners, credit the surplus against future *Periodic Assessments* or retain the surplus for reserves.

Section 14.5. No Exemption by Waiver.

No *Unit* owner may exempt himself from liability for the *Common Expenses* by waiver of the enjoyment of the right to use any of the *Common Elements* or by the abandonment of his *Unit* or otherwise.

Section 14.6. Personal Liability of Unit Owners.

Unit owners are personally liable for unpaid *Periodic* and *Special Assessments* assessed against their *Unit*. These assessments also constitute a lien against the *Unit*, pursuant to Section 1603-116 of the Act. The *Association* may sue the delinquent *Unit* owner for failure to pay any assessment or other charges pursuant to Section 1603-116 of the Act. The *Association* may also foreclose on a *Unit*, pursuant to the Act. The delinquent owner shall be obligated to pay (a) all expenses of the *Board of Directors*, including reasonable attorneys' fees (if the *Association* is the prevailing party), incurred in the collection of the delinquent assessment by legal proceedings or otherwise, and (b) any amounts paid by the *Board of Directors* for taxes or on account of superior liens or otherwise to protect its lien, which expenses and amounts, together with accrued interest, shall be deemed to constitute part of the delinquent assessment and shall be collectible as such.

Section 14.7. Liability of Purchaser for Unpaid Assessments.

Upon the voluntary sale, conveyance or any other voluntary transfer of a *Unit* or any interest in a *Unit*, the grantee shall not be personally liable (and the *Unit* shall not be subject to a lien) for unpaid assessments accrued prior to the time of transfer, for amounts in excess of the amounts set forth in any Resale Certificate provided by the *Association*, unless such grantee agrees to assume the obligation. The *Unit* remains subject to the lien for unpaid assessments as set forth in the resale certificate and for all unpaid assessments if a resale certificate is not obtained.

Section 14.8. Subordination of Certain Charges.

Any *Periodic Assessments* or any fees, charges, late charges, fines and interest that may be levied by the *Association* according to Section 1603-102 of the Act shall be subordinate to any first mortgage lien *Recorded* before such *Periodic Assessments*, fee, charge, late charge, fine or interest was due.

Section 14.9. Working Capital Fund.

Declarant shall establish a working capital fund equal to a minimum of two (2) months estimated *Common Expense Liability*. Each *Unit's* share of the working capital fund shall be collected from the *Unit* purchaser upon the initial transfer of title from the *Declarant* to the purchaser and shall be transferred to the *Association* for deposit in a

segregated working capital fund that shall be maintained in the same account for the use and benefit of the *Association*. The amount paid by the *Unit* purchaser shall not be considered as advance payment of the normal *Common Expense* Liability and no *Unit* owner shall be entitled to a refund of these monies by the *Association* upon the subsequent conveyance of his *Unit* or otherwise. The *Declarant* may not use the working capital fund to defray any of its expenses, reserve contributions or construction costs or to make up any budget deficits while it is in control of the *Association*.

Section 14.10. Surplus.

Unless otherwise decided by the *Board of Directors*, any amounts accumulated from assessments for *Common Expenses* which are more than the amount required for actual *Common Expenses* and reserves, shall be credited to each *Unit* owner, and shall reduce future payments for *Common Expenses* otherwise required of *Unit* owners.

Section 14.11. Service Charges.

The *Association* shall have the express power to separately charge a *Unit* and the owner thereof for services rendered to that *Unit*. Such charges shall be a lien on the *Unit* with the same status as a lien for *Common Expense* Assessments under this *Declaration* and *Bylaws*, which lien for service charges may be foreclosed in a 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:

A. If a *Unit* owner, members of his family, guests or tenants, requests the *Association* to perform repair and maintenance work on his *Unit*, damages the *Common Elements*, or fails to perform maintenance and repair work required, the expense thereof as determined by the *Board of Directors* or its designee maybe assessed as a service charge.

B. Fees, if any, which may be established by the *Board of Directors* for the use and maintenance of water, sewer, heat and/or other utility services.

C. Insurance premiums on permanent improvements to *Units* or adjacent *Common Elements* installed by *Unit* owners and insured by the request of the *Unit* owner with the *Association's* hazard insurance carrier.

D. Charges for management, reservation, repairs, and any other rental services provided to *Units* by the *Association*, its agents or designees, and rental fees for the leasing or renting of *Units* arranged by the *Association*, its agents and licensees, at the request of the *Unit* owner.

Section 14.12. Mandatory Reserve Funds.

Within one year of the time the first periodic assessments are made against *Unit* owners, and periodically thereafter as the *Board of Directors* shall determine, the *Association* shall establish and maintain an adequate reserve fund for the replacement of improvements to the common elements and those limited common elements that it is obligated to maintain. The fund shall be maintained out of regular assessments for common expenses.

Section 14.13. Charges Upon Resale of a Unit.

The *Association* is authorized to establish a charge assessed to either the transferor or the transferee on resales of *Units* to cover the costs to the *Association* incurred because of the transfer. The *Association* may also establish a standard charge against transferors or transferees upon transfer to help fund improvements to the *Property*, or as a membership fee.

ARTICLE 15 - DEVELOPMENT RIGHTS AND SPECIAL DECLARANT RIGHTS

Section 15.1. Reservation of Development Rights.

The *Declarant* reserves *Development Rights* for a period of twenty (20) years over the entire property described in Exhibit A and Exhibit A-1, except as set forth below. *Development Rights* may be exercised with respect to different parcels of real estate at different times. No assurances are made with respect to the boundaries of portions of the *Property* for which *Development Rights* will be exercised. If a *Development Right* is exercised in any portion of the *Property* subject to that *Development Right*, no assurances are made that the *Development Right* must be exercised in all or in any other portion of the remainder of that *Property*.

a. *Declarant* reserves the right to create up to 40 additional *Units* and *Limited Common Elements* appurtenant to such *Units* on the land described in Exhibit A. This conversion creating additional *Units* and *Limited Common Elements* is to be composed of up to 14 buildings plus accompanying parking and *Limited Common Elements*. These additional Building or Buildings, *Units* and *Limited Common Elements* NEED NOT BE BUILT. Upon addition of each such Building it shall be fully integrated into the Condominium as if this *Declaration* had been originally executed and *Recorded* containing the additional building and the *Allocated Interest* of the *Units* shall be reallocated in accordance with the formulas set forth in Article 5 of this *Declaration* and as more particularly set forth in the amendment adding the Building or Buildings.

b. Rights to Add or Withdraw Real Estate from the Condominium.

Declarant reserves the right to add the real estate described in Exhibit A-1 attached hereto to the Condominium. *Declarant* also reserves the right to withdraw real estate described in Exhibit A and in Exhibit A-1 not required for the legal existence of the Condominium, from the Condominium, provided, however, that legal access to the Condominium *Property* for vehicular and pedestrian access, and for utilities, shall in all instances be preserved.

c. Right to Create Additional *Units*, *Common Elements* and *Limited Common Elements* in the Condominium.

Declarant reserves the right to create up to 10 additional *Units* on any land described in Exhibit A-1, if the *Declarant* is able to acquire such land and obtain approval from state and municipal authorities for such development. This conversion

creating additional *Units* and *Limited Common Elements* is to be composed of up to five additional buildings plus roadways and accompanying parking and *Limited Common Elements*. These additional Buildings, *Units* and *Limited Common Elements* NEED NOT BE BUILT. Upon addition of each such Building it shall be fully integrated into the Condominium as if this *Declaration* had been originally executed and *Recorded* containing the additional Building and the *Allocated Interest* of the *Units* shall be reallocated in accordance with the formulas set forth in Article 5 of this *Declaration* and as more particularly set forth in the amendment adding the Building or Buildings.

Development Rights may be exercised with respect to different parcels of real estate at different times. No assurances are made with respect to the boundaries of portions of the *Property* for which *Development Rights* will be exercised. If a *Development Right* is exercised in any portion of the *Property* subject to that *Development Right*, no assurances are made that the *Development Right* must be exercised in all or in any other portion of the remainder of that *Property*.

Declarant has created 14 *Units* in the Condominium which are physically unbuilt. These *Units* have legal existence since they have been created in this *Declaration*. Declarant reserves all rights to physically construct buildings reasonably conforming to the *Unit* boundaries as shown on the *Plats and Plans*, taking into account standard variances in exact location common in the construction industry.

c. Subdivision of *Units*. The *Declarant* reserves no rights to subdivide *Units*.

d. Conversion of *Units* to *Common Elements*. The *Declarant* reserves the right to convert *Units* which it owns, to *Common Elements*.

To exercise any rights under this Section the *Declarant* shall prepare, execute and *Record* an amendment to the *Declaration* pursuant to the Condominium Act, which amendment shall include a Plat and *Plans* as required by the Condominium Act to the extent not previously *Recorded*. This amendment shall become effective without the consent of any other person, except that the exercise of some *Development Rights* will require the approval of regulatory authorities of the Town of Wells.

Section 15.2. Reservation of Special Declarant Rights.

The *Declarant* reserves for itself the Special Declarant Rights set out in Section 6.1, Declarant's Easement Rights and Other Rights, Section 14.1, rights: Members of the Board; Section 15.1, Development Rights and all other Special Declarant Rights created in this Declaration.

Section 15.3. Amendment or Modification of Article 15.

Neither this Article nor any *Special Declarant Rights* set out elsewhere in this *Declaration* shall be amended or waived without the consent of the Declarant duly *Recorded* in the County Registry of Deeds.

ARTICLE 16 - ASSIGNABILITY OF DECLARANT'S RIGHTS.

The benefits of Article 15 and all other *Special Declarant Rights* of *Declarant* set

forth in this *Declaration*, the *Bylaws* or otherwise, as amended from time to time, may be transferred by *Recorded* instrument specifically referring to this Section and executed by *Declarant* and its successors or assignees.

ARTICLE 17 - AMENDMENT OF DECLARATION

Section 17.1. General Rule: Sixty-Seven Percent Approval Required for Amendments.

Sixty-Seven Percent of all votes in the *Association* (not just those who vote) are required to adopt amendments to the *Declaration*. Amendments may also require consent of Mortgage Holders or *Eligible Mortgage Holders*, as set forth in this *Declaration*.

Section 17.2. Exceptions to Sixty-Seven Percent rule; Amendments as to Particular Matters.

The following amendments are subject to their own particular requirements and do not require the 67% vote set forth in Section 17.1.

1. The *Declarant* shall make conforming amendments to the *Declaration* and the *Plats* and *Plans* upon the exercise of any *Development Right* set forth in Article 15.
2. The *Board of Directors* shall make conforming amendments to the *Declaration* and the *Plats* and *Plans* upon the following events and *Record* the amendments in the Registry of Deeds in order for them to become effective. The Board may charge affected *Unit* owners its cost incurred in doing so, including but not limited to the cost of survey, attorney=s fees and *Recording* costs.
 - a. Taking of a portion of the *Property* by eminent domain or the termination of the condominium.
 - b. The relocation of boundaries between adjoining *Units*, approved by the affected *Unit* owners, to the extent allowed by this *Declaration* and the Maine Condominium Act.
3. The *Board of Directors* may make conforming amendments as set out in Sections 8.6 and 17.8 of this *Declaration*.

Section 17.3. Meeting not Required.

Amendments do not have to be approved by vote at a meeting of *Unit* owners. Approval may be obtained by mail or other method.

Section 17. 4 One year to challenge.

No action to challenge the validity of an amendment adopted by the *Association* pursuant to this section may be brought more than one year after the amendment is *Recorded*.

Section 17.5. Recording required to be Effective; Association Officer to

Certify and Record Amendments.

Every amendment to the *Declaration* must be *Recorded* and is effective only upon *Recordation*. Notice of the amendment shall be sent to all *Unit* owners and *Mortgagees* known to the *Board of Directors*, but failure to send such notices shall not affect the validity of the amendment. Amendments to the *Declaration* required by this Act to be *Recorded* by the *Association* shall be prepared, executed, *Recorded* and certified on behalf of the *Association* by any officer of the *Association* designated for that purpose or, in the absence of designation, by the president of the *Association*.

Section 17.6 Unanimous Vote Required in Some Cases.

Except to the extent expressly permitted or required by other provisions of the Maine Condominium Act or this *Declaration*, unanimous consent of all *Unit* owners, not just those who vote, is required for any amendment which would:

- a. create or increase Special *Declarant* Rights;
- b. increase the number of *Units*;
- c. change the boundaries of any *Unit*;
- d. change the *Allocated Interests* of a *Unit*;
- e. change the uses to which any *Unit* is restricted.

This section does not affect the right of the *Declarant* to exercise rights reserved in this *Declaration*.

Section 17.7. Further Approval of Eligible Mortgage Holders Required for Material Changes.

In addition, approval of amendments of a material nature must be obtained from owners who represent at least 67% of the total allocated votes in the owners' *Association* and *Eligible Mortgage Holders* representing at least fifty-one percent (51%) of the votes of *Units* that are subject to mortgages held by eligible holders. A change to any of the following would be considered as material:

- (a) Voting rights;
- (b) Increases in assessments that raise the previously assessed amount by more than 25%, assessment liens or the priority of assessment liens;
- (c) Reductions in reserves for maintenance, repair and replacement of *Common Elements*;
- (d) Responsibility for maintenance and repairs;
- (e) Reallocation of interests in the Common or *Limited Common Elements*, or rights to their use;
- (f) Redefinition of any *Unit* boundaries;
- (g) Convertibility of *Units* into *Common Elements* or vice versa;
- (h) Expansion or contraction of the Condominium, or the addition, annexation or withdrawal of property to or from the Condominium
- (i) Hazard or fidelity insurance requirements;
- (j) Imposition of any restrictions on leasing of *Units*;

- (k) Imposition of any restrictions on a *Unit* owner's right to sell or transfer his or her *Unit*;
- (l) A decision by the owners' *Association* of a project that consists of 50 or more *Units* to establish self-management if professional management had been required previously by the *Declaration* or an *Eligible Mortgage Holder*;
- (m) Restoration or repair of the Condominium (after damage or partial condemnation) in a manner other than that specified in the *Condominium Documents*;
- (n) Any action to terminate the legal status of the Condominium after substantial destruction or condemnation occurs; or
- (o) Any provisions that expressly benefit mortgage holders, insurers or guarantors.

If the amendment is not of such material nature, the approval of a *Mortgagee* may be assumed when that *Mortgagee* has failed to submit a response to any written proposal for an amendment within thirty (30) days after the proposal is made.

Section 17.8. Corrective Amendments.

For clarity, this *Declaration* restates portions of the Maine Condominium Act and other applicable law in effect at the time this *Declaration* is *Recorded*. Such laws may be amended from time to time, making the *Declaration* inconsistent with such laws. If any amendment is necessary in the judgment of the *Board of Directors* to cure any ambiguity or to correct or supplement any provision of this *Declaration* that is defective, missing or inconsistent with any other provision of the Maine Condominium Act or any applicable law, then the *Board of Directors*, acting through the President or any Vice President, may amend this *Declaration* without the approval of the *Unit* owners or the holders of any liens on all or any part of the *Property*, upon receipt by the *Board of Directors* of a written opinion from legal counsel to the effect that the proposed amendment is permitted by the terms of this sentence. The amendment must specifically cite this section of the *Declaration*.

If the *Declarant* or *Association* determines that a typographical error, misnomer, inadvertent omission or any other error has been made in this *Declaration* and *Bylaws* or any amendment hereto, the *Declarant* or *Association* shall have the right, and hereby reserves the right, to correct any such error by an instrument executed by the *Declarant* making reference to this Article, and upon such instrument being *Recorded* with the Registry of Deeds, such error shall be deemed to have been corrected as fully and with the same force and effect as if such error were not ever made. No such amendment, however, shall adversely affect any substantive rights or interests of any *Unit* Owner in his or her *Unit* or the common areas and facilities in any material way, without such *Unit* Owner's written consent.

ARTICLE 18 – TERMINATION, CONDEMNATION, DESTRUCTION AND

LIQUIDATION.

Any action to terminate the legal status of the project after substantial destruction or condemnation occurs must be agreed to by *Unit* owners who represent at least 80% of the total allocated votes in the owners' *Association* and by *Eligible Mortgage Holders* that represent at least 51% of the votes of the *Unit* estates that are subject to mortgages held by eligible holders. Implied approval will be assumed when an *Eligible Mortgage Holder* fails to submit a response to any written proposal for an amendment within 30 days after it receives proper notice of the proposal, provided the notice was delivered by certified or registered mail, with a "return receipt" requested.

Termination of the legal status of the project for reasons other than substantial destruction or condemnation of the *Property* must be agreed to by *Unit* owners who represent at least 80% of the total allocated votes in the owners' *Association* and by *Eligible Mortgage Holders* that represent at least 67% of the votes of the mortgaged *Units*. Implied approval will be assumed when an *Eligible Mortgage Holder* fails to submit a response to any written proposal for an amendment within 30 days after it receives proper notice of the proposal, provided the notice was delivered by certified or registered mail, with a "return receipt" requested.

Termination of the Condominium will be governed by the provisions of Section 1602-118 of the Act.

ARTICLE 19 - GENERAL PROVISIONS**Section 19.1. Headings.**

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

Section 19.2. Severability.

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

Section 19.3. Applicable Law.

This *Declaration* shall be governed and construed according to the laws of the State of Maine.

Section 19.4. Interpretation.

The provisions of this *Declaration* shall be liberally construed in order to effect

Declarant's desire to create a uniform plan for development and operation of the Condominium.

Section 19.5. Effective Date.

This *Declaration* shall become effective when it and the *Plats* and *Plans* have been *Recorded*.

Section 19.6. Notices.

All notices and other communications required or permitted to be given under or in connection with this *Declaration* shall be in writing and shall be deemed given when delivered in person or on the second business day after the day on which mailed by certified mail, return receipt requested, addressed to the address maintained in the register of current addresses established by the *Association*.

Section 19.7. Exhibits.

All exhibits attached to this *Declaration* are hereby made a part of this *Declaration*.

Section 19.8. 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 shall be conclusive and binding upon the *Unit* owners. All claims, disputes and other matters in question between the *Declarant*, on the one hand, and the *Association* or any *Unit* owners on the other hand, arising out of or relating to, this *Declaration*, the *Bylaws*, or the deed to any *Unit* or the breach thereof, except for claims which have been waived by the acceptance of a deed, shall be submitted to arbitration in accordance with the Maine Uniform Arbitration Act, 14 M.R.S.A §5927 et seq. This agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law. The award rendered by the arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereon. Notice of demand for arbitration shall be filed in writing with the other parties and with the American Arbitration *Association*. The demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations or other principles of law and equity.

IN WITNESS WHEREOF, the *Declarant* has caused this *Declaration* to be duly executed as of the day and year first above written.

WITNESS

Forest Village Condominium North, LLC

By Evergreen Partners Development Corporation,
Sole member

Ronald Murro, Chairman

STATE OF MAINE,
County of York, ss.

_____, 2005 .

Then personally appeared the above named Robert Satter, President of Evergreen Partners Development Corporation, sole member of Forest Village Condominium North, LLC, and acknowledged the foregoing instrument to be his free act and deed in said capacity.

Before me,

Justice of the Peace - Notary
Public

(for Notaries), My commission
expires

PRINT NAME

EXHIBIT A TO DECLARATION - DESCRIPTION OF REAL ESTATE

A certain lot or parcel of land together with the buildings thereon, located on the northwesterly side of Route One (AKA Post Road), in the Town of Wells, County of York, State of Maine and being more particularly bounded and described as follows:

BEGINNING on the northwesterly side of the said Route One at the easterly corner of land, now or formerly, of RARED Company, Inc., said place of beginning being marked by a found iron pipe with surveyor's identification cap scribed "PLS 1311";

Thence, N57°58'00"W, 137.59 feet, by the said RARED's land, to a found iron rod with surveyor's identification cap scribed "PLS 1311";

Thence, N30°22'35"W, 41.85 feet, by the said RARED's land, to a found iron rod with surveyor's identification cap scribed "PLS 1311";

Thence N57°59'22"W, 42.13 feet, by the said RARED's land, to a found iron rod with surveyor's identification cap scribed "PLS 1311";

Thence, S59°53'44"W, 21.91 feet, by the said RARED's land, to a found iron rod with surveyor's identification cap scribed "PLS 1311";

Thence, N57°58'00"W, 203.45 feet, by the said RARED's land, to a found iron rod with a Civil Consultants identification cap;

Thence, S60°41'31"W, 106.34 feet, by the said RARED's land, to land, now or formerly, of The Wellington Manor Condominium, and being marked by a found iron rod with a Civil Consultants identification cap;

Thence, N57°57'01"W, 398.22 feet, by the said Wellington Manor Condominium land, to land, now or formerly of William Z. & Dena T. Boston, and being marked by a found granite bound;

Thence, N32°02'56"E, 213.18 feet, by the said Boston's' land, to a found iron rod with a Civil Consultants identification cap;

Thence, N57°21'44"W, 441.16 feet, by the said Boston's land, to a point at the beginning of a stonewall;

Thence, N54°23'18"W, 90.16 feet, by the said Boston's land and land, now or formerly of the Town of Wells, to a point in said stonewall

Thence, N60°23'13"W, 70.34 feet, by the said Town of Wells land, to a point in said stonewall;

Thence, N59°39'25"W, 101.34 feet, by the said Town of Wells land, to a point in said stonewall;

Thence, N54°29'58"W, 40.94 feet, by the said Town of Wells land, to a point at the end of said stonewall;

Thence, N58°15'45"W, 22.90 feet, to a point at land, now or formerly, of the Boston and Maine Railroad;

Thence, N50°54'11"E, 243.44 feet, by the said Railroad's land, to a found iron rod with a Civil Consultants identification cap;

Thence, N49°54'13"E, 494.23 feet, by the said Railroad's land, to a found iron rod with identification cap scribed "BRUCKLER" at land, now or formerly, of Gloria T. Pickett & Spencer Pickett;

Thence, S65°32'58"E, 546.09 feet, to land, now or formerly, of Janet L. and Arnold Massirman and being marked by a found iron rod;

Thence, S72°36'28"E, 21.48 feet, by the said Massirman's land, to a point at a 24 inch maple tree;

Thence, S16°32'02"W, 84.04 feet, by the said Massirman's land, to a point at or near the beginning of a stonewall;

Thence, S55°05'43"E, 47.34 feet, by the said Massirman's land, along said stone wall, to a point;

Thence, S57°06'46"E, 147.85 feet, by the said Massirman's land, along said stone wall, to a drill hole or concrete bound, to be set at land, now or formerly of Robert Rozeff;

Thence, S32°53'14"W, 421.21 feet, by the said Rozeff's land, to a drill hole or concrete bound, to be set;

Thence, S57°34'04"E, by the said Rozeff's land, passing on line at 124.59 feet, a found granite bound and continuing for a total of 337.07 feet to land, now or formerly, of Anne E. Eastman and being marked by a found granite bound;

Thence, S57°08'17"E, 136.49 feet, by the said Eastman's land, to a drill hole or concrete bound, to be set at land, now or formerly, of Muriel P. & William L. Cotter;

Thence, S32°51'40"W, 125.30 feet, by the said Cotter's land, to a drill hole or concrete bound, to be set;

Thence S 05 deg 04' 22" E by a commercial lot reserved by Forest Village Condominium North, LLC, a distance of 146.21 feet to a concrete monument or drill hole;

Thence, in a generally southeasterly direction, by land of said commercial lot, on a curve to the left having a radius of 200.00 feet a distance of 92.39 feet to a point, said point being located S 18 deg 18' 22" E a distance of 91.57 feet from the previous marker;

Thence running in a southeasterly or easterly direction on a curve to the left having a radius of 10 feet, a distance of 15.71 feet to the easterly sideline of U.S. Route 1, said point being located S 76 deg. 32' 23" E a distance of 14.14 feet from the previous marker;

Thence, S58°27'37"W, 88.45 feet, by the said Route One, TO THE PLACE OF BEGINNING, containing 21.37 acres, more or less

Subject to the covenants and easements found in deed to Robert M. Rozeff dated June 15, 2005 and recorded in the York County Registry of Deeds, Book 14496, page 16, and also in an instrument found at Book 14496, page 19

The above described parcel is based on a plan by by Attar Engineering, being the final Site and Subdivision Plan, Forest Village Condominium North, dated August 22, 2005, to be recorded in the York County Registry of Deeds.

**EXHIBIT A-1 TO DECLARATION - DESCRIPTION OF REAL ESTATE
WHICH MAY BE ADDED TO CONDOMINIUM**

1. All or a portion of land owned by the Town of Wells, or others, being designated on the Wells Tax Maps as Tax Map 139, Lot 14.exe.
2. All or a portion of land of Robert Rozeff, more particularly described as being the remaining portion of the land described in deed to Ida and Joseph Rozeff by deed of Frederick Lavin et al recorded in the York County Registry of Deeds at Book 1286, page 581, and being shown on the Town of Wells Tax Maps as Map 139, lot 20.
3. All or a portion of land of Anne E. Eastman, more particularly described as being the same premises described in deed of George W. Lane, Jr., et al to Anne E. Lane, recorded in the York County Registry of Deeds at Book 9399, page 340, and being shown on the Town of Wells Tax Maps as Map 139, lot 19.

EXHIBIT B TO DECLARATION - PERCENTAGE INTEREST IN COMMON ELEMENTS AND VOTING RIGHTS

| UNIT # | PERCENTAGE INTEREST | VOTES | COMMON EXPENSE LIABILITY |
|---------------|----------------------------|--------------|---------------------------------|
| 1-14 | 7.14% each | 1 each | 7.14% each |

EXHIBIT C TO DECLARATION - REDUCED COPIES OF PLATS AND PLANS

See attached copies

EXHIBIT D TO DECLARATION – COPY OF ROZEFF EASEMENT

See attached copies