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Register of Deeds

DECLARATION OF CONDOMINIUM
GRAND VICTORIAN HOTEL CONDOMINIUM

THIS DECLARATION OF CONDOMINIUM (the "Declaration") is made by GRAND VICTORIAN, LLC, a Maine limited liability company, (the "Declarant") pursuant to the Maine Condominium Act, Chapter 31 of Title 33 of the Maine Revised Statutes of 1964, as amended (the "Act"), as the owner in fee simple of the Real Estate hereinafter described.

ARTICLE I
CREATION OF CONDOMINIUM; DEFINED TERMS

Section 1.1 Property. The Declarant, the owner in fee simple of the real estate described in Exhibit A annexed hereto and made a part hereof, (the "Real Estate") situated in the Town of Old Orchard Beach, County of York and State of Maine hereby submits the Real Estate, together with and subject to all easements, rights, privileges and appurtenances thereunto belonging, and the Buildings and improvements erected or to be erected thereon (collectively, the "Property") to the provisions of the Act, and creates with respect to the Property a condominium as defined in Section 1601-103(7) of the Act (the "Condominium"). The name of the Condominium is the GRAND VICTORIAN HOTEL CONDOMINIUM. The name of the Association is the GRAND VICTORIAN HOTEL CONDOMINIUM ASSOCIATION. The Condominium is located in the Town of Old Orchard Beach, County of York, and State of Maine and the address of the Condominium is 4 Old Orchard Street, Old Orchard Beach, Maine.

As set forth in this Declaration, the Declarant reserves various Special Declarant Rights, Development Rights and easements, including without limitation the rights to physically construct and legally create additional Condominium units of differing types, to add additional land to the Condominium, to create and allocate Limited Common Elements and to construct improvements.

The Property and the proposed location and dimensions of the Buildings and other improvements which may be erected on the Property, including without limitation portions of the Common Elements and the Limited Common Elements, are shown on the Condominium Plat dated November 18, 2005 revised through January 6, 2006 prepared by Mitchell and Associates (the "Plat") recorded in said Registry of Deeds in Condominium File # 626, Page 2, a reduced copy of which is attached hereto as Exhibit C, and also are depicted in a Site Plan approved by the Town of Old Orchard Beach Planning Board on December 30, 2004, recorded in Condominium File 626, Page 1. The proposed location and dimensions of the Units together with other portions of the Common Elements and Limited Common Elements are depicted on the Floor Plans entitled "Grand Victorian Hotel Condominium" dated January 6, 2006, consisting of sheets "C0" through "C11" prepared by CWS Architects, and recorded in said Registry of Deeds in Condominium File # 626, Pages 3 through 14 (the "Plans"), reduced copies of which are also attached hereto as Exhibit C.

The proposed location and dimensions of each Building, Unit, Common Elements and the Limited Common Elements are subject to change by the Declarant until such time as the Unit, Common Elements, and the Limited Common Elements are legally created, and such improvements need not be built or may be built with configurations and locations different than those shown on the Plat and Plans, as further appears below.

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

Section 1.3 Defined Terms. Capitalized terms not otherwise defined in this Declaration or on the Plat and Plans shall have the meanings specified in the Act. The terms set forth below, not defined elsewhere in this Declaration or in the Plat and Plans, shall have the following specific meanings:

(a) "Allocated Interests" means the Common Element Interest, the Common Expense Liability and the voting rights in the Association allocated to each Unit pursuant to this Declaration, reference being made to the attached Exhibit B.

(b) "Association" means the association of the Unit Owners of the Condominium known as "Grand Victorian Hotel Association," organized pursuant to Section 1603-101 of the Act as a nonprofit corporation under the Maine Nonprofit Corporation Act.

(c) "Building" means any building now or hereafter erected on the Property containing or constituting, one or more Units as well as other improvements comprising a part of a Building or intended to be used for purposes incidental to the use of a Building. The term "Building" shall mean and include the singular or plural.

(d) "Bylaws" means the regulations providing for the governance of the Association as are adopted pursuant to Section 1603-106 of the Act and this Declaration for the regulation and management of the Property, including such amendments thereof as may be adopted from time to time with the initial Bylaws being attached hereto as Exhibit F.

(e) "Class" means a type of Unit allocated by type of use, initially consisting only of "Residential/Hotel Class" Units #201, 202, 203, 204, 301, 302, 303, 304, 401, 402, 403, 404, 501, 502, 503, and 504, "Commercial Class" Unit 101, and "Plaza Class" Unit 103. Pursuant to the exercise of Special Declarant and Development Rights held by the Declarant, additional Residential/Hotel Class Units, Commercial Class Units, and appurtenant Limited Common Elements may be created. The limitation on the use of, and other matters pertaining to, the Class Units shall be derived from the express restrictions set forth in, and provisions of, this Declaration and not from the Class name.

(f) "Common Elements" or, singularly, "Common Element," shall mean all portions of the Condominium other than the Units, and shall include Limited Common Elements.

(g) "Common Element Interest" means the percentage of undivided interest in the Common Elements appurtenant to each Unit.

(h) "Common Expenses" mean and include, but are not limited to, (a) the cost of maintenance, management, operation, repair, renovation, restoration and replacement of the Common Elements and such Limited Common Elements and such parts of the Units as to which pursuant to this Declaration it is the responsibility of the Association to maintain, repair and replace, (b) the cost of all insurance premiums on all policies of insurance required to be or which have been obtained by the Executive Board(s) pursuant to the provisions of this Declaration and the fees and disbursements of the Insurance Trustee, if any, (c) such amounts as the Executive Board(s) may deem necessary to provide for general operating reserve funds, reserve funds for replacements and contingencies, and such other reserve funds as may be required by the Bylaws or as the Executive Board(s) may periodically establish in its discretion, (d) sums that the Executive Board(s) may deem necessary or appropriate to compensate for any deficits in receipts over expenses for the previous fiscal year, and (e) the charges and fees for energy, electricity, heat, water, and sewer services furnished to the Condominium to the extent not separately metered to individual Units or Classes of Units, and charged to individual Unit Owners; and (f) such other costs and expenses that may be declared by the Act, this Declaration, the Bylaws, or by resolution or agreement by the Executive Board(s), Unit Owners, or any two or more of the foregoing, to be Common Expenses of the administration, operation, maintenance and repair of the Condominium and Property and the rendering to Unit Owners of all related services. PROVIDED HOWEVER that to the maximum extent feasible, expenses which differ by Class of Unit shall be allocated to that Class of Unit, and shall be allocated within that Class based on the relative Common Expense Liability of the Units in that Class.

(i) "Common Expense Liability" means the allocation to each Unit of the respective liability for Common Expenses based on the percentage of the Common Element Interest appurtenant to the respective Unit. For expenses allocated within a Class of Unit, such percentage liability shall be allocated based on the relative Common Expense Liability of the Units in that Class.

(j) "Condominium" means the Condominium described in Section 1.1 above.

(k) "Condominium Documents" mean the Declaration, the Plats and Plans, the Bylaws and the Rules and Regulations and all amendments thereto.

(l) "Convertible Real Estate" means all real estate included with the Condominium Property with respect to which the Declarant shall have the Development Right to create Units, Common Elements and Limited Common Elements pursuant to the provisions of this Declaration and the Act, generally consisting of all Condominium Property, but excluding the initial Residential/Hotel Class Units created by this Declaration.

(m)"Declarant" means Grand Victorian, LLC, its successors and assigns, in accordance with the Act.

(n) "Declarant Control Period" means the entire time period which extends from the date of the recording of this Declaration until the earlier of seven (7) years following the conveyance of the first Unit to a Purchaser other than a conveyance to the Declarant, or sixty (60) days after the conveyance of 75% of the maximum number of Units which may be created hereunder to Unit Owners other than the Declarant, whichever shall first occur.

(o) "Declaration" means this document, as the same may be amended from time to time.

(p) "Development Rights" shall have the meaning provided in Section 1601-103(11) of the Act and shall include the Development Rights granted under this Declaration.

(q) "Divisible Units" means any portion of the initial Commercial Class Unit 101 and any portion of any Commercial Class Unit that is subsequently created and designated by the Declarant as being divisible into additional Commercial Class Units, Common Elements, and/or Limited Common Elements pursuant to this Declaration and Sections 1602-110 and 1601-103(11) of the Act (Residential/Hotel Class and the Plaza Units are not divisible).

(r) "Eligible Insurer" means an insurer or governmental guarantor of a Mortgage held by an Eligible Mortgage Holder which has delivered written notice to the Association by prepaid United States Mail, return receipt requested, or by delivery in hand securing a receipt therefore, stating the name and address of such insurer or guarantor and containing the same information and statements with respect to such insurer or guarantor that are required pursuant to the following subsection with respect to such Eligible Mortgage Holder.

(s) "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 shall state the name and address of the mortgagee's, the Unit Owner's name and address and the identifying number of the Unit, and stating that the mortgage is a recorded first mortgage.

(t) "Executive Board" or "Executive Board(s)" means the Executive Board of the Association, which is divided into two Classes of Board members, with one such class separately elected by the Commercial-Plaza Classes of Unit owners and one by the Residential/Hotel Class of Unit owners.

(u) "Insurance Trust Agreement" means that agreement, if any, between the Association and the insurance Trustee, providing for the management and disbursement of insurance proceeds in accordance with the provisions hereof and of the Act.

(v) "Insurance Trustee" means that certain entity responsible for the management and disbursement of insurance proceeds pursuant to the Insurance Trust Agreement, if any.

(w) "Limited Common Elements" or, singularly, "Limited Common Element" means those parts of the Property described in the Act, the Plat and Plans, or herein as being Limited Common Elements.

(x) "Limited Common Expenses" mean (a) the Common Expenses associated with the maintenance, repair, utilities, heat, or replacement of a Limited Common Element which shall be assessed against the Units or Classes of Units to which that Limited Common Element is assigned in proportion to the relative Common Expense Liabilities of such Units as between themselves, as the Executive Board(s) may periodically determine or as provided in this Declaration, and (b) the Common Expenses for services benefiting fewer than all the Units, which are assessed exclusively against the Units or Classes of Units benefited in accordance with the use of such services as permitted by Section 1603-115(c) of the Act or as provided in this Declaration.

(y) "Majority Vote" or "Majority of Unit Owners" mean a vote by the Owners of those Units to which are allocated more than 50% in voting interest of the then existing Votes in the Association that are cast in person or by proxy at any meeting of the Association at which a quorum is present in person or by proxy, but for votes within a Class of Units shall mean more than 50% in voting interest of the votes in that Class. Except as otherwise provided, any specified percentage of Unit Owners means a vote by the Owners of those Units to which are allocated the same specified percentage of the Votes in the Association (or if applicable, the relative percentage of the Votes in the Class of Units in question) that are cast in person or by proxy at any meeting of the Association at which a quorum is present in person or by proxy; for all voting purposes each Unit Owner shall have a vote equal to the Votes in the Association allocated to his Unit. The approval by a specified percentage of Eligible Mortgage Holders is based upon the number of Votes on the Unit(s) covered by the Mortgage for each Mortgage held.

(z) "Monthly Assessment" means the Unit Owner's share of the Common Expenses and Limited Common Expenses, allocated by Unit, for each month of the Association's fiscal year as reflected in the budget adopted by the Executive Board(s) for such year.

(aa) "Mortgage" means a recorded mortgage or deed of trust encumbering a Unit in the Condominium held by a Mortgagee or an Eligible Mortgage Holder. "Mortgagee" means the holder of a Mortgage.

(bb) "Percentage Interest" means the undivided interest in the Common Elements appurtenant to a Unit as set forth in Exhibit B attached, as the same may be amended from time to time, but subject to the Class voting provisions set forth herein.

(cc) "Property" means the Property described in Section 1.1 above.

(dd) "Plat and Plans" means the Plat and Plans recorded in the York County Registry of Deeds ("Registry") as amended from time to time in accordance with this Declaration and the Act, and reduced photocopies of which are annexed as Exhibit C.

(ee) "Recorded" means that an instrument has been recorded in the Registry.

(ff) "Rules and Regulations" shall mean such rules and regulations as are promulgated by the Declarant or the Executive Board with respect to the use of the Property.

(gg) "Service Charges" shall mean: (i) charges arising from requests by a Unit Owner, members of his family, guests or tenants requests the Association or its agent to perform repair and maintenance work on or provide services to or for the benefit of his Unit or Limited Common Elements for which the Unit is responsible for the maintenance of, or damages the Common Elements or from the failure to perform maintenance and repair work required, the expense thereof as determined by the Executive Board or its designee may be assessed as a Service Charge; and (ii) fees, if any, which may be established by the Executive Board for the use and maintenance of heat, air conditioning, water, sewer, and/or other utility services and equipment, measured separately by such methods and systems established by the Executive Board in their discretion, and at the election of the Executive Board, the expense of capital improvements, major repairs or renovations to the heat, air conditioning, water and sewer supply systems may be assessed either as a Common Expense or as a Service Charge and/or other utility services and equipment, which may include a common hearting system if later installed.

(hh) "Special Assessment" shall mean a Unit Owner's share of any assessment made by the Executive Board(s) in addition to the Monthly Assessment.

(ii) "Special Declarant Rights" have the meaning provided in Section 1601-103 (25) of the Act and include the rights which the Declarant has reserved to itself in Section 6 and elsewhere in this Declaration.

(jj) "Unit" means a part of the Property designated for any type of separate ownership or occupancy, which has a direct exit to a public street or way, or to a Common Element or Limited Common Element leading to a public street or way. The "Size" of each Unit is the number of square feet set forth in the Plans or Exhibit B, which shall control over any inconsistent measurement.

Section 1.4 Allocated Interests. The Allocated Interests of the Units initially created under this Declaration are set forth in Exhibit B. For each Unit subsequently created pursuant to this Declaration, its Allocated Interests shall be set forth in an amendment to Exhibit B, and a description of such Unit including each Unit's identifying number, the locations and dimensions of the vertical boundaries and horizontal boundaries of each Unit, the Common Elements to which the Unit has direct access, and any other information necessary to identify the Unit shall be shown on the Plat and Plans.

The percentage of each Unit's Common Element Interest and Common Expense Liability is calculated by multiplying by one hundred (100) the quotient resulting from dividing the square feet of floor area in each respective Unit by the total square feet of floor area of all the Units in the Condominium as shown on the Plat and Plans, including those Units subsequently added by amendments to this Declaration, provided however that for the Plaza Unit the calculations shall

be adjusted by first reducing the floor area of the Plaza Unit by 90% such that only 10% of the Plaza Unit's floor area shall be counted in determining the Plaza Unit's Common Element Interest and Common Expense Liability.

Each Residential/Hotel Class Unit in the Association shall have one (1) vote. The Commercial and Plaza Class Units, in the aggregate, shall be allocated votes equal to one half (1/2) of the total number of Residential/Hotel Class votes outstanding from time to time, which votes shall be apportioned within the Commercial and Plaza Units based on their relative Common Expense Liability, rounded up to the nearest whole vote. In the event of a discrepancy between the Allocated Interests set forth in Exhibit B and the result derived from the foregoing formulas, the formulas shall prevail over the stated Allocated Interests absent manifest error. For all purposes of this Declaration, the determination of the percentage of votes cast in favor of, or in opposition to, a proposal or measure shall be done without rounding.

Section 1.5 Interpretation. In the event of any conflict or discrepancy between this Declaration, the Bylaws, and the Plat and Plans, the provisions of this Declaration shall govern the Bylaws and the Plat and Plans. Further, the provisions of the Act shall apply to and govern the operation and governance of the Condominium, except that contrary provisions contained herein, not otherwise prohibited by the Act, shall control.

ARTICLE II
UNITS, UNIT BOUNDARIES, AND MAINTENANCE

Section 2.1 Number and Classes of Units. The Declarant hereby creates sixteen (16) initial Residential/Hotel Class Units consisting of Units 201, 202, 203, 204, 301, 302, 303, 304, 401, 402, 403, 404, 501 502, 503 and 504, one initial (1) Commercial Class Unit consisting of Unit 101, which shall be a Divisible Unit, and the sole Plaza Unit 103, all as identified in Exhibit B.

The Classes of Units consist of the following:

(a) Residential/Hotel Class. Generally these Units are resistricted to residential occupancy as set forth in this Declaration and are composed of all Units located above the first floor and are to be members of the "Residential/Hotel Class" of Units. No such Units shall be Divisible.

(b) Commercial Class. Generally these Units are located on the first floor of the Building which consist of unimproved, shell spaces to be completed by, and at the expense of, the Unit Owners with custom designed interiors. All Commercial Units will be Divisible.

(c) Plaza Class. Generally this Unit consists of the open air "Plaza" Unit 103 as shown on the Plat and related improvements. Such Unit shall not be Divisible.

The Declarant has reserved the rights to redesignate the location and configuration of future Residential Units and Commercial Units, all as further appears herein.

Section 2.2 General Unit Boundaries and Unit Components. Except for the open air "Plaza" Unit, the identifying number and boundary lines of each Unit are described in the Plat and Plans, and the Unit boundaries are formed by the following planes:

(a) Horizontal Boundaries: The upper and lower boundaries of each such Unit shall be the following boundaries, extended to an intersection with the vertical boundaries of the each Unit:

(1) Upper Boundary: The horizontal plane running along the lower or the Unit-side surfaces of the concrete plank or support structure separating the Unit from an adjoining Unit or Common Element. For Residential/Hotel Units such boundary is located generally at the intersection with the non-Unit-side horizontal surface of the gypsum-board, sheetrock or other materials, if any, forming the ceiling which separates such Unit from an adjoining Unit or Common Element. For the Commercial Class Units, the Unit shall generally include the areas located between the non-Unit-side surface of the acoustical ceiling tile or other ceiling material and the lower surface of the concrete plank or support structure above.

(2) Lower Boundary: In the case of a first floor Unit, the horizontal plane of the Unit-side surface of the undecorated concrete slab set on pilings, or, in the case of a Unit located above the first floor, the unit-side surface of the undecorated concrete plank support structure which separates such Unit from the adjoining Unit or Common Element.

(b) Vertical Boundaries: The vertical boundaries of each such Unit shall generally be the vertical planes at the Unit-side surfaces of such exterior walls as are adjacent to such Unit at the exterior-side surfaces of the gypsum-board, sheetrock, or other wall materials forming its vertical walls, extended to the intersections with each other and with the upper and lower Unit boundaries or the exterior-side surface of the interior walls of a Building which separate such Unit from an adjoining Unit or Common Element, the Unit to include the thickness of the finish drywall material.

(c) The Unit shall also include the Unit-side surfaces of the sash of windows which are set in the exterior walls or roofs of such Unit, the exterior surface of the glass panes of such windows and the Unit-side surface of fixed window sills, moldings, trim, jambs and mullions for such windows, which shall include the thickness of the paint, finish or decorative materials.

(d) The interior surface of doors, and their sills and hardware (including peep-holes, if any), and the Unit-side surface of the door frames in which such doors are set, including the thickness of the paint, finish or decorative materials, shall be a part of the Unit.

(e) Each Unit consists of all areas within such boundary lines, excluding however: (i) the air space displaced by structural members and load bearing partitions, other than the finish materials such as paint, plaster or drywall, within or passing through such Unit which are deemed to be Common Elements, (ii) sprinkler systems and life safety equipment installed in the Unit, including but not limited to smoke and fire detectors and alarms and their wiring and controls, and (iii) other Common Elements within such Unit including, without limitation, utility chases, chimneys, flues, ducts, wires, conduits and pipes which serve more than one Unit.

Each Unit shall include:

(i) the air space enclosed by such boundary lines;

(ii) all non-load bearing partitions and other improvements which are wholly contained within such boundary lines including, but not limited to, all interior doors, door frames, hardware;

(iii) electrical, wiring, equipment, outlets and lighting devices from the point where the feed wire enters the Unit's circuit breaker distribution box inwards, whether or not they are located within the general boundaries of the Unit;

(iv) the portions of water and sewer utility lines, pipes and equipment serving only that Unit and located within its general boundary lines as herein described;

(v) individual heating, ventilating and air conditioning systems and components (HVAC and plumbing) and water heaters serving only such Unit, whether or not they are located within the general boundaries of the Unit,

(vi) all items of kitchen and plumbing equipment, including without limitation, refrigerators, ranges, dishwashers, bathtubs, sinks, drains, shut offs, and other appliances and the portions of their water, waste, electrical and exhaust connections located within such boundary lines and serving only such Unit;

(vii) exhaust fans and the grills, registers, ventilation ducts, and related fixtures, and screens and storm windows, which serve only such Unit, whether or not they are located within the general boundaries of the Unit;

(viii) lighting devices (including by way of illustration and not limitation, lamps and bulbs which are surface mounted on, recessed in or suspended from, ceilings, walls and partitions within or around the perimeter of such Unit) serving only such Unit, whether or not such lighting devices are themselves located entirely within the boundary lines of such Unit;

(ix) outlets, wires, cables, conduits, circuits and related equipment transmitting electrical impulses and signals (including, but not limited to, impulses and signals for telephone, internet and television transmission, except to the extent otherwise specifically provided herein) which serve only such Unit and which are located entirely within the boundary lines of such Unit; and

(x) surface mounted and recessed medicine cabinets, including without limitation, by way of illustration and not limitation, all associated lighting fixtures and accessories.

(f). The Declarant reserves the right to alter the foregoing boundaries at the time of the creation of any future Unit created pursuant to the exercise of Special Declarant Rights and Development Rights.

Section 2.3 Open Air Plaza Unit 103.

(a) The boundaries of the Plaza Unit 103, shall be as shown on the Plat and shall generally consist of:

(i) Horizontal Boundaries: The upper and lower boundaries are generally the following boundaries extended to an intersection with the vertical (perimeter) boundaries.

(A) Upper Boundary: The upper unit boundary for the Plaza Unit shall be thirty-three (33) feet above mean sea level as measured on the date hereof. The air space above the upper unit boundary is a Common Element.

(B) Lower Boundary: The lower unit boundary is the plane located seventy feet below the upper unit boundary, or thirty-seven (37) feet below mean sea level as measured on the date hereof; provided, however, that except as otherwise approved by appropriate federal, State or municipal authorities, the improved finished surface of the Plaza Unit shall be and remain at thirteen (13) feet above mean sea level as measured on the date hereof; and provided, further, that such land below the improved surface of the Unit is subject to a non-exclusive easement in favor of the Declarant, and the Condominium Association on behalf of the unit owners, to construct, maintain, alter, repair, and replace utilities and like improvements on and underneath the finished surface of the Plaza Unit so long as any disturbed area is immediately restored to its condition prior to any such maintenance, repair or replacement.

(ii) Vertical Boundaries: The vertical boundaries shall be the perimeter of the Unit area as shown on the Plat.

(b) Subject to (i) the limitations set forth in the following paragraph (ii) all applicable zoning requirements, land use regulations, and the other provisions of this Declaration and (iii) the easement for access to the Pier referred to in Exhibit A and on the Plat, the owner of the Plaza Unit 103 may: (i) construct or cause to be constructed within the Unit temporary ("temporary" meaning improvements that are capable of being removed from such Unit without undue effort for at least one day in each calendar year, or such other meaning given to the term under applicable land use regulations of the Maine Department of Environmental Protection) structures, buildings and kiosks (all of which shall be personal property and shall not constitute part of the Unit) in the areas shown on the Plat, not to exceed a height of 27 feet above mean sea level as measured on the date hereof; (ii) install light poles, landscaping and plantings, utility connections, accessories and movable improvments anywhere within the Unit, and maintain any existing improvments, including the stand located in the easement area; (iii) cover or enclose all

or part of the Unit (by installing awnings, plexiglas or otherwise), except that the maximum height of any enclosure shall not exceed the Unit's Upper Boundary hereinabove set forth; (iv) may make additions, improvements and alterations to the Limited Common Elements underneath the land at the Lower Boundary of the Unit, or rearrange or change the location of temporary structures, buildings and kiosks; and (v) paint, alter, maintain, repair and replace all elements of the Unit and appurtenant Limited Common Elements, including changes in the appearance of the Unit.

All such improvements shall be consistent with the design, the Victorian architectual style, and the quality of construction of the initial Building. All improvements and structures constructed, improved, modified, renovated or altered in any way on or within any portion of the Plaza Unit 103 and Limited Common Elements shall be designed by and built in accordance with plans and specifications subject to the written approval of a majority of the members of the Commercial/Plaza Class Executive Board, which approval shall not be unreasonably withheld. Further provided however, no such Plaza Unit Owner may make any improvements or alterations or do any work whatsoever which would impair the structural integrity or the utility, mechanical systems or the sprinkler or life safety systems of the Property, lessen the support of any other portion of the Property, or jeopardize the soundness or safety of the Property. Nothing contained herein shall constitute a waiver of any applicable governmental regulation or requirement.

Section 2.4 Legal Relocation of Unit Boundaries. Relocation of boundaries between Units will be permitted subject to compliance with the provisions therefor in Section 1602-112 of the Act, subject to compliance with any conditions, restrictions or requirements imposed by land use regulations and laws and subject to the unanimous consent of all Unit Owners. The cost for preparation and recordation of any documents required for the relocation of boundaries between Units shall be chargeable to the Units involved as a Special Assessment.

Section 2.5 Physical Alteration of Partitions between Units.

If the record owners of the subject Unit(s) affirmatively elect, with the written approval of the Executive Board of the Association based on each owner's compliance with the standards set forth hereinafter, all to be evidenced by a recorded instrument duly executed and acknowledged, that portion of the Common Elements located between the boundary lines of adjoining Units or located between a Unit and an adjoining Limited Common Element (with the consent of any other Units sharing the same), may be thereby subjected to an easement in favor of each such Unit respectively running to the midpoint of the space between each Unit or to the Limited Common Element for the removal and alteration of any intervening partition and the creation of apertures therein for passage back and forth between the two Units or to the Limited Common Element, and for the installation of stairs, doors, windows and frames appurtenant thereto, without altering the Unit boundaries. The owners shall be strictly liable for any resulting damage. At all times after such election each Unit Owner shall preserve and maintain the structural integrity and architectural style, the mechanical and utility systems, and the support of all portions of the Property; and shall strictly comply with all fire, building code and other governmental laws, ordinances and requirements. Any such Unit Owner or his respective heirs, mortgagees or assigns, may at any time revoke such election by instrument duly executed and

acknowledged served on the other such owners and duly recorded, and thereafter may seal up passageways and/or remove the stairs, doors and their frames, and/or install a permanent wall, floor ceiling or other partitions, at all times preserving the structural integrity, the mechanical and utility systems and support of all portions of the Property. Nothing contained herein shall be deemed to merge or otherwise affect the separate identity, configuration or the boundaries of said Units.

Section 2.6 Alterations by Unit Owner. Subject to any applicable provisions of the Bylaws or Rules or Regulations of the Association or any other applicable provision of this Declaration, a Unit Owner may make nonstructural improvements and alterations to the interior of his Unit but no Unit Owner may make any improvements or alterations or do any work whatsoever which would impair the structural integrity or mechanical systems of Buildings, lessen the support of any portion of the Condominium or jeopardize the soundness or safety of the Property. No Unit Owner shall alter any of the Common Elements or paint or otherwise change the appearance of the Common Elements (including the Limited Common Elements) without the prior written approval of the Association Executive Board, or paint or otherwise change the exterior appearance of his Unit (including, but not limited to, the exterior surfaces or doors) or any other portion of the Condominium without the prior written approval of the Commercial/Plaza Class Executive Board or Residential/Hotel Class Executive Board of which his Unit is a member, as the case may be, or any committee appointed by such Board pursuant to the Bylaws.

Section 2.7 Maintenance Responsibilities. Notwithstanding the ownership of the various portions of the Common Elements and the Units by virtue of the foregoing boundary descriptions, the Units, Common Elements, and Limited Common Elements shall be maintained and repaired by each Unit Owner and by the Association in accordance with the provisions of Section 1603-107 of the Act, except as set forth in Article V of this Declaration or otherwise set forth to the contrary herein..

Section 2.8 Divisible Commercial Class Units. A Commercial Class Unit may be subdivided into two or more Commercial Class Units. The Owner of the Unit to be subdivided shall prepare, and the Association and such Owner shall execute and record an amendment to the Declaration and Plat and Plans, which shall: (a) delineate the boundaries of the new Units and any common areas such as hallways or restrooms serving two or more Units and which as part of such amendment may be designated Limited Common Elements allocable solely to the subdivided Units (and any other Owner who joins in such amendment); (b) specify the manner in which the percentage interest and any Limited Common Expenses allocable to the subdivided Units shall be borne; and (c) specify whether any of the Units so created shall continue to be Divisible Units.

ARTICLE III
COMMON ELEMENTS AND LIMITED COMMON ELEMENTS

Section 3.1 Description of Common Elements. The Common Elements are shown on the Plat and Plans and shall include those portions of the Building defined as such in Section

1602-102 (1) and (2) of the Act. The term "Common Elements" means the entire Property other than the Units, and includes:

i. The land, together with the benefit of and subject to all the accompanying rights and easements described in Exhibit A;

ii. The foundations, roof, exterior walls, attics, elevators, stairways, and all structural and load bearing portions of the Buildings;

iii. All utility lines, pipes, wires, electrical and transmission wires and conduits, the life safety, fire and smoke detection and alarm systems, the sprinkler system, all distribution pipes, and water and sewer utility lines which serve more than one Unit;

iv. The utility - trash storage facilities, the mechanical areas, and the central heating facilities; and

v. All other parts of the property necessary or convenient to its existence, maintenance and safety or normally in common use, except as otherwise expressly provided in this Declaration.

Section 3.2 Description of Limited Common Elements. Limited Common Elements shall mean those portions of the Common Elements of the Building or Property defined as such pursuant to Sections 1602-102(2) and (4) of the Act or as identified and designated as Limited Common Elements on the Plat and Plans, or in this Section. Those portions of the Limited Common Elements serving only the Unit or Classes of Units adjacent to or connected with such Limited Common Element are Limited Common Elements allocated only to the Unit or Classes of Units which they serve. Generally Limited Common Elements shall be allocated as follows:

i. Water, sewer or other utility lines, water heaters, electrical circuit breaker boxes and other fixtures designed to serve two or more Units in a Class but which are not a defined part of a Unit are Limited Common Elements allocated exclusively to that Class of Units;

ii. Water, sewer or other utility lines, water heaters, electrical circuit breaker boxes and other fixtures designed to serve a single Unit but which are not a defined part of the Unit are Limited Common Elements allocated exclusively to that Unit;

iii. The deck, patio, and other exterior areas shown and assigned to a specific Unit as Limited Common Elements on the Plans or Plat are Limited Common Elements allocated exclusively to that Unit, subject to the right of the Declarant to revise the boundaries of such spaces until the appurtenant Unit has been sold to a third party, with each Owner having the right to place furniture, plants and landscaping in such Limited Common Elements, as approved by and subject to such further Rules and Regulations as may be adopted and amended from time to time by the Executive Board of the Association and further provided that the ocean view from

another Unit may not be materially impaired, all as determined by the Executive Board;

iv. Any door and window and any other fixtures designed to serve a single Unit and located outside its boundary but which are not a defined part of the Unit are Limited Common Elements allocated exclusively to that Unit;

v. The portions of the Property allocated under Section 3.3 below; and

vi. The portions of the Property shown on the Plat and Plans or as described as Limited Common Elements pursuant to Section 1602-102(2) and (4) of the Act.

Except as otherwise set forth herein, the allocation of Limited Common Elements cannot be altered except in compliance with the Act, and with the consent of the Owners and Mortgagees of record of the Units affected by the reallocation of Limited Common Elements.

Section 3.3 Allocation of Specific Limited Common Elements. Supplementing Section 3.2, the following Common Elements shall also be allocated to Units or Classes of Units:

(a) Limited Common Elements appurtenant to the Residential/Hotel Class of Units consist of the following:

i. Each Residential/Hotel Class Unit shall be entitled to the exclusive use of one (1) exterior parking space as shown as Parking Limited Common Elements (PLCE) on the Plat and/or Plans.. Each PLCE shall be appurtenant to the Residential/Hotel Unit specified in Exhibit E attached hereto; PROVIDED, HOWEVER, that the Executive Board shall have the right and obligation, upon request and on a first come first served basis, to assign the handicapped parking spaces shown on the Plat to the Residential/Hotel Class Unit Owners which qualify for such handicapped spaces, and to reallocate the use of such spaces to a qualified Unit Owner when a Unit Owner is no longer eligible for such handicapped parking space. Such reallocation shall not require the consent of the affected Unit Owner(s) or an amendment to this Declaration, but shall be reflected in the records of the Association and upon the Resale Certificate in the event the affected Unit(s) is sold. The Association may install a gate to restrict access into the parking area and may require that any vehicles parked display an identification badge furnished by the Association; provided, however, that in the event a gate is installed, the Association may not limit access of delivery vehicles to the Commercial/Plaza Class Units;

ii. For the Residential/Hotel Class Units, the driveway servicing the foregoing parking spaces as shown on the Plat and/or Plans, subject to the right of the Commercial/Plaza Units to utilize the drive for deliveries to the Commercial and Plaza Units conducted in a manner which minimizes interference with parking use and during which time all vehicles shall be attended by a responsible driver;

iii. The lobby, hallways, stairways, elevators, elevator equipment and controls, swimming pool facilities, equipment and related area, changing room facilities, outside patio, and the laundry, maid and service areas designated on the Plans, subject to an easement in favor of the Commercial Units, their guests and invitees to allow handicapped persons to utilize the hallways and elevator necessary for access to the Commercial Units from the Common Elements, and also for access by all persons in the event of fire, medical or other emergency;

iv. The exterior patio area shown on the Plat and Plans adjoining the pool area and along the south side of the North Building, subject to the provision that an unobstructed egress route shall be provided from the Building exits

v. The trash disposal chutes located throughout the Buildings and the facilities and equipment located in the common trash facility area servicing the Residential/Hotel Class Units, whether or not depicted on the Plans; and

vi. The portions of the Property shown on the Plat and Plans or as described as Residential/Hotel Limited Common Elements pursuant to Section 1602-102(2) and (4) of the Condominium Act.

(b) Limited Common Elements appurtenant to the Commercial Class of Units consist of the following:

i. The hallways, stairs, patios, and other areas designated on the Plat and Plans subject to the provision that for the exterior deck and stairway Commercial Limited Common Elements, an unobstructed egress route shall be provided from the Building exits;

ii. The trash disposal equipment and facilities located in the common trash facility area servicing the Commercial and Plaza Units, even through not designated on the Plans;

iii. Any other portions of the Property shown on the Plat and Plans or as described as Commercial Limited Common Elements pursuant to Section 1602-102(2) and (4) of the Condominium Act;

iv. The exterior sign facade immediately above each Commercial Class Unit; and

v. The exhaust ducts, pipes and fans, as well as the exhaust discharge room, serving the Commercial Class Units, as shown on the Plat and Plans.

(c) Limited Common Elements appurtenant to the Plaza Class of Units consist of the following.

i. Water, sewer or other utility lines, electrical circuit breaker boxes and other fixtures designed to serve the Plaza Unit but which are not a defined part of a

Unit, are Limited Common Elements allocated to that Unit, subject to the easements set forth herein.

Section 3.4 Alteration of Common Elements by the Declarant. The Declarant reserves the right to modify, alter, remove or improve portions of the Common Elements, including, without limitation, any equipment, fixtures and appurtenances, when in the Declarant's judgment it is necessary or desirable to do so, until the date by which all members of the Executive Board must resign pursuant to Section 6.2 hereof. Such rights do not include rights to add or remove real estate not deemed to be fixtures.

Section 3.5 Common Elements to Remain Undivided. The Common Element Interest of a Unit shall be inseparable from each Unit, and any conveyance, lease, devise or other disposition or mortgage or other encumbrance of any Unit shall extend to and include the Common Element Interest, whether or not expressly referred to in the instrument effecting such transfer. The Common Elements shall remain undivided and no action for partition or division of any part thereof shall be permitted, unless otherwise provided by law and permitted by this Declaration.

Section 3.6 Use of Common Elements. Except as their use may otherwise be limited by this Declaration or the Bylaws or otherwise by the Executive Board pursuant to its powers, each Unit Owner, tenant and occupant of a Unit, and the family members and guests of such Unit Owner, tenant and occupant, may use the Common Elements in common with all other Unit Owners and tenants or occupants of other Units, and their respective family members and guests, in accordance with the purposes for which they are intended without hindering or encroaching upon the lawful rights or the other Unit Owners, upon the following terms:

(a) Any Unit Owner in default in the payment of any amount due to the Association or in violation of any provision of this Declaration, the Bylaws, or the rules and regulations of the Association, which violation continues for 30 days after written notice thereof by the Association to the Unit Owner may be prohibited by the Executive Board from the use and enjoyment of any and all of the Common Elements not essential to access to the Unit, in addition to all other remedies available to the Executive Board.

(b) Parking of motor vehicles by Unit Owners, and their immediate families, tenants, guests, visitors, and invitees shall be only in spaces in the Common Elements or the Residential/Hotel Limited Common Elements designated as spaces for parking. No unattended vehicle shall at any time be left in such a manner as to impede the passage of traffic or to impair access to parking areas.

(c) Residential/Hotel Class Unit Owners shall not erect fences, signs, canopies, clotheslines, awnings, or other structures, plant or remove trees or shrubs, or materially alter the grading or landscaping, or do any other thing which affects the appearance from the exterior of the Buildings or grounds, including Limited Common Elements, except as provided in this Declaration or in accordance with the written permission of the Executive Board or a Committee established by the Board.

The Commercial and Plaza Unit Owners may install signs and install temporary improvements in the Limited Common Elements appurtenant to such Units consistent with the design, the Victorian architectual style, and the quality of construction of the initial Building, subject to the written approval of a majority of the Commercial/Plaza Class members of the Executive Board, which approval shall not be unreasonably withheld. Further provided however, no such Unit Owners may make any improvements or alterations or do any work whatsoever which would impair the structural integrity or the utility, mechanical systems or the sprinkler or life safety systems of the Property, lessen the support of any other portion of the Property, or jeopardize the soundness or safety of the Property. The Plaza Unit Owner shall have the right to control access to the Plaza Unit. The Commercial Class Unit Owners shall have the right to install and mount security cameras and related security equipment on the Commercial Class Units Limited Common Elements. The Commercial/Plaza Class Units may install awnings attached to the Limited Common Elements or personal property appurtenant to such Units, and shall have the right to erect a flag pole, and raise a flag, atop each Building's two turrents, provided that such flags are of the United States, or other nation, the State of Maine, or other state or province, or the Town of Old Orchard Beach, or commemorating a nationally recognized holiday, and provided further that the Commercial/Plaza Class Unit Owners shall be responsible for the cost of maintenance and the appropriate use of such flags and flag poles.

(d) Except for such signs as may be posted by the Declarant for promotional or marketing purposes or as permitted in Subsection "(c)" above with respect to the Commercial and Plaza Units, no signs of any character shall be erected, posted or displayed upon, in, from or about any Unit or Common Element without the prior written approval of the Executive Board, except as otherwise expressly provided herein. Provided, however, that a Mortgagee in possession of a Unit as a result of foreclosure, judicial sale or a proceeding in lieu of foreclosure, may display or post one sign in the interior of such Unit, which sign shall not exceed two feet in either height or width.

(e) No Unit Owner shall obstruct any of the Common Elements nor shall any Unit Owner place or cause or permit anything to be placed on or in any of the Common Elements without the approval of two-thirds of the Executive Board, except that the owner of the Plaza Unit may locate vending machines or similar items in the Unit so long as the same does not result in any obstruction of the Common Elements. Further, in addition to any federal, State or local approvals that may be required, any material changes to the fences, landscaping, curbs, or other layout of the Common Elements or Limited Common Elements, as depicted on the Plat and Plans, shall require the approval of two-thirds of the Executive Board.

(f) The Executive Board, the Association, and the Declarant shall not be considered a bailee, however, of any personal property stored on the Common Elements or Limited Common Elements (including property located in vehicles parked on the Common Elements), whether or not exclusive possession of the particular area is given to

a Unit Owner for parking purposes, and shall not be responsible for the security of such personal property or for any loss or damage thereto, whether or not due to alleged negligence or other fault, except to the extent covered by insurance in excess of any applicable deductible.

ARTICLE IV
SPECIAL DECLARANT RIGHTS AND EASEMENTS

Section 4.1 Special Declarant Rights to Create Units and Limited Common Elements. The Declarant reserves the right but not the obligation until seven (7) years from the date of the recording of this Declaration pursuant to Section 1602-110 of the Condominium Act and this Declaration: (i) to create up to thirty-five (35) additional Residential/Hotel Class Units (which it is anticipated will be known as Units 200, 205-212, 300, 305-312, 400, 405-412, 505-512) for a total of up to fifty-one (51) Residential/Hotel Class Units with appurtenant Limited Common Elements, and (ii) to create up to one (1) additional Commercial Class Unit (anticipated to be known as Unit 102), with Common Elements and appurtenant Limited Common Elements. Such Commercial Class Unit shall be a Divisible Unit. Upon the addition of such Units, Limited Common Elements, Common Elements and improvements, which may occur in such stages and in such order as the Declarant determines, they shall be fully integrated into the Condominium as if this Declaration had been originally executed and recorded containing the additional Units, Common Elements and Limited Common Elements and the Allocated Interests of the Units shall be reallocated in accordance with the formulas set forth in this Declaration and as more particularly set forth in the amendment to this Declaration.

A Divisible Unit may be divided by any person from time to time without regard to the foregoing number of Commercial Class Units and without any restrictions on how many times or at what times the division may occur.

The projected location and approximate dimensions of the Units and Limited Common Elements for said additional Units is shown on the Plat and Plans. Said Buildings, Units and Limited Common Elements may be built at one time or separately, with the configurations or in the locations as shown on the Plat, but the DECLARANT EXPRESSLY RESERVES THE RIGHT TO VARY SUCH BUILDING, UNITS, LIMITED COMMON ELEMENTS, AND THEIR LOCATIONS AND TO SUBSTITUTE UNIT CLASSES in its discretion. Upon the addition of such Units, which may occur when, as, and if the Declarant determines, the Units shall be fully integrated into the Condominium as if this Declaration had been originally executed and recorded containing the additional Building Phase and the Allocated Interests of the Units shall be reallocated in accordance with the formulas set forth in this Declaration and as more particularly set forth in the amendment adding said Building(s).

All such future Units and Limited Common Elements shall be consistent with the initial Units and Limited Common Elements in terms of the quality of construction, general architectural style and principal materials, provided that the Declarant may substitute construction materials and techniques of equal or better quality. Upon the addition of Residential/Hotel Class Units to the Condominium, they must be substantially completed;

provided, however, that these limitations shall not apply to Commercial Class and Plaza Class Units to be completed by the purchaser and so designated in the instrument of transfer. All restrictions in or created by authority of this Declaration affecting the use, quality or alienation of Units or Class of Units, as may be applicable, shall apply. Declarant need not add any of said Units or any said Limited Common Elements to the Condominium and hence said Units and Limited Common Elements, as well as any improvements labeled "NNBB" on Exhibit B, NEED NOT BE BUILT. The Declarant must exercise its right hereunder within seven (7) years of the recording of this Declaration.

To exercise any rights under this Section, the Declarant shall prepare, execute and record an amendment to the Declaration pursuant to the Condominium Act. Each such amendment shall include a Plat and Plans as required by the Condominium Act to the extent not previously recorded. Each such amendment shall become effective upon recording without the consent of any other person. For each Unit subsequently created pursuant to this Declaration, the Allocated Interests of all Units shall revised in accordance with an amendment to Exhibit B, and a description of such Unit including each Unit's identifying number, the locations and dimensions of the vertical boundaries and horizontal boundaries of such Unit, the appurtenant Limited Common Elements, the Common Elements to which the Unit has direct access, and any other information necessary to identify or define the Unit shall be shown on the Plat and Plans as they may be revised. Upon addition of the Unit(s), the Condominium Executive Board, the Residential/Hotel Class Executive Board or the Commercial/Plaza Class Executive Board, as the case may be, may prepare a revised estimated budget in accordance with the Bylaws, and make revised Common Charges based thereon.

Section 4.2 Special Declarant Rights to Add Land. The Declarant reserves the permanent right but not the obligation to add additional land to the Condominium for the limited purpose of providing off-site parking to the Condominium. The location(s) of the land that may be subject to this Declarant Development Right is more particularly depicted in Exhibit D attached hereto. Declarant reserves the right to add such land at different times and in separate portions,and in such order as it deems appropriate, and such land when added need not be contiguous to the then existing Condominium Property. The Declarant may reserve Development Rights at the time of the addition of such land, including without limitation the rights to create and assign Limited Common Elements which may include additional parking and to charge Unit Owners for the assignment of such parking space Limited Common Elements but may not reserve the right to create more than the total number of Units set forth herein. All improvements shall be consistent with the initial improvments for quality of construction, and principal materials, provided that the Declarant may substitute construction materials and techniques of equal or better quality and may change the architectural style.

Section 4.3 General Special Declarant's Rights. The Declarant hereby reserves the rights:

(a) Until the construction, marketing and sale of all Units has been completed, including any future Units which may be created hereunder or located on the land which may be added, to locate in the Common Elements and Units of the Property, even though not depicted on the Plat

and Plans, and grant and reserve easements and rights-of-way for the installation, maintenance, repair, replacement and inspection of public utility lines, wires, pipes, conduits and facilities servicing or burdening the Property including, but not limited to, water, electric, telephone, cable television, fuel, sewer, and surface and subsurface drainage, provided however that no such easement shall be effective until of record, that no such easements may be granted through Units which are not then owned by the Declarant;

(b) Until the construction, marketing and sale of all Units has been completed, including any future Units which may be created hereunder, to connect with and make use of utility lines, wires, pipes and conduits located on the Property for construction and sales purposes, provided that the Declarant shall be responsible for the cost of services so used;

(c) Until the construction, marketing and sale of all Units has been completed, including any future Units which may be created hereunder, to use the Common Elements for ingress and egress of itself, its officers, employees, agents, contractors and subcontractors, for the construction, reconstruction, maintenance, repair, renovation, replacement or correction of the Units or Common Elements including without limitation the use, movement and temporary storage of construction materials and equipment, construction offices, vehicular and pedestrian access, the parking of motor vehicles, the demolition of existing improvements and buildings, and the installation of cranes, the alteration of the surface of the earth, and the installation of signs and lighting for sales and promotional purposes;

(d) Until the construction, marketing and sale of all Units has been completed, including any future Units which may be created hereunder, to use the Common Elements and Limited Common Elements for the ingress and egress and for prospective purchasers of Units, including the right of such prospective purchasers to park in unallocated parking spaces, to use any Units owned or leased by the Declarant as models, management offices, sales offices for this project or customer service offices, to relocate same from time to time within the Property, to maintain on the Property such advertising signs as comply with applicable governmental regulations, which may be placed in any location on the Property and may be relocated or removed, all at the sole discretion of the Declarant;

(e) Prior to the sale of a Unit to which a parking space is appurtenant, to restrict the use of Limited Common Element parking spaces to construction, marketing and sales purposes and to use such spaces for such purposes;

(f) Until the construction, marketing and sale of all Units has been completed, including any future Units which may be created hereunder, to operate and relocate construction, sales, leasing, customer service and management offices; permit prospective tenants, purchasers, lenders, appraisers, and others to visit the offices and use the Common Elements and use unsold Units for construction, sales, leasing and display purposes;

(g) Appoint and remove members of the Executive Board and Officers of the Association in accordance with this Declaration;

(h) Until the construction, marketing and sale of all Units has been completed including any future Units which may be created hereunder, to approve of the creation of easements between adjoining Units or between a Unit and an adjoining limited common element in accordance with the Declaration in accordance with the standards set forth therein;

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

(j) Those rights established under the Condominium Act.

The exercise of the foregoing rights shall be subject to the following restrictions, as the same may be amended from time to time:

i) The Contract Zone adopted by the Town of Old Orchard Beach dated October 19, 2004, attached hereto as Exhibit F;

ii) The site plan approval and recorded plan approved by the Town of Old Orchard Planning Board duly recorded in said Registry of Deeds in Condo File 626, Page 1; and

iii) The Natural Resources Protection Sand Dune Alteration Approval dated September 2, 2004, recorded in the York Registry of Deeds in Book 14227, Page 782.

Section 4.4 Assignment. The rights, powers and benefits of this ARTICLE V and all other rights of Declarant set forth in the Condominium Documents or the Condominium Act may be transferred in whole or part by recorded assignment specifically referring to this Section and executed by Declarant and its successor or assignee.

Upon the recording of such assignment, the assignee shall become a successor Declarant as to such rights, powers or reservations assigned and shall have the same rights and powers and be subject to the same duties and obligations as are given to and assumed by Declarant herein with respect to the rights, powers and benefits so assigned, and Declarant shall be relieved from all liability with respect to the same.

Section 4.5 Amendment, Waiver, Etc.

ARTICLE V and Sections 4.1, 4.2, 4.3, 4.4 and 4.5 shall not be amended or waived without the consent of the Declarant duly recorded in said Registry of Deeds.

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

Section 4.6 Easements. In addition to, or including, the easements provided for by the Act, and in addition to the easements to which the property is or may be subject as identified in the description of the Property in Exhibit A, the easements described in this Section are hereby created and reserved.

(a). Utilities, Pipes and Conduits. Each Unit Owner shall have an easement in common with all other Unit Owners to use all pipes, wires, ducts, cables, conduits, public utility lines and other Common Elements serving his Unit and located in any of the other Units, subject to the Declarant's and the Association's rights to relocate the same provided that any interruption of service shall be minimized to the extent reasonable. Each Unit shall be subject to an easement in favor of all other Unit Owners and the Association to use, maintain, repair and replace the pipes, ducts, cables, wires, conduits, public utility lines and other Common Elements serving such other Units and located in such Unit. The Association and its Executive Board shall have the right to grant to third parties additional permits, licenses and easements over and through the Common Elements and Limited Common Elements for utilities and other purposes reasonably necessary or useful for the proper maintenance and operation of the Condominium.

(b). Ingress, Egress and Regress. Each Unit Owner shall have an easement, subject to any rules and regulations established by the Executive Board, in common with all other Unit Owners to use the Common Elements as a means of ingress, egress and regress to and from the Property and the adjoining public streets, provided that the Limited Common Elements assigned to a Class of Units shall only be subject to an easement in favor of members of that Class unless otherwise specifically provided herein. The Executive Board shall not and cannot establish any rules and regulations depriving any Unit Owner of reasonable ingress, egress and regress to and from his Unit, the Property and Common Elements, and the adjoining public streets.

(c). Condominium Association and Executive Board Access. The Association and its Executive Board, officers, agents and employees, and the managing agent and every other person authorized by the Executive Board shall have 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 therein or accessible therefrom or the making of any addition or improvements thereto; or to make repairs to any Unit, the Common Elements or the Limited Common Elements if such inspection, maintenance, repair or replacement is reasonably necessary for public safety or to prevent damage to any other 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 thereof. 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). Encroachments. Each Unit easement to the extent necessary for structural and subjacent support over every other Unit and over the Common Elements, and 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

provided, however, that these limitations shall not apply to Commercial Class and Plaza Class Units to be completed by the purchaser and so designated in the instrument of transfer. All restrictions in or created by authority of this Declaration affecting the use, quality or alienation of Units or Class of Units, as may be applicable, shall apply. Declarant need not add any of said Units or any said Limited Common Elements to the Condominium and hence said Units and Limited Common Elements, as well as any improvements labeled "NNBB" on Exhibit B, NEED NOT BE BUILT. The Declarant must exercise its right hereunder within seven (7) years of the recording of this Declaration.

To exercise any rights under this Section, the Declarant shall prepare, execute and record an amendment to the Declaration pursuant to the Condominium Act. Each such amendment shall include a Plat and Plans as required by the Condominium Act to the extent not previously recorded. Each such amendment shall become effective upon recording without the consent of any other person. For each Unit subsequently created pursuant to this Declaration, the Allocated Interests of all Units shall revised in accordance with an amendment to Exhibit B, and a description of such Unit including each Unit's identifying number, the locations and dimensions of the vertical boundaries and horizontal boundaries of such Unit, the appurtenant Limited Common Elements, the Common Elements to which the Unit has direct access, and any other information necessary to identify or define the Unit shall be shown on the Plat and Plans as they may be revised. Upon addition of the Unit(s), the Condominium Executive Board, the Residential/Hotel Class Executive Board or the Commercial/Plaza Class Executive Board, as the case may be, may prepare a revised estimated budget in accordance with the Bylaws, and make revised Common Charges based thereon.

Section 4.2 Special Declarant Rights to Add Land. The Declarant reserves the permanent right but not the obligation to add additional land to the Condominium for the limited purpose of providing off-site parking to the Condominium. The location(s) of the land that may be subject to this Declarant Development Right is more particularly depicted in Exhibit D attached hereto. Declarant reserves the right to add such land at different times and in separate portions,and in such order as it deems appropriate, and such land when added need not be contiguous to the then existing Condominium Property. The Declarant may reserve Development Rights at the time of the addition of such land, including without limitation the rights to create and assign Limited Common Elements which may include additional parking and to charge Unit Owners for the assignment of such parking space Limited Common Elements but may not reserve the right to create more than the total number of Units set forth herein. All improvements shall be consistent with the initial improvments for quality of construction, and principal materials, provided that the Declarant may substitute construction materials and techniques of equal or better quality and may change the architectural style.

Section 4.3 General Special Declarant's Rights. The Declarant hereby reserves the rights:

(a) Until the construction, marketing and sale of all Units has been completed, including any future Units which may be created hereunder or located on the land which may be added, to locate in the Common Elements and Units of the Property, even though not depicted on the Plat

and Plans, and grant and reserve easements and rights-of-way for the installation, maintenance, repair, replacement and inspection of public utility lines, wires, pipes, conduits and facilities servicing or burdening the Property including, but not limited to, water, electric, telephone, cable television, fuel, sewer, and surface and subsurface drainage, provided however that no such easement shall be effective until of record, that no such easements may be granted through Units which are not then owned by the Declarant;

(b) Until the construction, marketing and sale of all Units has been completed, including any future Units which may be created hereunder, to connect with and make use of utility lines, wires, pipes and conduits located on the Property for construction and sales purposes, provided that the Declarant shall be responsible for the cost of services so used;

(c) Until the construction, marketing and sale of all Units has been completed, including any future Units which may be created hereunder, to use the Common Elements for ingress and egress of itself, its officers, employees, agents, contractors and subcontractors, for the construction, reconstruction, maintenance, repair, renovation, replacement or correction of the Units or Common Elements including without limitation the use, movement and temporary storage of construction materials and equipment, construction offices, vehicular and pedestrian access, the parking of motor vehicles, the demolition of existing improvements and buildings, and the installation of cranes, the alteration of the surface of the earth, and the installation of signs and lighting for sales and promotional purposes;

(d) Until the construction, marketing and sale of all Units has been completed, including any future Units which may be created hereunder, to use the Common Elements and Limited Common Elements for the ingress and egress and for prospective purchasers of Units, including the right of such prospective purchasers to park in unallocated parking spaces, to use any Units owned or leased by the Declarant as models, management offices, sales offices for this project or customer service offices, to relocate same from time to time within the Property, to maintain on the Property such advertising signs as comply with applicable governmental regulations, which may be placed in any location on the Property and may be relocated or removed, all at the sole discretion of the Declarant;

(e) Prior to the sale of a Unit to which a parking space is appurtenant, to restrict the use of Limited Common Element parking spaces to construction, marketing and sales purposes and to use such spaces for such purposes;

(f) Until the construction, marketing and sale of all Units has been completed, including any future Units which may be created hereunder, to operate and relocate construction, sales, leasing, customer service and management offices; permit prospective tenants, purchasers, lenders, appraisers, and others to visit the offices and use the Common Elements and use unsold Units for construction, sales, leasing and display purposes;

(g) Appoint and remove members of the Executive Board and Officers of the Association in accordance with this Declaration;

(h) Until the construction, marketing and sale of all Units has been completed including any future Units which may be created hereunder, to approve of the creation of easements between adjoining Units or between a Unit and an adjoining limited common element in accordance with the Declaration in accordance with the standards set forth therein;

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

(j) Those rights established under the Condominium Act.

The exercise of the foregoing rights shall be subject to the following restrictions, as the same may be amended from time to time:

i) The Contract Zone adopted by the Town of Old Orchard Beach dated October 19, 2004, attached hereto as Exhibit F;

ii) The site plan approval and recorded plan approved by the Town of Old Orchard Planning Board duly recorded in said Registry of Deeds in Condo File 626, Page 1; and

iii) The Natural Resources Protection Sand Dune Alteration Approval dated September 2, 2004, recorded in the York Registry of Deeds in Book 14227, Page 782.

Section 4.4 Assignment. The rights, powers and benefits of this ARTICLE V and all other rights of Declarant set forth in the Condominium Documents or the Condominium Act may be transferred in whole or part by recorded assignment specifically referring to this Section and executed by Declarant and its successor or assignee.

Upon the recording of such assignment, the assignee shall become a successor Declarant as to such rights, powers or reservations assigned and shall have the same rights and powers and be subject to the same duties and obligations as are given to and assumed by Declarant herein with respect to the rights, powers and benefits so assigned, and Declarant shall be relieved from all liability with respect to the same.

Section 4.5 Amendment, Waiver, Etc.

ARTICLE V and Sections 4.1, 4.2, 4.3, 4.4 and 4.5 shall not be amended or waived without the consent of the Declarant duly recorded in said Registry of Deeds.

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

Section 4.6 Easements. In addition to, or including, the easements provided for by the Act, and in addition to the easements to which the property is or may be subject as identified in the description of the Property in Exhibit A, the easements described in this Section are hereby created and reserved.

(a). Utilities, Pipes and Conduits. Each Unit Owner shall have an easement in common with all other Unit Owners to use all pipes, wires, ducts, cables, conduits, public utility lines and other Common Elements serving his Unit and located in any of the other Units, subject to the Declarant's and the Association's rights to relocate the same provided that any interruption of service shall be minimized to the extent reasonable. Each Unit shall be subject to an easement in favor of all other Unit Owners and the Association to use, maintain, repair and replace the pipes, ducts, cables, wires, conduits, public utility lines and other Common Elements serving such other Units and located in such Unit. The Association and its Executive Board shall have the right to grant to third parties additional permits, licenses and easements over and through the Common Elements and Limited Common Elements for utilities and other purposes reasonably necessary or useful for the proper maintenance and operation of the Condominium.

(b). Ingress, Egress and Regress. Each Unit Owner shall have an easement, subject to any rules and regulations established by the Executive Board, in common with all other Unit Owners to use the Common Elements as a means of ingress, egress and regress to and from the Property and the adjoining public streets, provided that the Limited Common Elements assigned to a Class of Units shall only be subject to an easement in favor of members of that Class unless otherwise specifically provided herein. The Executive Board shall not and cannot establish any rules and regulations depriving any Unit Owner of reasonable ingress, egress and regress to and from his Unit, the Property and Common Elements, and the adjoining public streets.

(c). Condominium Association and Executive Board Access. The Association and its Executive Board, officers, agents and employees, and the managing agent and every other person authorized by the Executive Board shall have 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 therein or accessible therefrom or the making of any addition or improvements thereto; or to make repairs to any Unit, the Common Elements or the Limited Common Elements if such inspection, maintenance, repair or replacement is reasonably necessary for public safety or to prevent damage to any other 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 thereof. 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). Encroachments. Each Unit easement to the extent necessary for structural and subjacent support over every other Unit and over the Common Elements, and 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

hereafter encroaches upon any Unit, or if any Unit hereafter encroaches upon any other Unit or upon any portion of the Common Elements or Limited Common Elements, as a result of settling or shifting of any Building or Buildings in which they are located or otherwise 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 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. In the event that any Building or Buildings shall be partially destroyed as a result of fire or other casualty or as a result of a taking by the power of, or in the nature of, eminent domain or by an action or deed in lieu of condemnation, and then is rebuilt, encroachments of a portion or portions of the Common Elements or Limited Common Elements upon any Unit or of any Unit upon any other Unit or upon any portion of the Common Elements or Limited Common Elements, due to such rebuilding, shall be permitted, and valid easements appurtenant to the encroaching Units, Common Elements or Limited Common Elements for such encroachments and the maintenance thereof shall exist so long as that Building as so rebuilt shall stand.

Section 4.7 Declarant's Right to Grant Easements. The Declarant shall have the right, until the Declarant has conveyed all Units in the Condominium to Purchasers which Declarant may have reserved the Development Rights to create, to grant and reserve easements and rights-of-way through, under, over and across the Property for construction purposes, and for the installation, maintenance and inspection of the lines and appurtenances for public or private water, sewer, drainage, gas, electricity, telephone and other utilities. The Units and Common Elements shall be, and are hereby, made subject to easements in favor of the Declarant, appropriate utility and service companies and governmental agencies or authorities for such utility and service lines and equipment as may be necessary or desirable to serve any portion of the Property. The easements created in this Section shall include, without limitation, rights of Declarant, or the providing utility or service company, or governmental agency or authority, to install, lay, maintain, repair, relocate and replace pipes and conduits, water mains and pipes, sewer and drain lines, telephone wires and equipment, television equipment and facilities (cable or otherwise), heating systems, ventilation systems, electric wire conduits and equipment and ducts and vents over, under, through or along and on the Units and Common Elements.

Section 4.8 Common Elements Easement in Favor of Unit Owners. The Common Elements (including, but not limited to, the Limited Common Elements) shall be and are hereby made subject to the following easements in favor of the Units benefited, provided that the structural elements, sprinkler and life safety components of the Common Elements shall not be impaired and provided that the exercise of such easement does not unreasonably interfere with the use of any part of the Common Elements, adversely affect the structural, visual, thermal or acoustical character of the Building:

(a) For the repair, maintenance, use, removal and/or replacement of pipes, ventilation, exhaust and other ducts, heating and air conditioning 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 designed

therefore and designated as such, which easement, in the case of the Commercial Class Units, the right of installation of the exhaust vents, ducts, fans, and ventilation facilities, as well as the maintenance of and access to air conditioning systems located in the Common Elements and the Plaza Class Unit, as shown on the Plat and Plans.

(b) For the repair, maintenance, use, removal and/or replacement of lighting fixtures, electrical receptacles, panel boards and other electrical installations which are a part of or serve any Unit but which encroach into a part of a Common Elements adjacent to such Unit; and for driving and removing nails, screws, bolts and other attachment devices into the Unit-side surface of the studs which support the dry wall or plaster perimeter walls bounding the Unit, the bottom surface of roof rafters or strapping above the Unit and the top surface of the cement floors or planks below the Unit to the extent such nails, screws, bolts and other attachment devices may encroach into a part of a Common Element adjacent to such Unit.

ARTICLE V
ASSESSMENTS FOR COMMON EXPENSES AND LIABILITY OF UNIT OWNERS

Section 5.1 Allocation and Payment of Assessments of Common Expenses. The Common Expenses shall be assessed against the Units as follows:

(a) The Common Expenses that are not assessed as Limited Common Expenses shall be assessed against all the Units in the same proportion as the Common Expense Liability of the Unit Owners as set forth in Exhibit B, as the same may be amended from time to time as provided in Sections 1.4 and 2.1. Further, the assessment against the Plaza Class Unit shall include the Limited Common Expense assessment against the Commercial Unit(s), and the assessment against the Commercial Class Unit(s) shall include the Limited Common Expense assessment against the Plaza Unit, in the same proportion that the Common Expense Liability of the Plaza Class Unit bears to the Commercial Class Unit(s) as set forth in Exhibit B, as the same may be amended from time to time as provided in Sections 1.4 and 2.1. The Limited Common Expense Assessment against the Residential/Hotel Class Units shall, where applicable, include the cost of: 1) electricity serving the Residential/Hotel Class Limited Common Elements; 2) water furnished to the Residential/Hotel Class Units through a common meter; 3) Residential/Hotel trash removal; 4) snow removal from the parking lot and other Residential/Hotel Class Limited Common Elements; 5) maintenance and repairs of the Residential/Hotel Class Limited Common Elements; 6) security for the Residential/Hotel Class Units; 7) cleaning services for the Residential/Hotel Class Limited Common Elements; and 8) the reserves for the Residential/Hotel Class Limited Common Elements. The Commercial/Plaza Common Expense Assessment shall, where applicable, include the cost of: 1) electricity serving the Commercial and Plaza Class Limited Common Elements; 2) water furnished to the Commercial and Plaza Class Units through a common meter; 3) Commercial and Plaza trash removal; 4) snow removal from the Commercial or Plaza Class Limited Common Elements (but, in the case of the Plaza Unit, only when requested by that Unit Owner); 5) maintenance and repairs of the Commercial and Plaza

Class Limited Common Elements; 6) security for the Commercial and Plaza Class Units; 7) cleaning services for the Commercial and Plaza Class Limited Common Elements; and 8) the reserves for the Commercial and Plaza Class Limited Common Elements. Provided, however, that the Plaza Class Unit shall not be assessed for the cost of furnishing heat to the Commercial Class Unit(s) and the Common Element reserves associated with replacements on or in the Buildings. Provided, further, that the Plaza Class Unit may be assessed, in proportion to its Common Expense Liability, as the same may be amended from time to time, for the expenses of operating the Condominium Association, including, without limitation, the cost of: 1) a management fee; 2) accounting and legal services; 3) insurance, including both liability and casualty insurances, as set forth in Article IX; 4) maintenance, repairs, and replacements of the Common Element landscaping, and the Common Areas located outside of the Buildings which are not allocated as Limited Common Elements; 5) office supplies and postage; and 6) Common Element reserves except those associated with replacements on or in the Buildings.

(b) Except as otherwise set forth in subsection (a) above, if a Limited Common Expense benefits more than a single Unit or benefits a Class of Units, then that Limited Common Expense shall be assessed solely against all the Units or Class of Units benefited in proportion to the relative Common Expense Liabilities of such Units as among themselves, as the Executive Board may periodically determine. If a Limited Common Expense only benefits a single Unit in a manner that is dissimilar to the benefit to other similar Units, that Limited Common Expense shall be assessed solely against the Unit benefited, as the Executive Board shall determine. However, if a Limited Common Expense is associated with the maintenance, repair or replacement of a Limited Common Element, that Limited Common Expense shall be assessed solely against all the Units or Class of Units to which that Limited Common Element is allocated in proportion to the relative Common Expense Liabilities of such Units as between themselves, as the Executive Board shall determine. Generally the Residential/Hotel Class of Units shall be assessed as a Class for the maintenance, repair and replacement of the Limited Common Elements allocated to such Class, and the Commercial Class and Plaza Class of Units shall be assessed together for the maintenance, repair and replacement of the Limited Common Elements allocated to both such Classes.

(c) Telephone and cable television shall be supplied by the agency or company serving the area directly to each Unit. Electrical service will be provided by the company serving the area and will be separately metered for each Hotel/Residential Class Unit, the Plaza Class Unit, and the Commercial Class Units shown on the attached Plat and Plans. The separate electrical metering of any divisible Commercial Class Units shall be the responsibility of the divider. Natural gas will be furnished by the company serving the area and will be separately metered to each Residential/Hotel Class Unit and the two Commercial Class Units shown on the Plat and Plans. In addition, the natural gas used by the common heating plant shall be separately metered, and the cost of such natural gas, as well as the cost of maintaining the heating plant, shall be assessed as a Residential/Hotel Class Limited Common Expense or a Commercial Class Limited Common Expense in

proportion to use calculated based on the separate flow metering of the Residential/Hotel Class Limited Common Elements and the Commercial Class Limited Common Elements. Water shall be supplied by the company serving the area and shall be separately metered for the Plaza Class Unit, the Commercial Class Units, and the Residential/Hotel Class Units, but shall not be separately metered among the Residential/Hotel Class of Units. The cost of water furnished to the Residential/Hotel Class of Units, as well as the Residential/Hotel Class Limited Common Elements, shall be assessable to the Residential/Hotel Class Unit Owner in proportion to their relative Common Element Interest. The cost of water furnished to the Commercial/Plaza Class of Units, as well as the Commercial and Plaza Class Limited Common Elements, shall be assessable to the Commercial and Plaza Class Unit Owners in proportion to their relative Common Element Interest.

(d) The Declarant shall not be liable for any assessments for any Units until after the Association makes its first Common Expense assessment.

Section 5.2 Payment of and Lien for Assessments.

(a) Each Unit Owner shall pay to the Association or its authorized representative (1) on the first day of each month, or on such other date that the Association may determine in writing, one-twelfth (1/12th) of the Common Expenses including Limited Common Expenses, and revised Common Expenses including revised Limited Common Expenses, assessed on an annual basis against his Unit in the proportions required in Section 5.1, and (2) all special assessments, Service Charges, any other sum duly levied against the Unit pursuant to this Declaration, the Bylaws or the Act, including Limited Common Expenses assessed against Unit Owners for maintenance, repair or replacement of a Limited Common Element pursuant to Section 5.6, all interest thereon and charges for late payment thereof and legal fees and other costs of collection thereof, and fines, penalties and fees as provided by this Declaration, the Bylaws or the Act, on the first day of the next month which begins more than ten (10) days after delivery to the Unit Owner of notice of such special assessment or levy or such other date that the Association may determine in writing. If for any reason the Association shall revise the annual budget of the Association whereby the Common Expenses or any component thereof may be increased, then commencing on the first day of the first month subsequent to the adoption of such revised budget each Unit Owner shall pay to the Association or its authorized representative such revised annual Common Expenses including Limited Common Expenses assessed against his Unit in the proportions required in Section 5.1.

(b) The total annual assessment levied against each Unit for Common Expenses including Limited Common Expenses, revised Common Expenses including revised Limited Common Expenses, or any special assessment, Service Charges, and any other sums duly levied against the Unit pursuant to this Declaration, the Bylaws, or the Act, including Limited Common Expenses assessed against Units for maintenance, repair or replacement of a Limited Common Element pursuant to Section 5.6, all interest thereon at the rate of 18% per annum or such other rate as may be established by the Executive

Board, and charges for late payment thereof, legal fees and other costs of collection thereof, and fines, penalties and fees as provided in this Declaration or the Bylaws shall constitute the personal liability of the Owner of the Unit so assessed and also shall, until fully paid, constitute a lien against the Unit in favor of the Association as provided in Section 1603-116 of the Act. Such lien shall, with respect to annual assessments and revised annual assessments, be effective on the first day of each fiscal year of the Association as to the full amount of the annual assessment or revised annual assessment, and, as to special assessments and other sums duly levied including Limited Common Expenses assessed against a Unit Owner for maintenance, repair or replacement of a Limited Common Element pursuant to Section 5.6, interest, charges for late payment, legal fees, costs of collection, fines, penalties and fees as described herein, on the first day of the next month which begins more than ten (10) days after delivery to the Unit Owner of notice of such special assessment or levy. In any case where an assessment against a Unit Owner is payable in installments, upon a default by such Unit Owner in the timely payment of any two consecutive installments, the maturity of the remaining total of the unpaid installments of such assessments may be accelerated at the option of the Executive Board, and the entire balance of the assessment may be declared due and payable in full by the service of notice to such effect upon the defaulting Unit Owner by the Executive Board or its representative. Such lien is prior to all other liens and encumbrances on a Unit except (1) liens and encumbrances recorded before the recordation of this Declaration, (2) a first mortgage recorded before or after the date on which the assessment sought to be enforced becomes delinquent, and (3) liens for real estate taxes and other governmental assessments or charges against the Units; provided, however, that such lien is not subject to the provisions of 14 M.R.S.A. Section 4651 and 18-A M.R.S.A. Section 2-201, et seq., as they or their equivalents may be amended or modified from time to time.

(c) The lien for assessments described in Subsection 5.2(b) may be enforced and foreclosed by the Association in like manner as a mortgage on real estate as provided in Section 1603-116 (a) of the Act or by any other means presently or hereafter provided by law or in equity. A suit to recover a money judgment for unpaid assessments, interest, penalties, and costs of collection may be maintained against the Unit Owner personally without foreclosing or waiving the lien securing such assessments and a foreclosure may be maintained notwithstanding the pendency of any suit to recover a money judgment. During the pendency of any such suit, the Unit Owner shall be required to pay a reasonable rental for the Unit for any period prior to sale pursuant to any judgment or order of any Court having jurisdiction over such sale.

Section 5.3 Liability of Purchaser of Unit for Unpaid Assessments. Upon the voluntary sale, conveyance or any other voluntary transfer of a Unit or an interest therein, the grantee thereof shall be liable with the grantor thereof for all unpaid assessments for Common Expenses and Service Charges which are a charge against the Unit as of the date of consummation of the sale, conveyance or transfer.

Section 5.4 Working Capital Fund. The Declarant shall establish a working capital fund equal to a minimum of two (2) months estimated Common Expenses liability, and two (2) months Limited Common Expenses liability for the Class of Unit, for each Unit. 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 into the working capital fund. 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. Within sixty (60) days after the first transfer of a Unit from the Declarant to a purchaser, the Declarant shall pay each legally created but unsold Unit's share of the working capital fund to the Association.

Section 5.5. Surplus. The Budget of the Association shall set forth Common Expenses. Any amounts accumulated from assessments for Common Expenses in excess of the amount required for actual Common Expenses and reserve for future Common Expenses, unless otherwise directed by the Executive Board, in its sole discretion, shall be credited to each Unit Owner, such credit to be applied to the next Monthly Assessments of Common Expenses due from said Unit Owners under the current fiscal year's budget, and thereafter, until exhausted or retained by the Association for reserves.

Section 5.6. Limited Common Elements, Maintenance. The Association shall maintain, repair and replace all Limited Common Elements required by this Declaration and shall assess as a Limited Common Expense the Common Expenses associated with the maintenance, repair or replacement of each Limited Common Element (except for Common Expenses associated with structural repairs or replacements) against the Units to which the Limited Common Element are assigned or appurtenant to in proportion to the relative Common Expense Liabilities of such Units as between themselves, provided that the Association shall also have the right to assess an individual for Limited Common Expenses associated with said purposes applicable to such Unit if the Limited Common Expense shall be incurred due to the negligence, neglect or misconduct of the Owner of such Unit or if the item giving rise to the expense shall be for the benefit of that Unit only. However, the Unit Owners of any Units to which a Limited Common Element balcony, patio or deck is appurtenant shall perform the normal maintenance for such Limited Common Element, including keeping it in a clean and sanitary condition, free and clear of debris, trash, ice, snow and any accumulation of water, but if that Limited Common Element, or any other Limited Common Element in a Building, is allocated to more than one Unit the Association shall be responsible and shall assess the costs thereof as a Limited Common Expense to the Units benefited. Any Unit Owner permitted by the Executive Board to use a Reserved Common Element or a specific portion of the Common Elements for storage is responsible for the maintenance and care of such portion and shall use the same in a safe and sanitary manner. The Unit Owner shall maintain window glass, window interiors and door interiors allocated to his Unit as a Limited Common Element including washing and necessary replacements with substitutions of similar color, size, quality and style. The Association shall be responsible for all structural repairs and replacements of all Limited Common Elements, other than windows and the costs thereof shall be assessed as provided in Section 5.1(b), unless such repair or replacement shall be necessitated by the negligence, neglect or misconduct of fewer

than all of the Unit Owners, in which case such cost shall be assessed to the Unit owners responsible as a Limited Common Expense.

Section 5.7. Maintenance of Common Elements. The Association shall be responsible for the maintenance, repair and replacement (unless in the opinion of the Executive Board such expense was necessitated by the negligence, misuse or neglect of a Unit Owner) of all of the Common Elements (except those areas of the Limited Common Elements provided herein) whether located inside or outside of the Units, the cost of which shall be charged to the Unit Owners as a Common Expense except as otherwise provided herein. To the extent required for the functioning of or connection of utilities to the Property and Units, the maintenance, repair and replacement of Common Elements located within a Unit, or for which the Unit Owner is otherwise responsible, shall be furnished by the Association as part of the Common Expenses or, if fewer than all of the Units are benefited, as Limited Common Expenses.

Section 5.8. Maintenance of Unit. Each Unit owner shall keep and maintain his Unit and its equipment, appliances and appurtenances in good order, condition and repair and in a clean and sanitary condition, provided that such maintenance and repair obligation shall not include maintenance or repairs which are the responsibility of the Association hereunder,, and shall do all redecorating, painting and varnishing which may at any time be necessary to maintain the good appearance and condition of his Unit. No Unit Owner shall sweep or throw, or permit to be swept or thrown, from his Unit any dirt, debris or other substance. In addition, each Unit Owner shall be responsible for all damage to any other Units or to the Common Elements resulting from his failure or negligence to make any of the repairs required by this Section. Each Unit Owner shall perform his responsibility in such manner as shall not unreasonably disturb or interfere with the other Unit Owners. Each Unit Owner shall promptly report to the Executive Board or its designee any defect or need for repairs for which the Association is responsible.

Section 5.9. Liability of Owner. Each Unit Owner shall be liable, and the Association shall have a lien against his Unit as a Service Charge for, all costs of maintaining, repairing or replacing any portion of another Unit or of the Common Elements, including Limited Common Elements such as windows, to the extent that such costs are caused by or attributable to such Unit Owner's act, neglect or carelessness or by that of any member of such Unit owner's family, or such Unit Owner's guests, or his invitees, employees, agents, lessees, or their pets. The Association shall have the right to repair any damage so caused, to cure or correct the cause thereof, and to maintain or replace such damaged Unit or Common Element or portion thereof to the extent the Association deems necessary and appropriate. Such liability shall include any increase in fire or casualty insurance rates occasioned by use, misuse, occupancy, or abandonment of any Unit or its appurtenances. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation against such Unit Owner.

Section 5.10 Limitation on Assessments. Without modifying the provisions of Article IX regarding the use and disposition of insurance proceeds, but notwithstanding any other provisions of this Declaration to the contrary:

(a) The Residential/Hotel Class Units shall not be assessed for the expenses of: the maintenance, repair, replacement, and reconstruction of the Commercial or Plaza Class Units; those Limited Common Elements allocated to the Commercial or Plaza Class Units; any reserves or special assessments in connection therewith; or any other expenses benefiting only the Commercial or Plaza Class Units.

(b) Likewise, the Commercial and Plaza Class Units shall not be assessed for the expenses of: the maintenance, repair, replacement, and reconstruction of the Residential/Hotel Class Units, Limited Common Elements allocated to the Residential/Hotel Class Units; any reserves or special assessments in connection therewith; or any other Common Expenses benefiting only the Residential/Hotel Class Units.

(c) As set forth in Section 5.1, however, the Plaza Class Unit and the Commercial Class Unit(s) shall be assessed for the expenses of the maintenance, repair, replacement, of the Commercial and Plaza Class Units (except the cost of heat to the Commercial Class Unit(s)), in proportion to their respective Common Expense Liability.

(d) Provided, nevertheless, that the Condominium Association shall assess the Residential/Hotel Class Units and the Commercial Class Units (but not the Plaza Class Unit) in proportion to their Percentage Interest for the expenses of: the maintenance, repair and replacement of the roofs and exterior windows and walls of all Buildings; and the interior and exterior portions of the Building(s), structure(s) and associated improvements which are not allocated as Limited Common Elements, without reference to either Residential/Hotel Class or Commercial Class. Further, the Condominium Association shall assess the Residential/Hotel Class Units and the Commercial and Plaza Class Units, in proportion for their Percentage Interest, for the expense of property, casualty and liability insurance, and the Residential/Hotel Class Units, the Commercial Class Unit(s), and the Plaza Class Unit, in proportion to their Percentage Interest, for the cost of the maintenance, repair and replacement of the Common Element landscaping and the Common Areas located outside of the Buildings which are not allocated as Limited Common Elements.

(e) Despite separate assessment of the Residential/Hotel Class Limited Common Elements and the Commercial and Plaza Class Common Elements, nothing contained in this Section shall relieve the Residential/Hotel Class Unit Owners or the Commercial/Plaza Class Unit Owners, or their respective Executive Boards, from the maintenance and repair obligations set forth in this Declaration.

(f) Nothing contained in this subsection, or elsewhere in this Declaration, shall preclude the Residential/Hotel Class Executive Board and the Commercial/Plaza Class Executive Board from agreeing to the sharing of expenses such as security, repair and maintenance, cleaning, and the like, in such proportions as they may agree.

ARTICLE VI
ASSOCIATION OF UNIT OWNERS; VOTING; DECLARANT CONTROL; NOTICES

Section 6.1. The Association, Powers. The membership of the Association at all times shall consist exclusively of all Unit Owners, or, following any termination of the Condominium as provided in Section 1602-118 of the Act, of all former Unit Owners entitled to distributions of proceeds under said Section 1602-118, or their heirs, successors or assigns, but shall not include persons having an interest in a Unit solely as security for an obligation. Each Unit Owner shall automatically become a member of the Association as long as he continues as a Unit Owner and upon the termination of the interest of the Unit Owner in the Condominium his membership and any interest in the common funds of the Association shall thereupon automatically terminate and transfer and inure to the next Unit Owner or Owners succeeding him in interest. The Association shall have all the powers granted pursuant to Section 1603-102 of the Act, including the powers to assign its right to future income and to lease as lessee any real or personal property, accept assignments of leases of real or personal property, cause improvements to be made as a part of such leased property, regulate the use, maintenance and repair of such leased property, and impose and receive any payments, fees or charges for the use, rental or operation of such leased property, and to intervene on behalf of one or more Unit Owners in disputes regarding warranty claims affecting the Common Elements.

Section 6.2. Executive Board Powers; Declarant Control Period/Class Voting and Allocation. Except as otherwise provided in the Act, the Declaration, the Bylaws and subject to the Class voting provisions of this Declaration, the Executive Board may act on behalf of the Association in all respects, shall have all of the powers necessary for the administration of the affairs of the Association, and may do all such acts and things as are not required by the Act or this Declaration or the Bylaws to be exercised and done by the Unit Owners.

Initially during the Declarant Control Period there shall be three (3) Members of the Executive Board composed of three (3) natural persons all appointed by the Declarant until the expiration of the Declarant Control Period. The Declarant shall have the right to appoint, remove and replace from time to time any and all members of the Executive Board and officers of the Association, without the necessity of obtaining resignations. The appointees of the Declarant need not be Unit Owners.

Following the Expiration of the Declarant Control Period, the affairs of the Residential/Hotel Class Units shall be governed by the Residential/Hotel Class Members of the Executive Board, elected by the Residential/Hotel Class Units voting as a Class, which shall consist of five (5) natural persons, shall have exclusive authority (subject to Article VII hereof) to adopt, alter and amend Rules and Regulations affecting the Residential/Hotel Class Units and to adopt and amend the budget with respect to the Limited Common Expenses and the Limited Common Elements appurtenant thereto and any special assessments affecting only the Residential/Hotel Class Units.

Following the Expiration of the Declarant Control Period, the affairs of the Commercial and Plaza Class Association shall be governed by the Commercial-Plaza Class Members of the Executive Board, composed of three (3) natural persons of which two shall be elected by the Commercial Class Units voting as a Class and the third shall be elected by the Plaza Unit , and shall have exclusive authority (subject to Article VII hereof) to adopt, alter and amend Rules and Regulations affecting the Commercial-Plaza Class Units and the Limited Common Elements appurtenant thereto, and to adopt and amend the budget with respect to the Limited Common Expenses and assessments affecting only the Commercial-Plaza Class Units.

Following the expiration of the Declarant Control Period, the Residential/Hotel Class Executive Board and the Commercial/Plaza Class Executive Board shall collectively constitute the Condominium Executive Board.

Following the expiration of the Declarant Control Period, the members of the Residential/Hotel Class Executive Board shall be Unit Owners or spouses of Unit Owners, or in the case of a Unit Owner which is a corporation, partnership, limited partnership trust or estate, a designated agent thereof as further specified in the Bylaws. The members of the Commercial-Plaza Class Executive Board need not be Unit Owners.

Notwithstanding the foregoing upon the earlier of (a) sixty (60) days after the conveyance of 75% of the Commercial Class Units which may be created hereunder to third party Purchasers or (b) seven (7) years following conveyance of the first Commercial Class Unit to a Purchaser, or at such earlier date specified by a written notice signed by the Declarant and duly recorded if permitted by the Act, one member of Executive Board appointed by the Declarant shall resign, and the Commercial Class Unit Owners shall thereupon elect one member of Executive Board as the sole the Commercial Class Executive Board Member to act in the place and stead of the Member resigning.

To the extent permitted by the Act, the Declarant may voluntarily surrender the right to appoint and remove officers and members of the Executive Board in whole or party before termination of the Declarant Control Period, but the Declarant may require, for the duration of the Declarant Control Period, that specified actions of the Association or Executive Board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before such actions can become effective.

Section 6.3. Voting. The vote in the Association to which each Unit Owner is entitled shall be as set forth in Section 1.4 of this Declaration. The Votes in the Association allocated to each Unit can only be cast as a unit and cannot be split. If a Unit is owned of record by one person, that Unit Owner's right to vote shall be established by the record title to the Unit. If ownership of a Unit is in more than one person, the person who shall be entitled to cast the Vote allocated to that Unit shall be the person named in a certificate executed by all of the Owners of such Unit and filed with the Secretary of the Association.

Section 6.4. Notices to Unit Owners. All notices, demands, bills and statements or other communications affecting the Condominium shall be given to Unit Owners by the Association in writing and shall be deemed to have been duly given if delivered personally

securing receipt therefor or sent by United States mail, postage prepaid, if such notification is of a default or lien, sent by registered certified United States mail, return receipt requested, postage prepaid, addressed to the Unit Owner at the address which the Unit Owner shall designate in writing and file with the Secretary of the Association, or if no such address is so designated, the address of the Unit of such Unit Owner who is the record owner thereof.

Section 6.5. Notices to the Association. All notices, demands, statements or other communications given by the Unit Owners to the Association shall be in writing and shall be deemed to have been duly given to the Association if delivered personally, securing a receipt therefor, or sent by United States mail, postage prepaid, return receipt requested, addressed to the Association at the principal office of the managing agent, or if there shall be no managing agent, then to the Secretary of the Association at the address of the Unit of which the Secretary is the record Unit Owner.

Section 6.6. Notices to Eligible Mortgage Holder, etc. All notices, demands, statements or other communications affecting the condominium given by the Association to any Eligible Mortgage Holder and Eligible Insurer shall be in writing and shall be deemed to have been duly given by the Association if delivered personally, securing a receipt therefor, or sent by United States mail, postage prepaid, addressed to the Eligible Mortgage Holder at the address identified pursuant to Article I by virtue of which it became an Eligible Mortgage Holder, and to the Eligible Insurer at the address identified pursuant to Article I by virtue of which it became an Eligible Insurer.

ARTICLE VII
RESTRICTIONS ON USE, SALE AND LEASE OF UNITS

Section 7.1. Use of Residential/Hotel Class Units. The following restrictions, rights, and limitations shall apply to the Residential/Hotel Class Units:

(a) Each Residential/Hotel Class Unit is hereby restricted to hotel uses, which uses shall be deemed to include without limitation use for the transient or permanent lodging of individuals, whether with or without meals, as well as temporary or vacation lodging, and which shall not preclude the rental or lease of any Units by the owners thereof for any term or duration subject, however, to the terms, conditions, restrictions and regulations set forth in the Bylaws or in Rules and Regulations promulgated by the Residential/Hotel Class Executive Board of the Association which are not inconsistent with the foregoing. Hotel guests, invitees and licensees of Residential/Hotel Class Units and the Declarant shall be entitled to the use and benefit of the Common Elements and Residential/Hotel Class Limited Common Elemnets to the same extent as Residential/Hotel Class Unit Owners, subject to this Declaration, the Bylaws and other Rules and Regulations promulgated by the Executive Board from time to time, which Bylaws and Rules and Regulations shall not unfairly discriminate against such guests, invitees and occupants.

No business uses of the Residential/Hotel Class Units, other than such hotel uses, shall be permitted, provided however, that an occupant of a Residential/Hotel Unit may conduct business activities within the confines of such Unit so long as no signs are displayed, the Unit is not used for meeting with customers or third parties, and there is no noticeable increase in deliveries.

Nothing in this Declaration or the Bylaws shall be construed to prohibit the Declarant from exercising any easements, Development and Special Declarant Rights reserved by the Declarant pursuant to the terms hereof for purposes including promotional, marketing or display purposes, from using any appropriate portion of the Common Elements for exercising these reserved rights, settlement of sales of Residential/Hotel Class Units and for customer service purposes, or from renting Units owned by Declarant as provided in this Declaration.

(b) No person shall carry on, or permit to be carried on, any practice which unreasonably interferes with the quiet enjoyment and proper use of another Residential/Hotel Class Unit or the Common Elements by the Owner or occupant of any other Residential/Hotel Class Unit, or which creates or results in a hazard or nuisance on the Property.

(c) No Residential/Hotel Class Unit shall be used so as to create a nuisance or an unreasonable interference with the peaceful possession and occupation or proper use of any other Unit or the Common Elements.

(d) Nothing shall be done or kept in any Residential/Hotel Class Unit or in the Common Elements which will increase the rate of insurance for the Property or any part thereof applicable for residential use without the prior written consent of the Executive Board. No Residential/Hotel Class Unit Owner shall permit anything to be done or kept in his Unit or in the Common Elements which will result in the cancellation of insurance on the Property or any part thereof or which would be in violation of any law, regulation or administrative ruling.

(e) No person shall remove the acoustical, sound-deadening, or fire-resistant material from the walls, floors or ceilings of his Unit without replacing the same with acoustical, sound-deadening, or fire resistant materials of equal or greater sound-deadening or fire-resistant ratings or qualities. No person shall remove the acoustical, sound-deadening or fire resistant materials from the Common Elements surrounding a Unit without the prior written consent of the Executive Board or a committee appointed by the Executive Board. No person shall tamper with, disable or alter the life safety and sprinkler systems, including without limitation any alarms or smoke and fire detectors.

(f) Trash, garbage and other waste shall be kept only in sanitary containers and shall be disposed of in such manner as may be prescribed from time to time in rules and regulations established by the Executive Board.

(g) The maintenance, keeping, boarding and/or raising of animals, laboratory animals, livestock, poultry or reptiles of any kind, regardless of number, shall be and is prohibited within any Residential/Hotel Unit or upon the Common Elements, except that Unit Owners (but not tenants) may keep small to medium orderly domestic pets such as dogs, cats or caged birds, aquarium fish and other limited species of animals which do not normally leave the Unit and which do not make noise may be permitted by the Residential/Hotel Class Executive Board in accordance with and subject to any rules and regulations adopted and amended from time to time by the Residential/Hotel Class Executive Board, provided, however, that no such pets may be kept or maintained for commercial purposes or for breeding.

The Association shall have the power to further regulate the keeping of pets and animals under the Bylaws or Rules and Regulations of the Association as promulgated or amended from time to time, including the right to require liability insurance and to regulate the breed of pet, and the Residential/Hotel Class Executive Board may expel any offending pets and animals from the Property.

No pets and animals shall be permitted outside of a Unit except on a leash attended by a responsible person. The areas in which leashes are required shall specifically include hallways, elevator and parking areas. Pet owners shall clean up the droppings left by their pets.

In any event all pets and animals shall be restrained so as not to become noisome or offensive to the occupants of any Unit as determined by the Residential/Hotel Class Executive Board of the Association. Pet owners are fully responsible for personal injuries and/or property damage caused by their pets.

(h) No Residential/Hotel Unit Owner shall overload the electrical wiring or operate any machinery, appliances, accessories or equipment in such a manner as to cause, in the judgment of the Executive Board, or a committee designated by the Executive Board, as appropriate, any unreasonable disturbance or make any alterations, repairs or modifications to or connections with the electrical or plumbing systems without the prior written consent of the Executive Board or a committee designated by the Executive Board, as appropriate. Additional major appliances may be installed in a Unit only with the prior written consent of the Executive Board.

(i) Except for such signs as may be posted by the Declarant for promotional or marketing purposes, no signs of any character shall be erected, posted or displayed upon, in, from, or about any Residential/Hotel Class Unit or Residential/Hotel Limited Common Element without the prior written approval of the Executive Board. The provisions of this Section shall not apply to a mortgagee in possession of a Unit as a result of foreclosure, judicial sale or a proceeding in lieu of foreclosure, and this provision shall not limit or restrict any informational or directional signs associated with

the Residential/Hotel Units or Limited Common Elements or other usual and customary signage associated with the operation of the hotel.

(j) Residential/Hotel Units may be rented on a daily, weekly, monthly or annual basis, but no portion of any Unit (other than the entire Unit) shall be rented for any period. No Unit Owner shall rent or lease a Unit other than in accordance with a written form of lease, rental agreement, or occupancy agreement which contains the following provisions:

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

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

(iii) providing that the Executive Board has the power to terminate the lease or to bring summary proceedings to evict the tenant in the name of the Unit owner after thirty (30) days' prior written notice to the Unit owner, in the event of a default by the lessee in the performance of the lease or noncompliance with the Declaration, the Bylaws, and Rules and Regulations, and

(iv) in the event that the payment of Common Charges and/or Service Charges or other amounts due to the Association becomes more than 30 days past due, authorizing the Association to require the Tenant to pay directly to the Association the rent on the Unit in an amount of up to the balance of current and delinquent Common Charges, Service Charges and other unpaid amounts outstanding, subject to the rights of any recorded first mortgage or Eligible Mortgage Holder which has exercised an assignment of rents. The Association's notice to the Tenant shall be conclusive and binding on the Tenant as to the Tenant's obligation to pay the rent directly to the Association and as to the amount of Common Charges and other fees due. The Unit owner shall have ten days after such notice is sent to file any objection, which objection must be in writing and signed under oath under the pains and penalties of perjury, must contain a short and plain statement of any alleged errors by the Association, and shall include copies of cancelled checks or other written evidence of objection or miscalculation of the amounts due. The Unit owner must state what amounts, if any, which the owner admits is owed to the Association.

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

The foregoing provisions of this paragraph shall apply to an institutional lender in possession of a Residential/Hotel Class Unit as a result of foreclosure, judicial sale or a proceeding in lieu of foreclosure.

Section 7.2 Use of Commercial and Plaza Class Units. The following restrictions and limitations shall apply to the use and occupancy of the Commercial and Plaza Class Units:

(a) The Commercial and Plaza Class Units are restricted to retail, business and professional offices, food service and hotel activities and uses. The following activities and uses are prohibited: (i) the sale of alcohol except in compliance with applicable rules and regulations, including Town ordinances; (ii) the sale, display, viewing or rental of pornographic or "X" rated materials of any nature; (iii) the operation of a tattoo parlor for permanent tattoos (the sale or application of temporary tattoos being permitted); (iv) playing of amplified music after 1:00 a.m. or before 9:00 a.m.; (v) outside signs and displays attached to the building exterior or located on or above the public sidewalk outside the Commercial Unit except for signage in the Limited Common Elements appurtenant to such Unit, provided such signage is permitted by the Town of Old Orchard Beach and provided further that such signage is of a quality comparable to the Building's construction and utilizing a Victorian appearance ; and (vi) any activities and uses which are not allowed by the Town of Old Orchard Beach Zoning Ordinance, as the same may be amended from time to time.

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

(c) No Commercial or Plaza Class Unit shall be used so as to create a nuisance or an unreasonable interference with the peaceful possession and occupation or proper use of any other Unit or the Common Elements.

(d) Nothing shall be done or kept in any Commercial or Plaza Class Unit or in the Common Elements which will increase the rate of insurance for the Property or any part thereof applicable for appropriate retail use without the prior written consent of the Condominium Executive Board, it being understood, however, that the Commercial and Plaza Class Units will be used for commercial activity as otherwise provided herein. No Commercial or Plaza Class Unit Owner shall permit anything to be done or kept in his Unit or in the Common Elements which will result in the cancellation of insurance on the Property or any part thereof or which would be in violation of any law, regulation or administrative ruling. No strip or waste will be committed on the Common Elements.

(e) The Commercial Class Unit owner shall not remove the acoustical, sound-deadening, or fire-resistant material from the walls, floors or ceilings of his Unit without replacing the same with acoustical, sound-deadening, or fire resistant materials of equal or greater sound-deadening or fire-resistant ratings or qualities. No Unit Owner shall remove the acoustical, sound-deadening or fire resistant materials from the Common Elements surrounding his Unit without the prior written consent of the Condominium Executive Board or a committee appointed by such Executive Board.

(f) Trash, garbage and other waste shall be kept only in sanitary containers and shall be disposed of in such manner as may be prescribed from time to time in rules and regulations established by the Condominium Executive Board.

(g) No person shall overload the electrical wiring or operate any machinery, appliances, accessories or equipment in such a manner as to cause, in the judgment of the Executive Board, or a committee designated by such Executive Board, as appropriate, any unreasonable disturbance or make any alterations, repairs or modifications to or connections with the electrical or plumbing systems without the prior written consent of the of the Executive Board or a committee designated by such Executive Board, as appropriate. Further, no person shall be permitted to vent any machinery, appliances, accessories or equipment except through ventilation and exhaust systems which vent through the roof of the Building(s), designed for such purpose as shown on the Plans.

(h) Commercial or Plaza Class Units may be rented on a daily, weekly, monthly, seasonal, or annual basis, in whole or part. No Unit Owner shall rent or lease a Unit other than in accordance with a written form of lease, rental agreement, or occupancy agreement which contains the following provisions:

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

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

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

(iv) in the event that the payment of Common Charges and/or Service Charges or other amounts due to the Association becomes more than 30 days past due, authorizing the Association to require the Tenant to pay directly to the Association the rent on the Unit in an amount of up to the balance of current and delinquent Common Charges and other unpaid amounts outstanding, subject to the rights of any recorded first mortgage or Eligible Mortgage Holder which has exercised an assignment of rents. The Association's notice to the Tenant shall be conclusive and binding on the Tenant as to the Tenant's obligation to pay the rent directly to the Association and as to the amount of Common Charges and other fees due. The Unit owner shall have ten days after such notice is sent to file any objection, which objection must be in writing and signed under oath under the pains and penalties of perjury, must contain a short and plain statement of any alleged errors by the Association, and shall include copies of cancelled checks or other written evidence of objection or miscalculation of the amounts due. The Unit owner must state what amounts, if any, which the owner admits is owed to the Association.

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

The foregoing provisions of this paragraph shall apply to an institutional lender in possession of a Unit as a result of foreclosure, judicial sale or a proceeding in lieu of foreclosure.

Section 7.3. Resale of Units. The following provisions apply to the voluntary sales of Units:

(a) No Unit Owner, including the Declarant, shall be liable for the payment of any part of the Common Expenses assessed against his Unit subsequent to the date of recordation of a conveyance in fee of such Unit by the Owner. In a voluntary transfer of a Unit, the grantee of the Unit shall be jointly and severally liable with the grantor for all unpaid assessments and special assessments for Common Expenses made by the appropriate Executive Board against the latter up to the time of the recordation of grantor's transfer, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any person who shall have entered into an agreement to purchase a Unit from a Unit Owner, other than the Declarant, shall be entitled to a certificate from the appropriate Executive Board as provided by Section 1604-108(b) of the Act, prepared at the expense of the person so requesting the same, and the grantee shall not be liable for, nor shall the Unit conveyed be subject to a lien for, any assessments or unpaid special assessments made by the appropriate Executive Board against the grantor for Common Expenses in excess of those disclosed on such certificate;

(b) A voluntary transfer for the purpose hereof shall be considered any sale, lease, gift, testate or intestate distribution, or the transfer of ownership of a corporation owning a Unit; and

(c) All Unit Owners other than the Declarant must comply with Section 1604-108 of the Act. Except as provided in the Act and this Section, there are no other restrictions governing the voluntary transfer of a Unit.

ARTICLE VIII
RIGHTS OF MORTGAGEES, INSURERS AND GUARANTORS

Section 8.1. Mortgage of Unit. Each Unit Owner shall have the right to mortgage or encumber his own Unit, together with its appurtenant Allocated Interests.

Section 8.2. Mortgage Foreclosure. Any Mortgagee of a Unit that obtains title to the Unit pursuant to the remedies provided in the Mortgage which is a first Mortgage on the Unit, or through a completed foreclosure of the first Mortgage, or through deed (or assignment) in lieu of foreclosure, shall, except as otherwise provided by the Act, take the Unit with the Allocated Interests appurtenant thereto free of such claims for unpaid assessments for Common Expenses, interest and costs levied against such Unit which accrue prior to the acquisition of title to such

Unit by the Mortgagee, other than the proportionate share of the Common Expenses which become due and payable from and after the date on which the first Mortgagee shall acquire title to the Unit through a completed foreclosure or deed (or assignment) in lieu of foreclosure. Provided, however, that such Mortgagee may be liable as a Unit owner for the payment of such unpaid assessments or charges that are assessed against the Mortgagee as a result of all Unit Owners being reassessed for the aggregate amount of such deficiency.

Section 8.3. Rights of Eligible Mortgage Holder, Insurer, or Guarantor. Eligible Mortgage Holders, Eligible Insurers and guarantors of mortgages which are Eligible Mortgages shall, in addition to those rights provided in the Act, have the rights hereinafter set forth.

(a) The Association shall send written notice by prepaid United States mail to each Eligible Mortgage Holder, Eligible Insurer, or guarantor of a mortgage of the following proposed actions either within a reasonable period prior to the taking of any of such proposed actions or at the time that notice thereof is given to Unit Owners unless another time is specified herein: (1) Any condemnation loss or any casualty loss which affects a material portion of the Condominium or any Unit on which there is a first Mortgage held, insured or guaranteed by such Eligible Mortgage Holder, Eligible Insurer, or guarantor of a mortgage, as applicable ("material" means five percent (5%) or more); (2) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; (3) The proposed use of any proceeds of Property insurance required to be obtained and maintained by the Association pursuant to this Declaration for purposes other than repair, replacement and restoration of the Property substantially in accordance with this Declaration, the Bylaws, the Plats and Plans, and the original elevation thereof and original building plans and specifications; (4) The adoption by the Executive Board of any proposed budget, the date of the meeting of Unit Owners scheduled to consider ratification of such proposed budget, and a summary of the proposed budget; (5) Any proposed action which would require the consent of a specified percentage of Eligible Mortgage Holders as specified herein; (6) The termination of the Condominium; (7) A change in the Allocated Interests appurtenant to any Unit, a change in the boundaries of a Unit, or the subdivision of a Unit; (8) The conveyance or subjection to a security interest of any portion of the Common Elements; (9) provided, however, (a) that the Association shall also send written notice of any delinquency in the payment of assessments for Common Expenses or any other charges owed by an Owner of a Unit, or any other default in the performance or payment by a Unit Owner of any obligation under this Declaration, the Bylaws or any Rules and Regulations of the Association to the Eligible Mortgage Holder, Eligible Insurer of the Mortgage or guarantor to which such Owner's Unit is subject, which notice must be given as soon as reasonably possible but in no event later than sixty (60) days after the occurrence of such delinquency or default and (b) the Association shall also send written notice to each Eligible Mortgage Holder of any consideration of any proposed action concerning any delinquency in the payment of assessments for Common Expenses or any other charges owed by an Owner of a Unit, or concerning any other default in the performance or payment by a Unit Owner of any obligation under this Declaration, the Bylaws or any Rules and Regulations of the Association.

(b) The prior written approval of at least eighty percent (80%) of the Unit Owners and sixty-seven (67%) percent of the Eligible Mortgage Holders shall be required to (1) terminate or abandon the Condominium for reasons other than substantial destruction or condemnation of the Condominium and (2) abandon, partition, subdivide, encumber, sell or transfer any of the Common Elements (except for granting easements for utilities or other public purposes consistent with the intended use of the Common Elements) by act or omission. In addition, the owner of the Plaza Class Unit shall have a right of first refusal to purchase any Common Elements to be sold by the Association.

(c) The prior written approval of at least fifty-one (51%) percent of the Eligible Mortgage Holders and eighty percent (80%) of the Unit Owners shall be required for the termination or abandonment of the Condominium as a result of condemnation or substantial loss to the Units, Common Elements, or both.

(d) The prior written approval of at least sixty-seven (67%) percent of the Eligible Mortgage Holders shall be required to use property insurance and eminent domain proceeds resulting from losses to any Condominium Property (whether to Units or to Common Elements) for other than the repair, replacement, or restoration of the Property substantially in accordance with this Declaration, the Bylaws, the Plats and Plans, and the original elevation thereof and the original building plans and specifications.

(e) An Eligible Mortgage Holder who receives a written request to approve additions or amendments to the Condominium Documents who does not deliver to the requesting party a negative response within thirty (30) days after the giving of notice shall be deemed to have approved such request in writing.

(f) In the event of any default by a Unit Owner in payment of assessments or performance of obligations pursuant to the Condominium Documents as more fully described herein, the Eligible Mortgage Holder of the Mortgage on such Owner's Unit shall have the right but not the obligation to cure such default. In addition to, but not by way of limitation of, all rights granted to Eligible Mortgage Holders pursuant to Section 6.3 of this Declaration to cast the votes allocated to a Unit in lieu of the Unit Owner, an Eligible Mortgage Holder, or its representative, shall have the right to attend meetings of the Association and Executive Board for the purposes of discussing the termination of the Condominium, a change in the Allocated Interest of a Unit, a change in the boundaries of a Unit or a subdivision of a Unit, the merger or consolidation of the Condominium with another condominium, the conveyance or subjection to a security interest of any portion of the Common Elements, the proposed use of any proceeds of hazard insurance for purposes other than the repair or restoration of the damaged Property, or the adoption of any proposed budget by the Executive Board.

Section 8.4. Mortgagee Priority. No provision of the Condominium Documents shall be deemed or construed to give a Unit Owner, or any other person, priority over the rights of any Eligible Mortgage Holder pursuant to its Mortgage in the case of a distribution to Unit Owners of insurance proceeds or condemnation awards for losses to or a taking of Units, Common Elements, or both.

ARTICLE IX
INSURANCE

Section 9.1. Policies. Commencing no later than the time of the first conveyance of a Unit other than as security for an obligation to a person other than the Declarant, the Executive Board on behalf of the Association shall obtain, or cause to be obtained, and shall maintain as a Common Expense, the policies of insurance described in this Article to the extent such policies shall be reasonably available from reputable insurance companies. To the extent that said insurance described in this Article is not reasonably available as described in the preceding sentence, the Executive Board on behalf of the Association shall give written notice of that fact to the Unit Owners and the Eligible Mortgage Holders of Mortgages of their Units by hand delivery securing a receipt therefor, or by prepaid United States mail, return receipt requested. To the extent that any of the insurance described in this Article shall become in the future no longer available, the Association shall obtain in substitution therefor such comparable insurance as shall then be available. The Executive Board of the Association is hereby irrevocably appointed as attorney-in-fact for each Unit Owner and for each Mortgagee and Eligible Mortgage Holder and for each owner of any other interest in the Property for the purpose of purchasing and maintaining the insurance described in this Article, the collection and appropriate disposition of the proceeds thereof with any Insurance Trustee pursuant to the Insurance Trust Agreement as trustee for all Unit Owners and their Mortgagees as their respective interests may appear to hold any insurance proceeds in trust for disbursement as provided in Section 9.3 and Subsection 9.2(d), the Bylaws and Section 1603-113(e) of the Act, the negotiation of losses and execution of releases of liability, the execution of all documents, and the performance of all other acts necessary to accomplish such purposes.

Section 9.2. Property Insurance. The Executive Board shall obtain and maintain as a Common Expense a blanket-type or master standard form of "all-risk" fire insurance policy with extended coverage, vandalism, malicious mischief, windstorm, sprinkler leakage (if applicable), debris removal, cost of demolition and water damage endorsements issued by an insurance company authorized to do business in the State of Maine insuring as a single entity the entire Property (exclusive of land, foundations, excavations, and other similar items customarily excluded from property insurance policies), including the Units (and the Residential/Hotel Units' bathroom and kitchen fixtures, air conditioning and heating equipment, initially installed therein by the Declarant and the replacements thereto installed by the Declarant but not including furniture, wall coverings, furnishings or other personal property supplied or installed by Residential/Hotel Class Unit Owners or the Commercial/Plaza Class Unit Owners), Limited Common Elements and other Common Elements together with all fixtures, supplies and common personal property belonging to the Association and covering the interest of and naming as insured, the Association, the Executive Board and all Unit Owners and their Mortgagees and

their Mortgagees' successors and assigns, as their insurable interests may appear. To the extent reasonably available and required by the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Veterans Administration, Federal Housing Administration, or Maine State Housing Authority, such policy shall cover the fixtures, equipment and other personal property of a Unit Owner located inside a Unit financed by a mortgage purchased by the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Veterans Administration, Federal Housing Administration, or Maine State Housing Authority; and if such required insurance is so provided, the Association shall require such Unit Owner to pay the additional cost incurred by the Association in so insuring such Unit Owner's fixtures, equipment or other personal property. Such blanket or master policy shall be in an amount equal to no less than one hundred percent (100%) of the then actual cash value of the Property (exclusive of the land, excavations, foundations and other similar items customarily excluded from such coverage), without deduction for depreciation (such amount to be re-determined annually by the Executive Board with the assistance of the insurance company affording such coverage),. This blanket or master hazard insurance policy may, at the option of the Executive Board, contain a "deductible" provision in an amount to be annually determined by the Executive Board but not to exceed the lesser of Ten Thousand Dollars ($10,000.00) or one percent (1%) of the face amount of the policy. Such policy shall also contain the following provisions:

(i) A waiver of any right of the insurer to repair, rebuild or replace any damage or destruction, if it shall be determined pursuant to Section 1603-113(h) of the Act not to do so; and

(ii) The following endorsements (or their equivalent): (1) "no control" (to the effect that coverage shall not be prejudiced by any act or neglect of any occupant or Unit Owner or their agents when such act or neglect is not within the control of the insured, or the Unit Owners collectively; nor by any failure of the insured, or the Unit Owners collectively, to comply with any warranty or condition with regard to any portion of the Condominium over which the insured, or the Unit Owners collectively, have no control); (2) "Construction Code Endorsement", "increased cost of construction", "contingent liability from operation of building laws or codes" and condominium replacement costs"; (3) "agreed amount" or elimination of co-insurance clause; (4) "inflation guard" endorsement; and (5) "steam boiler coverage endorsement" providing coverage of at least the lesser of (i) Two Hundred Thousand Dollars ($200,000.00) or (ii) the insurable value of the Buildings(s) housing the boiler or machinery for each accident if a steam boiler shall be operated in connection with the Property; and

(iii) That any "no other insurance" clause expressly exclude individual Unit Owners' policies from its operation so that the physical damage policy purchased by the Executive Board shall be deemed primary coverage and any individual Unit Owners' policies shall be deemed excess coverage, and in no event shall the insurance coverage obtained and maintained by the Executive Board hereunder provide for or be brought into contribution with insurance purchased by individual Unit Owners or their Mortgagees; and

(iv) A standard "mortgagee clause" which shall: (a) 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; (b) provide that such insurance as to the interest of any mortgagee shall not be invalidated by any act or neglect of the Association or Owners or any persons under any of them; and (c) waive any provision invalidating such mortgagee clauses 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.

(v) The recognition of any Insurance Trust Agreement whereby the Executive Board may designate in writing an Insurance Trustee to hold any insurance proceeds in trust for disbursement as provided in Section 9.3, the Bylaws and Section 1603-113(e) of the Act.

Notwithstanding any other provision of this Declaration, if a particular use of a Commercial Class Unit is classified as a special risk under the Association's fire and casualty insurance policy such that an additional premium is charged, that Commercial Class Unit Owner shall, through a service fee, promptly reimburse the Association for the cost of such additional premium.

Unless otherwise established by the Executive Board from time to time, a Unit Owner who is insured through the Association's casualty insurance policy shall pay the expense of repair of damage to his Unit in the amount of $500 (or such other amount as may be established by the Rules and Regulations adopted by the Executive Board from time to time) not covered by the insurance.

Section 9.3. Adjustment and Payment of Insurance Loss; Trustee. Any loss covered by the Association's insurance policy described in Section 9.2 shall be adjusted with the Association by its Executive Board, but the insurance proceeds for said loss shall be payable to the Insurance Trustee designated for that purpose as provided in subsection 9.2(d), 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, Mortgagees and other lien holders as their interest may appear. Subject to the provisions of this Section, the Bylaws and Section 1603-113(e) of the Act, the proceeds shall be disbursed first for the repair or restoration of the damage to the Property, and Unit Owners, Mortgagees and other lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the damaged Common Elements and Units have been repaired or restored, the decision has been made not to repair or restore the damage as provided in Section 1603-113(h) of the Act, or the Condominium is terminated.

Section 9.4. Liability Insurance. The Executive Board shall obtain and maintain as a Common Expense comprehensive general public liability insurance (including medical payments insurance) and property damage insurance in such limits as the Board may from time to time determine, insuring each Executive Board member, the managing agent, each Unit Owner and the Declarant against any liability to the public or other Unit Owners, their tenants, invitees,

agents and employees, covering all occurrences commonly insured against for death, bodily injury or property damage, relating in any way to the use and/or ownership of the Common Elements, public ways and any other areas under the supervision of the Association or any part thereof. Such insurance shall be issued on a comprehensive liability basis and shall contain (a) cross-liability endorsement under which the rights of a named insured under the policy shall not be prejudiced with respect to his action against another named insured; (b) hired and non-owned vehicle coverage; and (c) a "severability of interest" endorsement which shall preclude the insurer from denying liability to a Unit Owner because of negligent acts of the Association or of another Unit Owner. The Executive Board shall review such limits once each year, but in no event shall such insurance be less than five million dollars ($5,000.000.00) covering all claims for bodily injury or property damage arising out of one occurrence.

Section 9.5. Other Insurance. The Executive Board shall obtain and maintain as a Common Expense:

(a) Adequate fidelity coverage to protect against dishonest acts on the part of officers, members of the Executive Board, trustees and employees of the Association and all others who handle, or are responsible for handling, funds of the Association, including the managing agent. Such fidelity bonds shall: (1) name the Association as an obligee; (2) be written in an amount not less than the greater of (i) one-quarter the total annual assessments for Common Expenses plus the Association's reserve funds for the year or (ii) the maximum funds in the custody of such persons handling the funds of the Association; and (3) contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression;

(b) To the extent available, "directors' and officers'" liability insurance to satisfy indemnification obligations of the Association provided in Section 13.2.

(c) If required by any governmental or quasi governmental agency, including without limitation the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, flood insurance in accordance with the then applicable regulations of such agency;

(d) Workmen's compensation insurance if and to the extent necessary to meet the requirements of law; and

(e) Such other insurance as the Executive Board may determine or as may be requested from time to time by a majority in voting interest of the Unit Owners.

Section 9.6. Proof of Insurance and Notice of Cancellation. All insurers that shall issue an insurance policy or policies under this Article shall issue certificates or memoranda of insurance to the Association, and, upon request, to any Unit Owner or Mortgagee. All such insurers issuing the policy may not cancel (including cancellation for non-payment of premium), substantially modify or refuse to renew such policy or policies until twenty (20) days after notice

of the proposed cancellation or non-renewal has been mailed to the Association, the managing agent, each Unit Owner and each Mortgagee to whom a certificate or memorandum of insurance has been issued at their respective last known addresses. All policies under Sections 9.2 and 9.4 shall, in addition, contain the following provisions:

(a) The insurer waives any right to claim by way of subrogation against the Declarant, the Association, the Executive Board, the managing agent or the Unit Owners, and their respective agents, employees, guests and, in the case of the Unit Owners, the members of their households.

(b) The Declarant, so long as Declarant shall own any Unit, shall be protected by all such policies as a Unit Owner.

(c) 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.

(d) The insurer waives its right to subrogation under the policy against any Unit Owner of the Condominium or members of his household.

(e) 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.

(f) 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.

(g) The insurer must hold (1) a rating of Class VI or better by Best's Insurance Reports, or (2) an equivalent or comparable rating by an equivalent rating bureau should Best's Insurance Reports cease to be issued or (3) an equivalent or comparable rating from Lloyd's of London.

Section 9.7. Separate Insurance. Each Unit owner shall have the right, at his own expense, to obtain insurance for his own Unit, and for his own benefit and to obtain insurance coverage upon his personal property and for his personal liability as well as upon any improvements made by him to his Unit under coverage normally called "improvements and betterments coverage"; provided, however, that no Unit Owner shall be entitled to exercise his right to acquire or maintain such insurance coverage so as to decrease the amount which the Executive Board, on behalf of all Unit Owners, may realize under any insurance policy maintained by the Board or to cause any insurance coverage maintained by the Board to be brought into contribution with insurance coverage obtained by a Unit Owner.

All such policies shall contain waivers of subrogation. Any Unit Owner who obtains an individual insurance policy covering any portion of the Condominium, other than improvements and betterments made by such Owner at his expense and personal property belonging to such Owner, shall file a copy of such individual policy or policies with the Executive Board within thirty (30) days after the purchase of such insurance. Such Unit Owner shall also promptly notify the Executive Board in writing in the event such policy is cancelled.

Each Unit Owner shall notify the Executive Board in writing of all structural improvements made by the Unit Owner to his Unit; provided, however, that this sentence shall not be construed as an authorization to Unit Owners to make structural improvements to Units otherwise than in accordance with this Declaration, the Bylaws and Rules and Regulations promulgated by the Executive Board. Any premium increase caused by such improvements may be assessed to the Owner of the improved Unit. No Unit Owner shall be entitled to receive insurance proceeds for the repair, restoration or rebuilding of any such improvements not so reported to the Executive Board, unless otherwise consented to by unanimous vote of the Executive Board.

ARTICLE X
AMENDMENTS

Section 10.1. Amendment under the Act. Except in the case of amendments to this Declaration that may be executed and recorded by the Declarant pursuant to the provisions of this Declaration granting the Declarant the right to unilaterally amend the same, and except in cases of amendments to this Declaration that may be unilaterally executed and recorded by the Association as described in Section 1601-107, Eminent Domain, 1602-108(c), Allocation of Limited Common Elements, 1602-112(a), Relocation of Boundaries Between Adjoining Units, 1602-113, Subdivision of Units and 1602-117(a), Amendment of Declaration, of the Act, and except in cases of amendments to this Declaration that may be agreed upon by certain Unit Owners, as described in Section 1602-108(b), Reallocation of Limited Common Elements, 1602-112(a), Relocation of Boundaries Between Adjoining Units, 1602-113(b), Subdivision of Units, or 1602-118(b) of the Act, and subject to the other provisions of this Declaration and of the Act, this Declaration, the Plat and the Plans may be amended as hereinafter set forth.

Section 10.2. Amendment before any Conveyance. Prior to the conveyance of any Unit by the Declarant to a Unit Owner other than as security for an obligation, the Declarant shall have the right to amend and re-amend this Declaration in any manner that the Declarant may deem appropriate.

Section 10.3. Amendment after first Conveyance. After the first conveyance of a Unit by a Declarant as contemplated in the preceding Section, the terms of the following subsections shall apply to the amendment of this Declaration:

(a) Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting of the Executive Board or Association in which a proposed amendment is considered, and shall be served upon all Unit owners and upon all Eligible Insurers and Eligible Mortgage Holders.

(b) Resolution. An amendment may be proposed by either the Executive Board or by Unit Owners holding in the aggregate no less than twenty (20%) percent of the votes in the Association. No resolution of the Executive Board adopting a proposed amendment, or the proposed amendment itself, shall be effective unless it has been adopted at a meeting of the Association duly called and held in accordance with the Bylaws by the affirmative vote of at least sixty-seven (67%) percent in voting interest of the Unit Owners and then executed and recorded as provided in Subsection 10.3(e).

(c) Agreement. In the alternative, an amendment may be made by an agreement signed by the record Owners of Units to which are allocated 100% of the Votes in the Association in the manner required for the execution of a deed and acknowledged by at least one of them, and such amendment shall be effective when certified and recorded as provided in Subsection 10.3(e).

(d) Proviso. Provided, however, that except as otherwise permitted by the Act and provided in this Declaration, no amendment may increase the number of Units or change the boundaries of any Unit, the Allocated Interests allocated to a Unit, or the uses to which any Unit is restricted without the unanimous consent of the Unit Owners and the required consent of Eligible Mortgage Holders of Mortgages on Units as may be required by the Act, and provided further that no amendment that would materially adversely affect the rights, privileges, powers or options of, or materially increase the financial responsibilities of, the Residential/Hotel, Commercial or Plaza Class Units shall be made without the affirmative vote of at least sixty-seven (67%) percent in voting interest of the Owners of such Units. No amendment of this Declaration shall make any change which would in any way affect any of the rights, privileges, powers and options of the Declarant, its successors or assigns, unless the Declarant, or its successors or assigns, shall join in the execution of such amendment. Further, because the Allocated Interests allocated to the Units are determined on the basis of the floor area within each Unit, any change in the floor area within a Unit requires an amendment to the Declaration and, except where such change occurs as the result of the exercise by the Declarant of a reserved Development Right, or as a result of a subdivision of a Divisible Commercial Class Unit pursuant to Section 2.8 hereof which does not change the floor area of the Commercial Class Units in the aggregate in the Condominium, and except for a diminimus change brought about as a result mathematical or technical errors in the original calculation of floor area, any such amendment requires the unanimous consent of all the Unit Owners and must include an amendment of the Plat and Plans showing the related changes in Unit configuration.

(e) Execution and Recording. A copy of each amendment shall be attached to or included with a certificate, certifying that the amendment was duly adopted, which certificate shall be executed and acknowledged by such officer or officers of the

Association and/or member or members of the Executive Board designated for that purpose by the Bylaws. The amendment shall be effective when such certificate and copy of the amendment are recorded.

(f) Notice and Challenge. No action to challenge the validity of an amendment to this Declaration adopted by the Association pursuant to this Article may be brought more than one year after such amendment is recorded. After each amendment to this Declaration adopted pursuant to this Article has been recorded, notice thereof shall be sent to all Unit Owners and to all Eligible Mortgage Holders at the address last furnished to the Executive Board, but failure to send such notices shall not affect the validity of such amendment.

ARTICLE XI
TERMINATION OF CONDOMINIUM

Section 11.1. Termination. The Condominium shall not be terminated except as provided in Section 1602-118 of the Act, by agreement of Unit Owners of Units to which at least eighty (80%) percent of the Votes in the Association are allocated and of Eligible Mortgage Holders holding of record Mortgages on Units to which are allocated those percentages of the votes in the Association as more particularly provided in Subsections 8.3(b)-(d). Termination provided for in Section 1602-118 of the Act shall not bar the subsequent recreation of the Condominium or another condominium with respect to the Property.

ARTICLE XII
APPLICABILITY; ARBITRATION; COMPLIANCE; EMINENT DOMAIN

Section 12.1. Applicability. All present and future Owners and tenants, their guests, licensees, servants, agents, employees and any other person or persons that shall be permitted to use a Unit or the Common Elements shall be subject to this Declaration, the Bylaws and to such Rules and Regulations as may be issued by the Executive Board from time to time to govern the conduct of its members and the use and occupancy of the Property. Ownership, rental or occupancy of any of the Units in the Condominium (other than possession by a Mortgagee prior to either the completion of foreclosure or the acceptance of a deed to the Unit subject to the Mortgage held by such Mortgagee) or the acceptance of a deed or conveyance (other than as security) or the entering into of a lease or occupancy of any Unit shall signify that the provisions of this Declaration and the Bylaws, the Rules and Regulations of the Condominium and the decisions of the Executive Board are accepted and ratified by such Owner, tenant or occupant, and all of such provisions shall be deemed and taken to 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 or lease thereof.

Section 12.2 Arbitration. In the event that any Class of Units, represented by that Class's member(s) of the Condominium Executive Board, and/or the Executive Board of the Association, generally, either (i) are unable to agree upon the expenses, budget or the

performance of the maintenance, repair and replacement of the Common Elements, Limited Common Elements or Units in accordance with the terms and provisions of the Declaration, which deadlock continues for thirty (30) days after a majority of the members of the Executive Board elected by a Class of Units send written notice to the other members of the Executive Board indicating the decision or decisions in dispute, or (ii) are so divided that the affairs of the Association and the Condominium are suffering or will suffer irreparable injury, then in either such event the Executive Board shall promptly select an independent professional property manager to handle such duties in dispute.

If the Executive Board cannot agree on the selection of such a manager, then a manager shall be selected in accordance with the procedures and with the powers specified below:

The members of the Class of Executive Board who initiated the notice shall give notice to the other Executive Board members specifying in said notice the name and address of the person designated to act as an arbitrator on its behalf. Within ten (10) days after the service of such notice, the other Class of Executive Board members shall give notice specifying the name and address of the person designated to act as an arbitrator on its behalf. If the other Executive Board members fails to notify the initiating Board members of the appointment of its arbitrator within the time above specified, then the appointment of the second arbitrator shall be made by the first arbitrator. The two arbitrators so chosen shall meet within ten (10) days after the second arbitrator is appointed and if, by twenty (20) days after the date of the appointment of the second arbitrator, the two arbitrators shall not agree upon the independent professional manager, they shall together appoint a third arbitrator. In the event of their being unable to agree upon such third arbitrator within ten (10) days after the latest date for agreement, the third arbitrator shall be selected by the Executive Board members themselves if they can agree thereon within a further period of ten (10) days. If the Executive Board members do not so agree, then either class of Executive Board members, on behalf of all Executive Board members and on notice to the other Executive Board members may apply to the York County Superior Court for an appointment of such third arbitrator. It shall not be an objection to the nomination by either Unit Owner that the arbitrator nominated is not neutral, but the third arbitrator shall be a disinterested person. The decision of the arbitrators shall be final and the expenses of arbitration shall be assessed as a Special Assessments, with one half paid by the Residential/Hotel Units and the other half paid by the Commercial/Plaza Units. All arbitrators appointed must be employed in the real estate industry, including without limitation, as managers, real estate brokers, bankers, attorneys, developers, investors or otherwise. Unless the Executive Board members agree to limit the scope of the manager's duties, the independent property manager shall have full power to administer the Association, on its behalf, including (i) establishing the budget of the Association, (ii) calculating, assessing, allocating and collecting Common Expenses and charges, (iii) management and administration of the Condominium, (iv) establishing reserves, and (v) appointment and dismissal of personnel and agents for the maintenance of the Condominium. The manager's term shall continue for a minimum of one (1) year, renewable annually, unless a majority of both classes of the Executive Board agree in writing to cancel thirty (30) days prior to the anniversary date. The manager shall be paid a reasonable fee for such manager's services, which fee shall be a Common Expense among all units in proportion to their Allocated

Interests. In the event of dispute, the manager's fee amount shall be determined by the arbitrators as set forth above.

Section 12.3. Compliance. Unit Owners shall comply with the provisions of the Declaration and, upon the failure to so comply, shall be subject to enforcement procedures as outlined herein.

(a) Each Unit Owner shall be governed by and shall comply strictly with the terms, covenants, conditions and restriction of this Declaration, Bylaws, and the Rules and Regulations adopted pursuant thereto, and the same as they may be amended from time to time.

(b) The Executive Board and committees appointed by the Executive Board in accordance with the Bylaws shall have the power to adopt, amend and enforce compliance with, such reasonable Rules and Regulations and the Common Elements consistent with the provisions of this Declaration and the Act including, but not limited to, the appointment of such committees and the enactment and enforcement of such enforcement procedures and penalties for violations as the Executive Board shall deem appropriate.

(c) Failure by a Unit Owner to comply with the terms of this Declaration, the Bylaws and the Rules and Regulations adopted pursuant thereto, as the same may be amended from time to time, shall entitle the Executive Board or a committee appointed by the Executive Board to (1) sue for the recovery of damages, or (2) sue for injunctive relief, or (3) to enter the Unit in which, or as to which, such violation or breach exists and summarily to abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Executive Board shall not thereby be deemed guilty in any manner of trespass, provided, however, that the Executive Board or such committee must institute appropriate judicial proceedings before they may alter or demolish any items of construction, or (4) any two or more of the foregoing. Such relief shall not be exclusive of other remedies provided by law. In any proceeding arising because of an alleged failure of a Unit Owner to comply with the terms of the Condominium Documents and Rules and Regulations adopted pursuant thereto, as the same may be amended from time to time, the Executive Board or such committee, if the prevailing party, shall be entitled to recover the costs of the proceeding and reasonable attorney's fees.

(d) The failure of the Executive Board, or any committee appointed by the Executive Board, to enforce any covenant, restriction or other provision of the Act, the Condominium Documents or the Rules and Regulations adopted pursuant thereto, shall not constitute a waiver of the right to do so thereafter.

Section 12.4. Eminent Domain. If all or part of the Common Elements shall be taken or condemned by any authority having the power of eminent domain, the Association shall notify the Owners and Eligible Mortgage Holders of the Units affected and shall represent the Unit

Owners in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority, and the award shall be paid to the Association for the use and benefit of the Unit Owners and their Mortgagees as their interest may appear. The Association shall divide any portion of the award not used for any restoration or repair among the Unit owners and their Mortgagees, as their interest may appear, in proportion to their Allocated Interests in the Common Elements prior to such taking or condemnation, but the portion of the award attributable to the acquisition of any Limited Common Element shall be equally divided among the Owners of the Units to which such Limited Common Element was allocated at the time of such taking or condemnation and their Mortgagees, as their interests may appear. Each Unit Owner appoints the Association as attorney-in-fact for the purposes described in this Section. Notwithstanding anything to the contrary in this Section, lien holders on any Unit, Common Element or Limited Common Elements, shall have a lien on any such awards in order of priority of their respective liens.

ARTICLE XIII
LIMITATION OF LIABILITY

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

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

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

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

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

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

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

Section 13.2. Indemnification. Each member of the Executive Board, in his capacity as an Executive Board member, officer or both, shall be indemnified by the Association against all expenses and liabilities, including attorney's fees, reasonably incurred by or imposed upon him in connection with any proceeding in which he may become involved by reason of his being of having been a member and/or officer of the Executive Board, or any settlement of any such proceeding, whether or not he is an Executive Board member, officer or both at the time such expenses are incurred, except in such cases wherein such Executive Board member and/or officer is adjudged guilty of willful misconduct or gross negligence in the performance of his duties; provided that, indemnification hereunder with respect to any criminal action or proceeding is permitted only if such Executive Board member and/or officer had no reasonable cause to believe his conduct was unlawful. The indemnification by the Unit Owners set forth in this Section shall be paid by the Association on behalf of the Unit Owners and shall constitute a Common Expense and shall be assessed and collectible as such. Such right of indemnification shall not be deemed exclusive of any other rights to which such Executive Board member and/or officer may be entitled as a matter of law or agreement or by vote of the Unit Owners or otherwise.

Section 13.3. Defense of Claims. Complaints brought against the Association, the Executive Board or the officers, employees or agents thereof in their respective capacities as such, or the Condominium as a whole, shall be directed to the Executive Board of the Association, which shall promptly give written notice thereof to the Unit Owners and the Eligible Mortgage Holders and the Mortgagees of Units, and such complaints shall be defended by the Association. The Unit Owners shall have no right to participate in such defense other than through the Association.

ARTICLE XIV
MISCELLANEOUS

Section 14.1. No Obligation to Complete. Nothing contained in this Declaration or the Plat and Plans do, or shall be deemed to, impose upon the Declarant, or any successor Declarant, any liability or obligation to build, construct or provide any Buildings, amenities or other improvements to the Property except to the extent required by the Act.

Section 14.2. Captions. The headings in this Declaration are for purposes of reference only and shall not limit or otherwise affect the meaning hereof. Any tables of contents or indices are attached to this Declaration for purposes of reference and convenience only and shall neither

limit nor otherwise affect the meaning hereof nor be deemed as part of this Declaration. References in this Declaration to Articles, Sections, Subsections and Schedules without references to the document in which they are contained are references to this Declaration. Schedules and/or Exhibits are attached to and incorporated by reference into this Declaration and are an integral part of this Declaration.

Section 14.3. Gender, Number, etc. The use of the singular number in this Declaration shall be deemed to include the plural, the plural the singular, and the use of any one gender shall be deemed applicable to all gender.

Section 14.4. Severability. The invalidity of any provisions of this Declaration shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder of this Declaration, and in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included herein.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed on April 27, 2006.

GRAND VICTORIAN, LLC

Linda W. Madden
Witness:

by: Timothy Swenson
Timothy J. Swenson, its Manager

STATE OF MAINE
YORK, ss.

April 27, 2006

Personally appeared Timothy J. Swenson in his capacity as Manager of Grand Victorian, LLC, and acknowledged the foregoing instrument to be his free act and deed in his said capacity, and the free act and deed of Grand Victorian, LLC.

Linda W. Madden
Notary Public/ Attorney at Law
Print Name: Linda W. Madden
My commission expires: May 29, 2008

Decl Grand Vic LRC 4-20-03 doc
4/25/2006

Exhibit A

A certain lot or parcel of land, together with the buildings and improvements thereon, situated on the southeasterly side of East Grand Avenue in the Town of Old Orchard Beach, County of York and State of Maine, and being more particularly bounded and described as follows:

Beginning at a P.K. spike set in the paved sidewalk at the junction of said East Grand Avenue with Old Orchard Street; thence North 30° 57' 45" East a distance of two hundred thirty-eight and sixty-five hundredths (238.65) feet to a spike set in the ground in the paved sidewalk, at the junction of said East Grand Avenue and Cortland Avenue; thence South S 54° 28' 08" East by and along said Cortland Avenue a distance of two hundred sixty-five and nine tenths (265.90) feet to a drill hole set in the concrete bulkhead located on the northwesterly edge of Old Orchard Beach; thence South 32° 16' 24" West by and along said Old Orchard Beach a distance of two hundred thirty-nine and seventeen hundredths (239.17) feet to a P.K. spike set in the paved sidewalk along the northeasterly side of said old Orchard Street; thence North 54° 16' 30" West, and passing through an additional P.K. spike set in the said paved sidewalk a distance of two hundred sixty and forty-six hundredths (260.46) feet to the point of beginning.

Together with right, title and interest to any and all real and personal property situated between the easterly boundary of the above-described parcel and the low water mark of the Atlantic Ocean.

The above-described premises are conveyed subject to the rights-of-way, easements, rights and privileges conveyed by CDP, Inc. to Old Orchard Ocean Pier Company as set forth in an easement deed dated June 1, 1982, recorded in the York County Registry of Deeds in Book 2932, Page 190, and to all utility easements passing on, under, over, and through said premises. Also conveying all right, title and interest of Grantor to the rights reserved by CDP, Inc. in said deed to Old Orchard Ocean Pier Company dated June 1, 1982, recorded in said Registry of Deeds in Book 2932, Page 190.

The above-described premises are further conveyed subject to (i) any discrepancies, conflicts in boundary lines, shortages in area, encroachments or any other facts that a correct survey would disclose; (ii) rights of parties in possession and of parties under leases or subleases of the above-described premises; and (iii) easement from Hebert L. Hildreth to Old Orchard Pier Company dated February 25, 1898 and recorded in said Registry of Deeds in Book 487, Page 507, as affected by Deed from Old Orchard Pier Company to CDP, Inc. dated June 1,1982 and recorded in said Registry of Deeds in Book 2932, Page 213.

A portion of the above described parcel is the same premises conveyed by Timothy J. Swenson and Victoria C. Swenson to Grand Victorian, LLC dated March 18, 2005, recorded in the York Registry of Deeds in Book 14412, Page 911, and the remaining portion of the above described parcel is the same premises conveyed by Old Orchard Beach Associates, Limited Liability Company to Grand Victorian, LLC dated March, 2005, recorded March 29, 2005 in said Registry in Book 14412, Page 914. Reference is also made to: the quitclaim deed of the

Park At Old Orchard Beach, Inc. to Timothy J. Swenson and Victoria C. Swenson, dated October 1, 2004, and recorded in Book 14244, Page 391 of the York County Registry of Deeds; the quitclaim deed of Frances Danton and Constance Kerr to Old Orchard Beach Associates, Limited Liability Company, dated March 24, 1995, and recorded in Book 7381, Page 129; and the corrective deed from Richard H. McKinney, Jr., Trustee of the Estate of Lona M. McKinney, to Old Orchard Beach Associates Limited Liability Company dated June 1, 1999, and recorded in Book 9513, Page 36.

Exhibit B

GRAND VICTORIAN HOTEL CONDOMINIUM

PERCENTAGE INTEREST

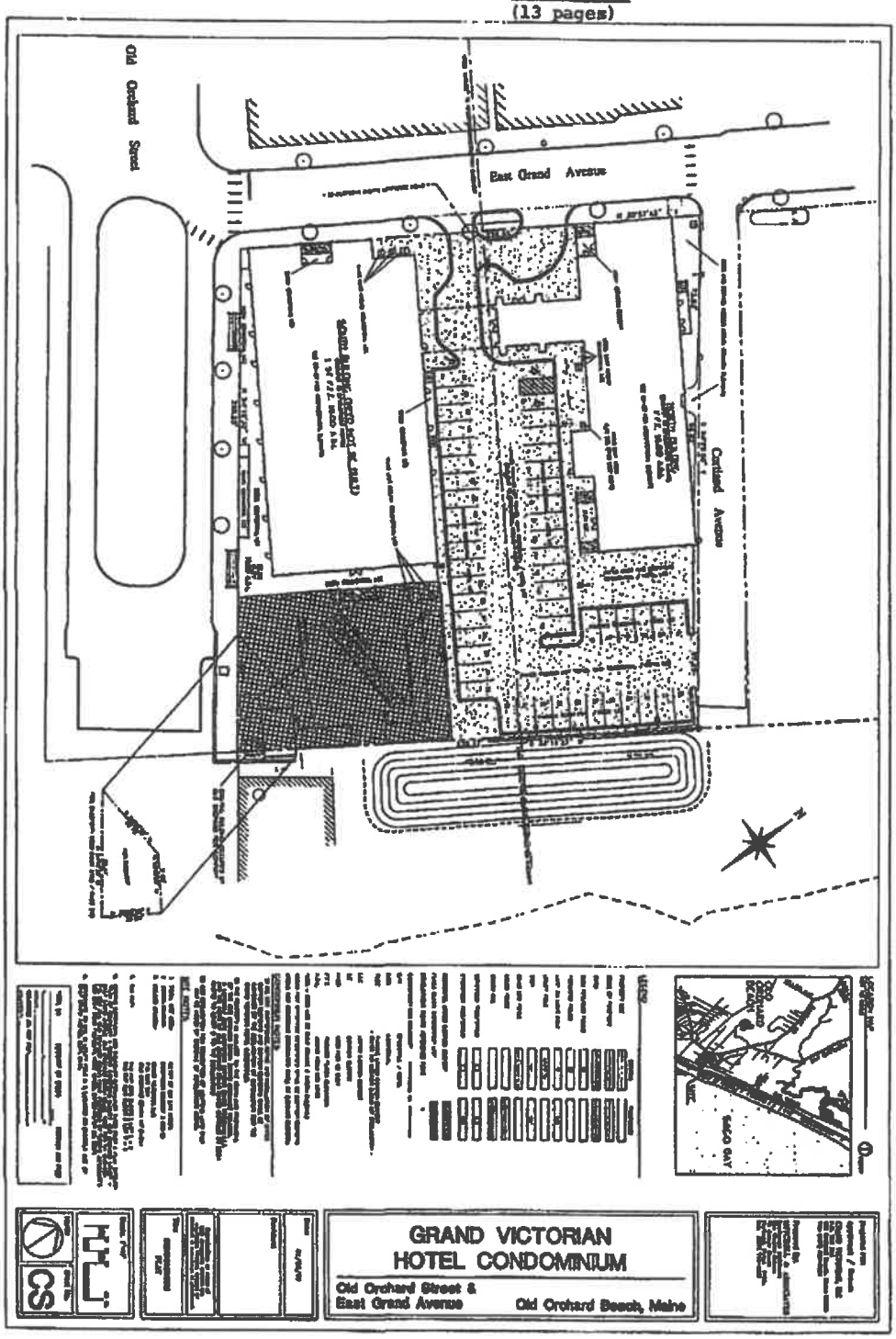
18 Units

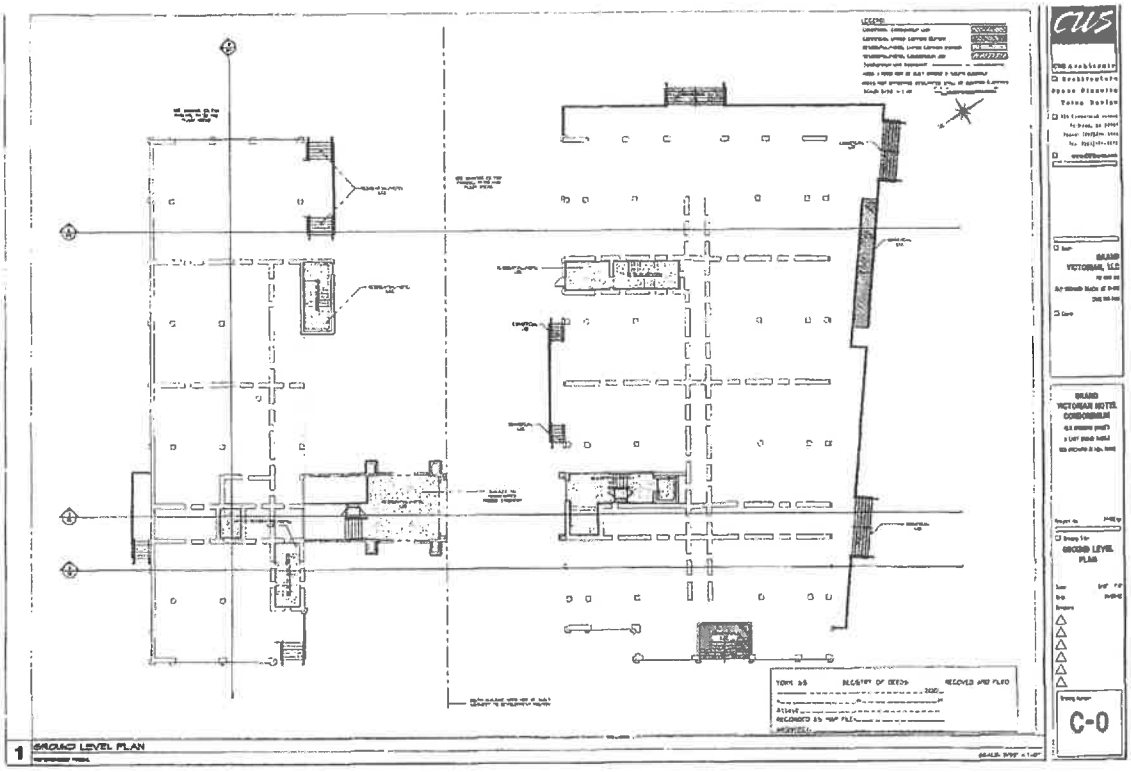
	Size (Apx.)	Common Element Interest	Vote**	Common Expense Percentage
Commercial:				
Unit 101	1,452 sq. ft.	6.0475 %	5	6.0475 %
Plaza:				
Unit 103	8,654 sq. ft.	3.6027 %*	3	3.6027 %
Residential:				
Unit 201	1,242 sq. ft.	5.1728 %	1	5.1728 %
Unit 202	1,376	5.7309 %	1	5.7309 %
Unit 203	1,229	5.1187 %	1	5.1187 %
Unit 204	1,646	6.8555 %	1	6.8555 %
Unit 301	1,242	5.1728 %	1	5.1728 %
Unit 302	1,376	5.7309%	1	5.7309%
Unit 303	1,229	5.1187 %	1	5.1187 %
Unit 304	1,646	6.8555 %	1	6.8555 %
Unit 401	1,242	5.1728 %	1	5.1728 %
Unit 402	1,376	5.7309%	1	5.7309%
Unit 403	1,229	5.1187 %	1	5.1187 %
Unit 404	1,646	6.8555 %	1	6.8555 %
Unit 501	1,078	4.4898 %	1	4.4898 %
Unit 502	1,327	5.5269%	1	5.5259%
Unit 503	1,182	4.9229 %	1	4.9229 %
Unit 504	1,627	6.7763 %	1	6.7763 %

*Note: Pursuant to Section 1.4 of the Declaration, the Allocated Interest of the Plaza Unit has been reduced by 90% of the actual floor area of the Unit.

**Note: Pursuant to Section 1.4 of the Declaration, the Commercial and Plaza Class Units have been allocated votes equal to one-half the total number of Residential/Hotel Class votes outstanding from time to time, which votes are divided between or among the Commercial and Plaza Class Units in proportion to their respective Common Expense Liability, rounded up to the nearest whole vote.

Exhibit C
(13 pages)





1 GROUND LEVEL PLAN

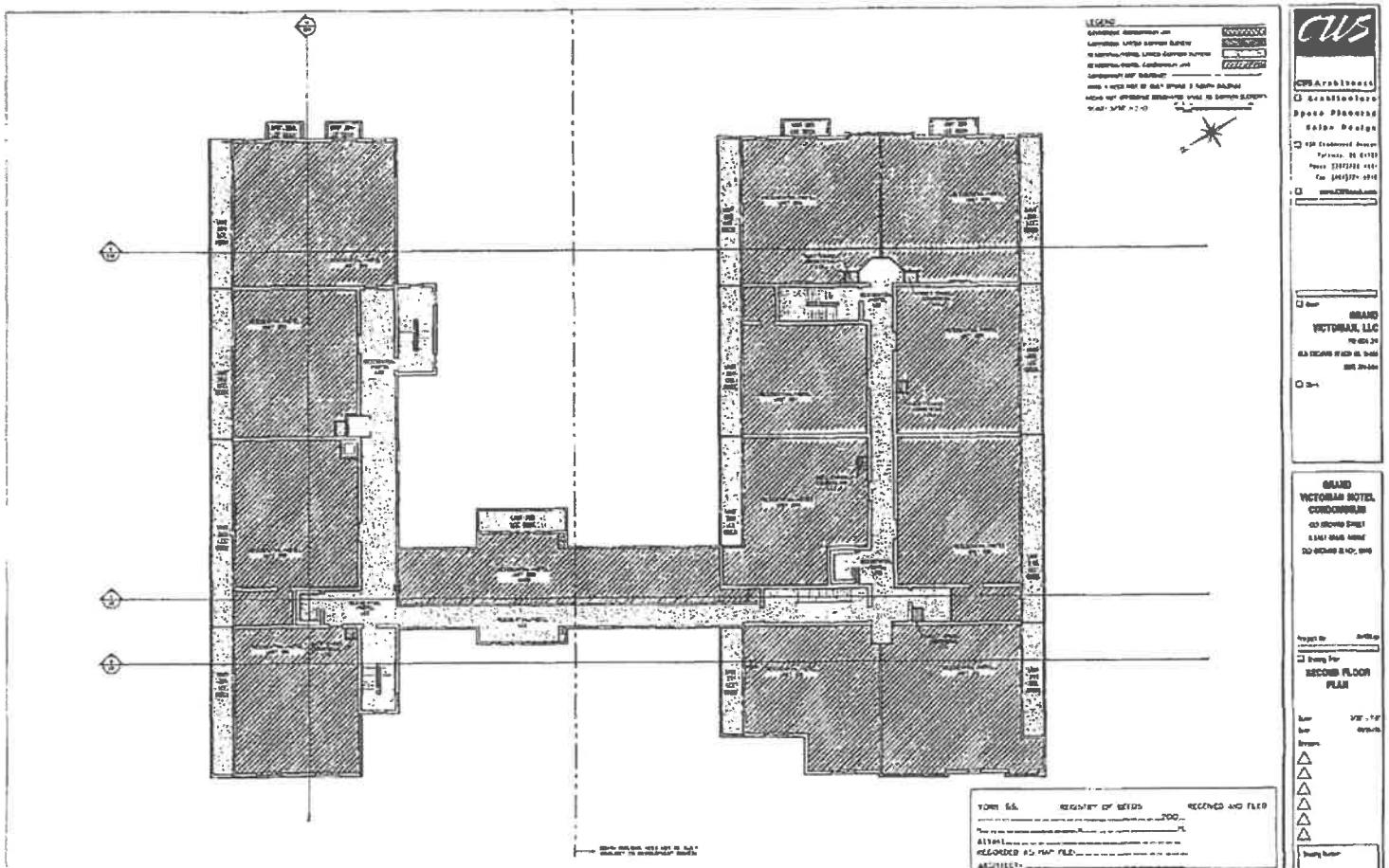
GRAND VICTORIAN HOTEL CONDOMINIUM

SECOND LEVEL PLAN

C-0

1 FIRST FLOOR PLAN

C-1

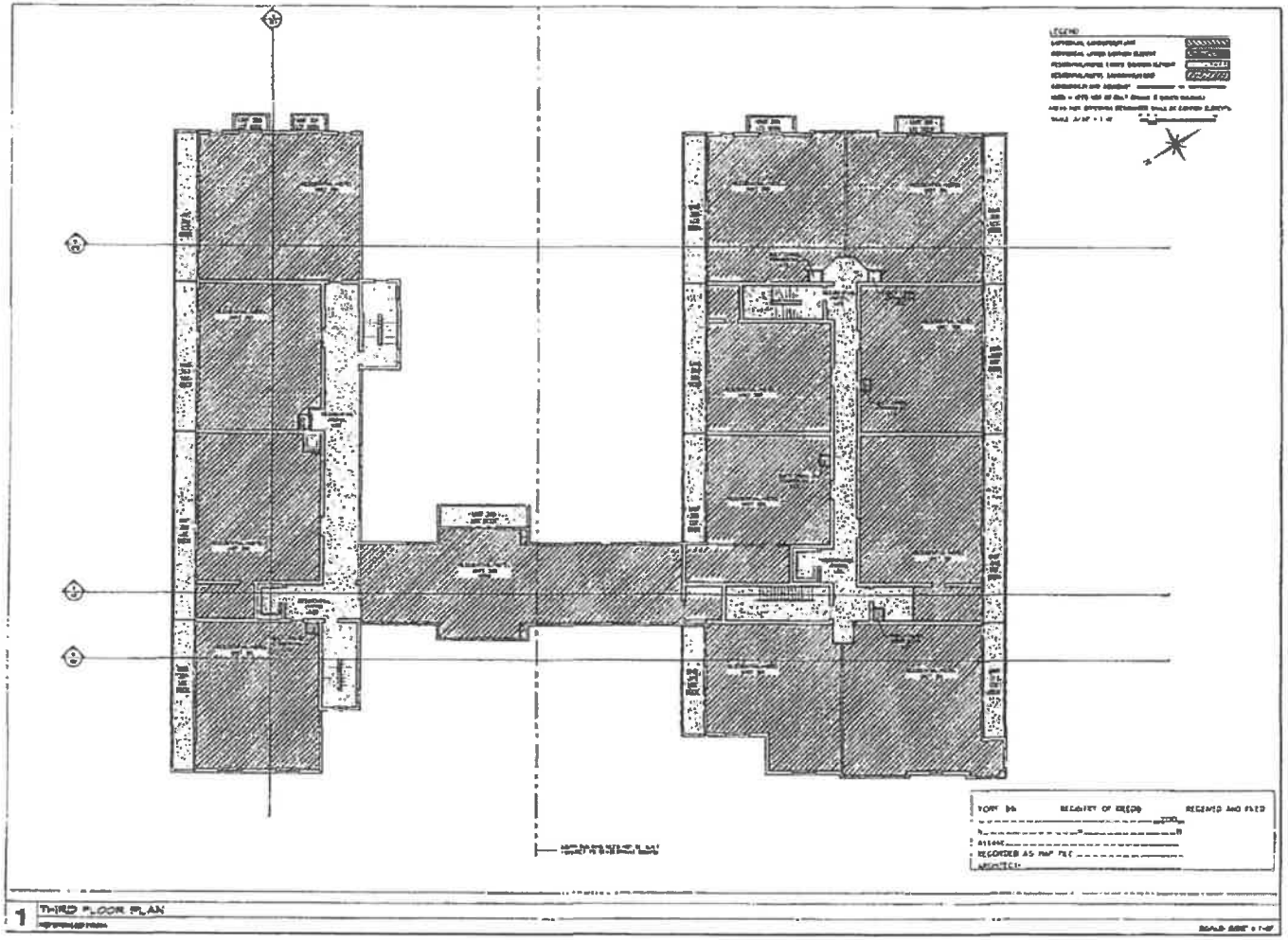


1 SECOND FLOOR PLAN

GRAND VICTORIAN HOTEL CONDOMINIUM

SECOND FLOOR PLAN

C-2



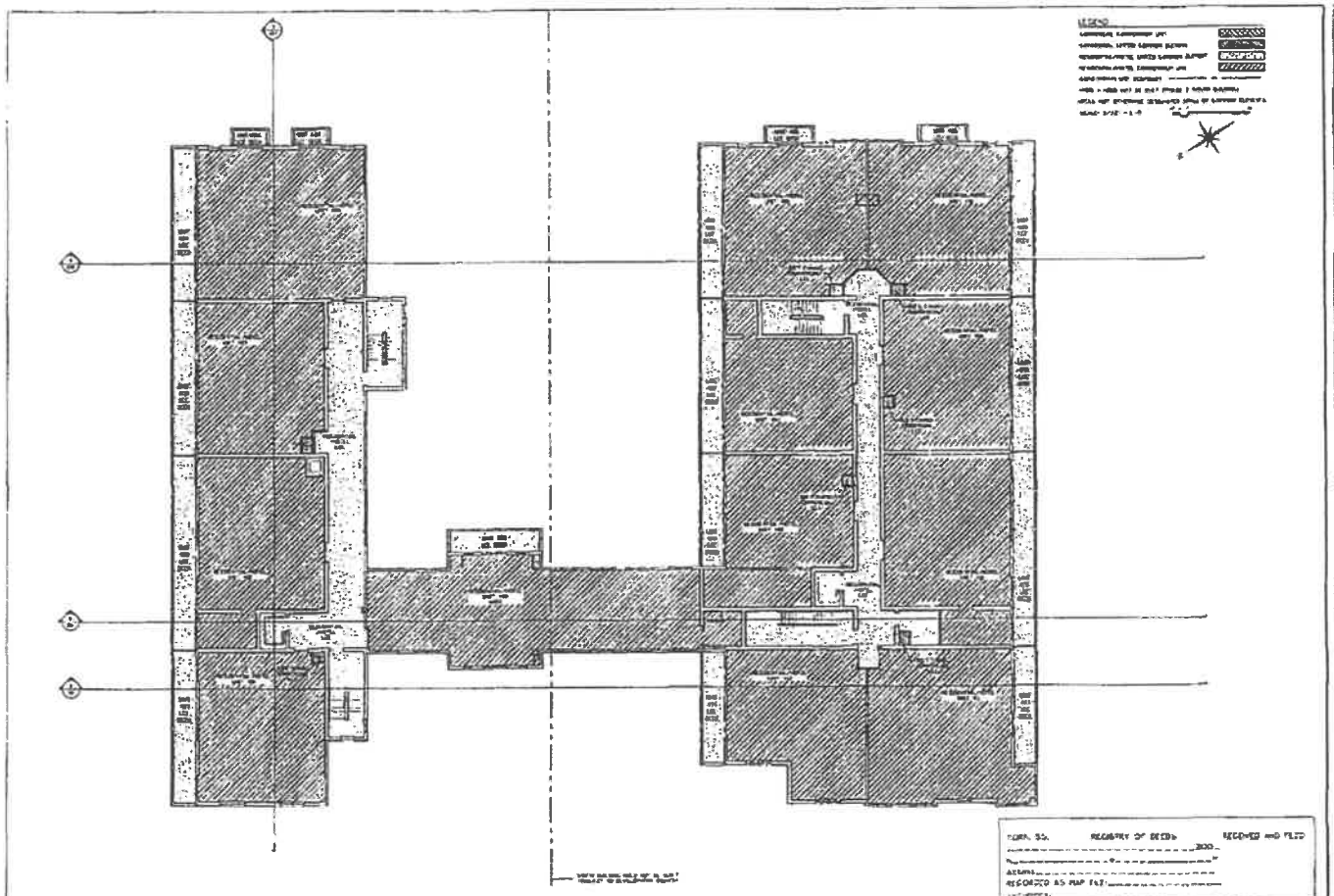
1 THIRD FLOOR PLAN

GRAND VICTORIAN, LLC

GRAND VICTORIAN HOTEL CONDOMINIUM

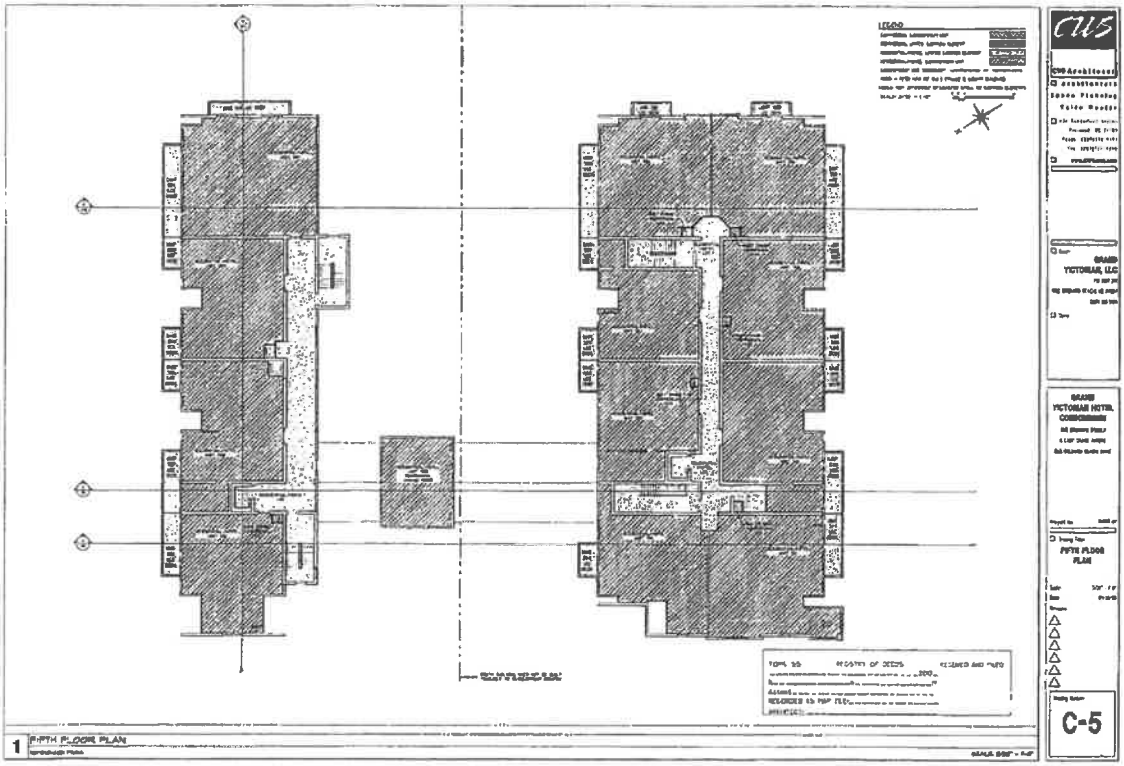
THIRD FLOOR PLAN

C-3



1 FOURTH FLOOR PLAN

C-4



1 FIFTH FLOOR PLAN

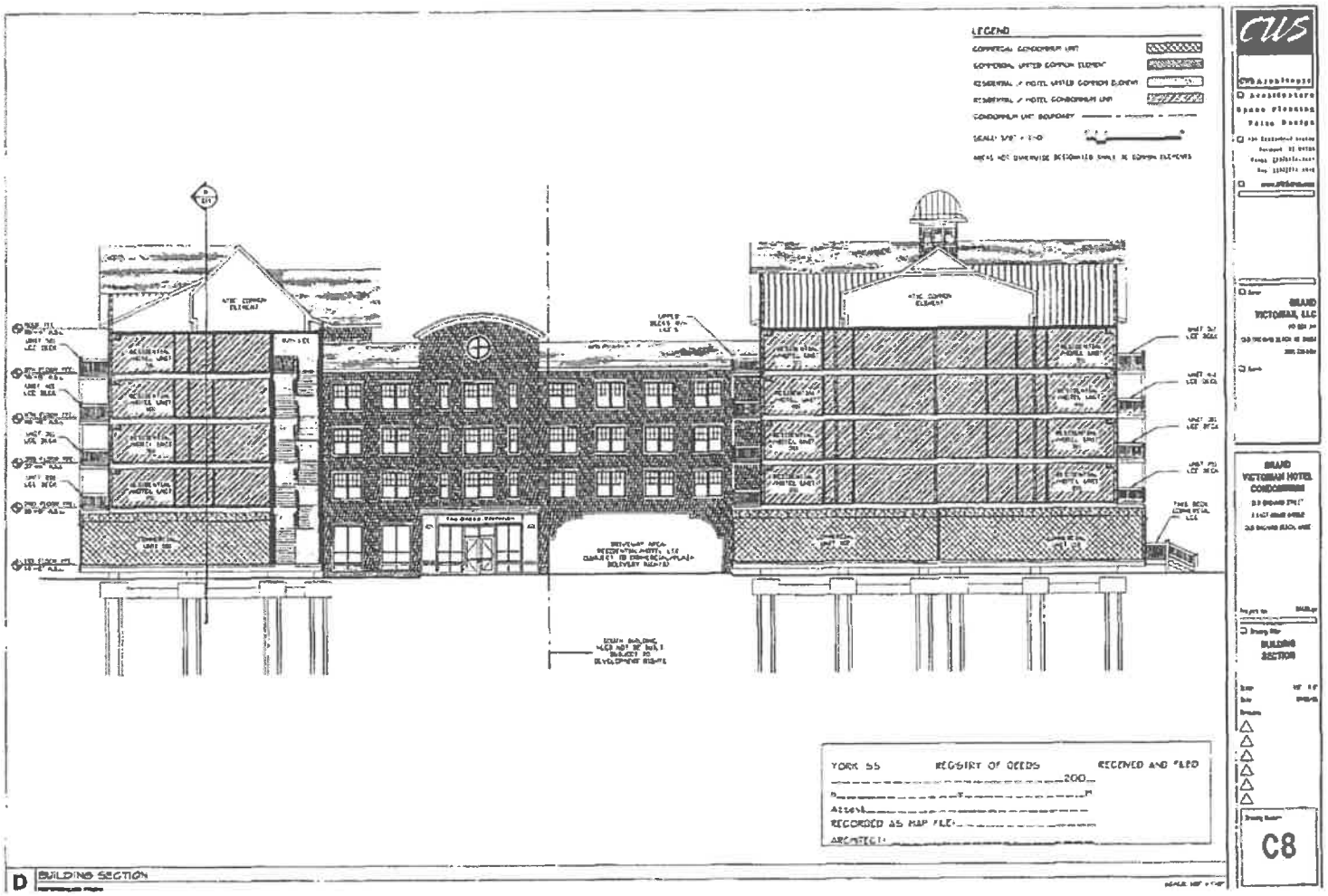
GRAND VICTORIAN, LLC

GRAND VICTORIAN HOTEL CONDOMINIUM

FIFTH FLOOR PLAN

C-5

1 SIXTH FLOOR (ATTIC) PLAN
C-6


LEGEND
COMMERCIAL CONDOMINIUM UNIT
COMMERCIAL UNITED COMMON ELEMENT
RESIDENTIAL / HOTEL UNITED COMMON ELEMENT
RESIDENTIAL / HOTEL CONDOMINIUM UNIT
CONDOMINIUM UNIT BOUNDARY
SCALE: 1/8" = 1'-0"
AREAS NOT OTHERWISE DESIGNATED SHALL BE COMMON ELEMENTS
ATIC COMMON ELEMENT
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REGISTRY OF DEEDS
RECEIVED AND FILED
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GRAND VICTORIAN, LLC
GRAND VICTORIAN HOTEL CONDOMINIUM
BUILDING SECTION
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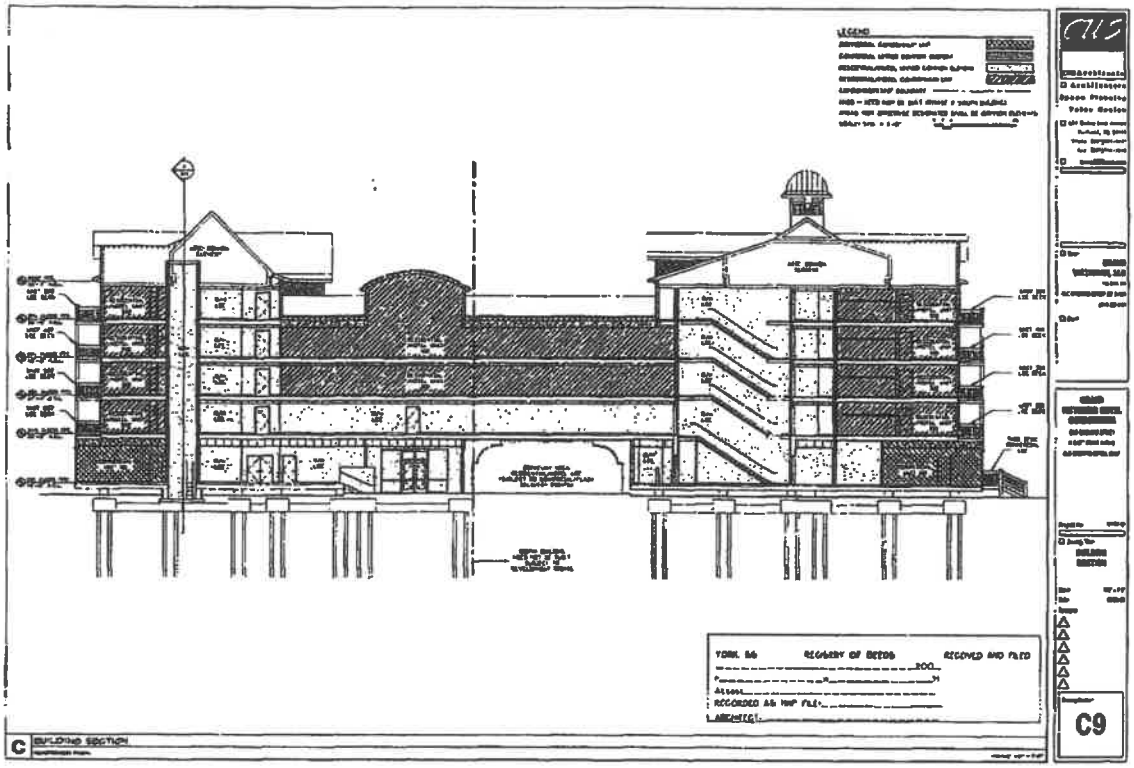

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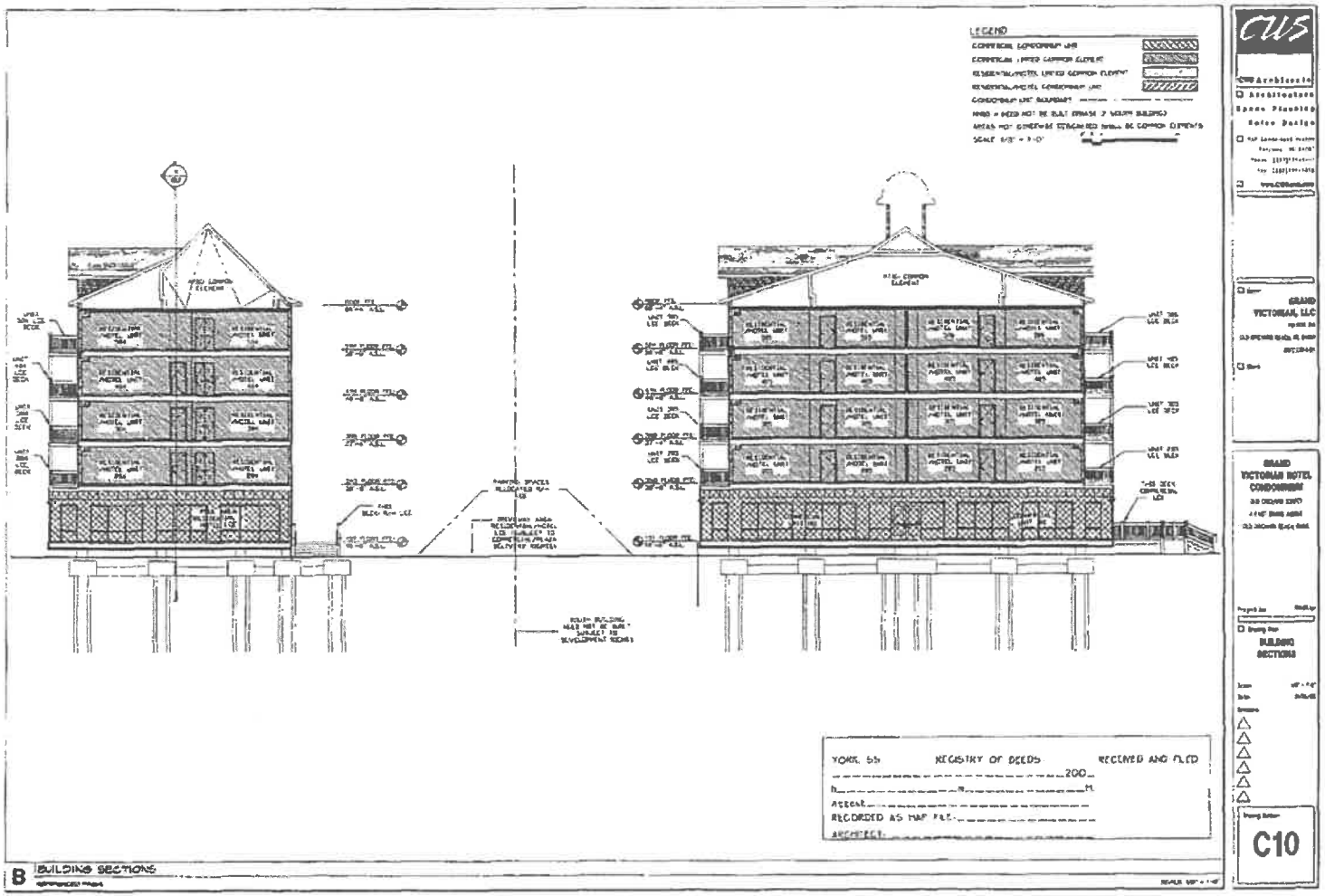
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GRAND VICTORIAN HOTEL CONDOMINIUM
BUILDING SECTIONS
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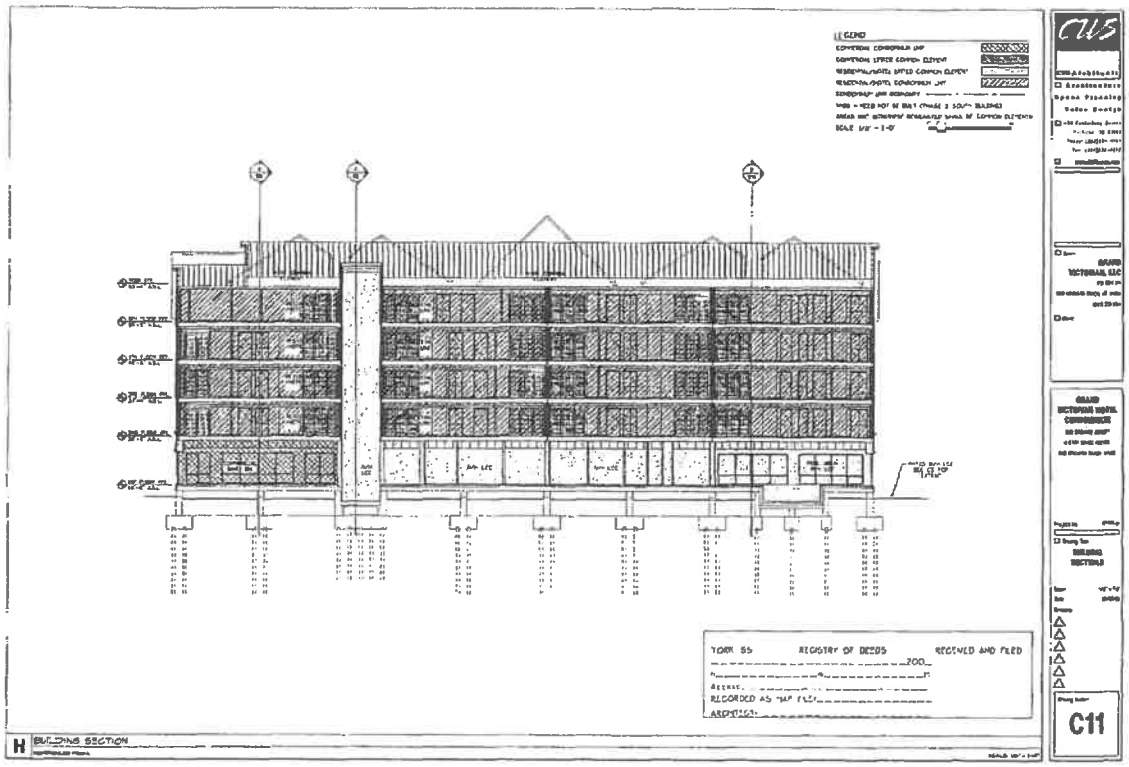
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Exhibit D

Land Subject to Development Rights

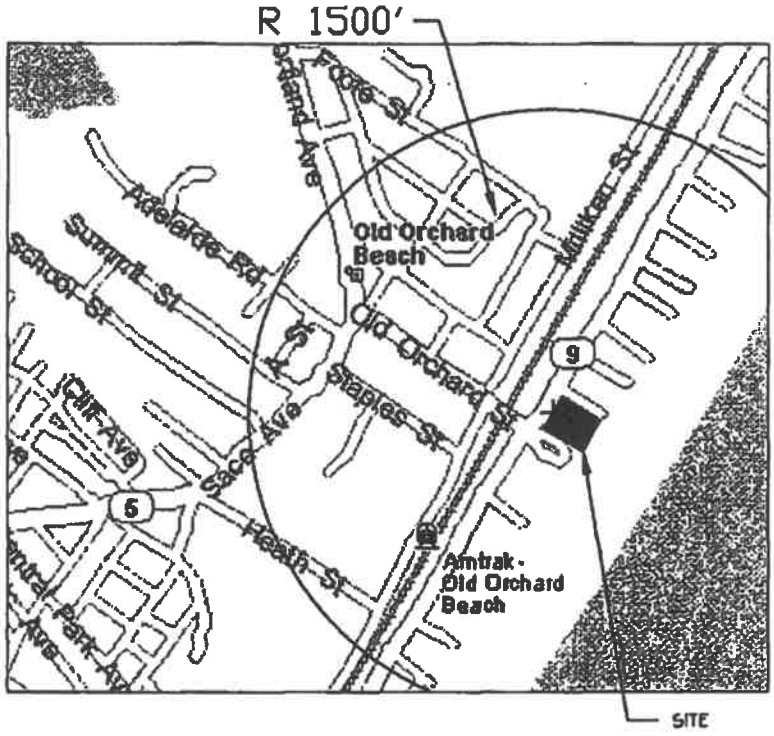
All those lots or parcels of land situated in the Town of Old Orchard Beach, County of York and State of Maine located within one thousand five hundred (1,500.00) feet from a point on the easterly side of East Grand Avenue, so-called, and the westerly sideline of land of Grand Victorian, LLC, described in deeds recorded in the York Registry of Deeds in Book 14412, Page 911, and Book 14412, Page 914, which point is one hundred nineteen and 325/1000 feet (119.325') southwesterly of the northerly corner of the said property of Grand Victorian, LLC and the southerly side of Cortland Avenue, so-called, at its intersection with said East Grand Avenue.

The land subject to the reserved development rights is also generally depicted on the attached location map.

LOCATION MAP

NO SCALE

NORTH



YORK. SS. REGISTRY OF DEEDS RECEIVED AND FILED

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Attest_____

RECORDED AS MAP FILE_____

Title:	Date:
EXHIBIT "D"	01/06/06

GRAND VICTORIAN HOTEL CONDOMINIUM

Old Orchard Street & East Grand Avenue

Old Orchard Beach, Maine

Exhibit E

RESIDENTIAL/HOTEL CLASS PARKING

Unit Number	PLCE Number	Unit Number	PLCE Number
200	17	400	35
201	1*	401	9
202	2*	402	10
203	3	403	11
204	4	404	12
205	18	405	36
206	19	406	37
207	20	407	38
208	21	408	39
209	22	409	40
210	23	410	41
211	24	411	42
212	25	412	43
300	26	501	13
301	5	502	14
302	6	503	15
303	7	504	16
304	8	505	44
305	27	506	45
306	28	507	46
307	29	508	47
308	30	509	48
309	31	510	49
310	32	511	50
311	33	512	51
312	34		

*** Note: Refer to Section 3.3(a) of the Declaration regarding the Association's right to reallocate the use of PLCE 1 and 2 to qualifying handicapped Unit Owners upon request on a first come first served basis.**

Exhibit F

Contract Zone Agreement

Exhibit F

Contract Zone Agreement
Grand Victorian, LLC and the Town of Old Orchard Beach

CONTRACT ZONE AGREEMENT made this 19th day of October, 2004, by and between **GRAND VICTORIAN, LLC**, a Maine limited liability company with a principal place of business in Old Orchard Beach, in the County of York and State of Maine, (hereinafter "Grand Victorian"), and **THE TOWN OF OLD ORCHARD BEACH**, a municipal corporation located in York County, Maine.

WHEREAS, Grand Victorian proposes to develop a Victorian style condominium hotel and retail complex on 62,729 square feet of land located in Old Orchard Beach at the intersection of Old Orchard Street and East Grand Avenue. The proposed project would include approximately 16,700 square feet of retail space at the first floor level and forty-eight condominium hotel units on the four floors above; and

WHEREAS, the parcel to be developed consists of Tax Map 306, Block 1, Lots 1 and 2 on the Town of Old Orchard Beach Tax Maps, and is located in the DD-1 Zoning District as well as the AO, Amusement Overlay District; and

WHEREAS, at the time of application for a contract zone, a portion of the parcel is owned by the Park at Old Orchard Beach, Inc., f/k/a Avco, Inc., and the other by Old Orchard Beach Associates, LLC, and Grand Victorian has purchase agreements with both owners which have been presented to the Council as evidence of right, title or interest in the property; and

WHEREAS, Grand Victorian has petitioned for a contract zone to amend the Old Orchard Beach Zoning Ordinance for the reasons as follow:

A. Grand Victorian seeks the right to develop a condominium hotel and retail space on the above-referenced parcel. The proposed building is to be located in a "back dune" as determined by the Maine Geologic Survey, and under the Maine Coastal Sand Dunes Regulations, the first floor would need to be elevated three feet above existing grade. In addition, even though the height of the occupied portion of the building would not exceed the maximum building height allowed in the DD-1 Zone, Grand Victorian is proposing several Victorian-style architectural features (turrets and cupolas) and the maximum finished height will be eighty feet. While the Town of Old Orchard Beach Comprehensive Plan and Downtown Revitalization Plan encourage the use of Victorian-style architecture, the addition of such features would cause the building to exceed the maximum height currently allowed in the Zone.

B. Retail uses are permitted in the DD-1 Zone, as are lodging establishments, including hotels, motels, bed and breakfast establishments, and inns. Retail uses in the DD-1 Zone do not have a parking requirement, but hotels require one space per guest room plus 50% of parking requirements for associated uses plus one space per two employees. The Old Orchard Beach Zoning Ordinance defines hotel as "a building use for transient or permanent lodging of individuals, with or without meals, having ten or more guestrooms. For the purpose of this ordinance, hotel is considered a non-residential use." The Ordinance does not distinguish between a hotel and a condominium hotel, but Grand Victorian requires assurances that such use is permitted in the Zone.

C. An essential part of the project includes property owned by Old Orchard Beach Associates, LLC, which is currently being operated as a commercial parking lot. It is a condition of Grand Victorian's agreement to purchase this parcel that Old Orchard Beach Associates, LLC will be permitted to continue the use of its commercial parking lot on the opposite side of Cortland Avenue, and will be able to continue such use in the new location.

NOW, THEREFORE, pursuant to the authority found in 30-A MRSA, Section 4352 (8), and Section 1.8, et seq. of the Old Orchard Beach Zoning Ordinance, and by vote of the Old Orchard Beach Town Council on _____, 2004, the following findings are hereby adopted:

A. Town Tax Map 306, Block 1, Lot 1 & 2 is a parcel of an unusual nature and location in that it is situated adjacent to the Town Square in the heart of Old Orchard Beach, but, at the same time, is one of the larger existing oceanfrom parcels that would accommodate a mixed-use development; is located partly in a frontal dune and partly in a back dune, but is entirely developed and covered by an impervious surface; is located in the DD-1 zoning district which permits a mix of residential, business, recreational and complimentary uses; and serves as the entrance to the Old Orchard Beach Pier.

B. The proposed rezoning is consistent with the goals set forth in the Old Orchard Beach Comprehensive Plan to encourage private property owners to upgrade the physical appearance and condition of their property and reduce the appearance of boarding-up during the off-season, as well as promote the use of satellite parking lots to reduce traffic congestion and promote the efficient use of parking facilities.

C. The proposed rezoning is consistent with the Old Orchard Beach Comprehensive Plan, Downtown Revitalization Plan and Appendices, which provide that developable parcels in the downtown area are ripe for development; the downtown area has historically been underdeveloped; the prospect of private developers working hand-in-hand with the Town in realizing common goals (i.e. the revitalization of downtown) should be encouraged; the Town should ensure, through site plan review, that all new structures have active, retail, facilities on the ground floor; and developers in the downtown area should be encouraged to adopt building themes that build on the historic, towered, and turreted roof lines of years ago.

D. The proposed rezoning is consistent with the Old Orchard Beach Comprehensive Plan, Appendix XII; Downtown Revitalization Plan and Appendices, VI. Market Opportunities, Conclusion: "The changes recommended.... are not designed to eliminate this uniqueness, but to enhance Old Orchard Beach's identity as a fun place to visit and stay...(and) that which has been temporarily lost in the days of yore, the Victorian elegance of bygone hotels. It is to bring the community back into a happy balance: a balance of tourist and year-round services, a balance of boardwalk fun and high class accommodations. Achieving that balance, our analysis suggests, is the way to insure Old Orchard Beach's future prosperity." (Pg. 40).

E. The Town should continue to provide for the maintenance and upkeep of the dunes in exchange for an extension in the height requirement, in accordance with the Comprehensive Plan, Appendix XII, Downtown Revitalization Plan and Appendices, Section VII, Development Alternatives, illustrate a typical high-rise developed under current zoning, the impact of the proposed sand-dune rules on a similar parcel, and the suggested alternative approach that would encourage greater setbacks and other public benefits in return for a height bonus-up to a maximum of 75 feet. (See pp.66, 69-72).

F. The development plans for the Grand Victorian consistent with the Old Orchard Beach Comprehensive Plan, Section IX, Recommendations, of the Downtown Revitalization Plan and Appendices, in the following respects:

1. It would create a balance of economic opportunities that builds on both year-round and tourist activities;

2. It would develop a physical plan that will stimulate and guide development;

3. The project would seek to attract, foster and promote new development that creates year-round jobs; and

4. It would suggest and project ways to beautify and provide a coherent, positive theme for the downtown area;

G. The proposed use is consistent with Section IV, Community Goals and Policies, set forth in the Downtown Revitalization Plan and Appendices, in the following respects:

1. It would encourage new year-round institutional, commercial, and service uses in designated areas to diversify the tax base, promote local job opportunities, and provide year-round services;

2. It would promote the revitalization of Old Orchard Beach's tourist economy by attracting more families, seniors, and "summer residents."

3. It would encourage the use of planned unit developments which promote better land utilization; and

4. The project would improve the aesthetics of the community for the benefit of the general public and would enhance the Town's self-image and media image.

H. The off-site improvements proposed by the applicant, including the construction of a boardwalk, burying power lines on Old Orchard Street and Cortland Avenue, and the extension of the natural gas line from Ross Road to the project site, will greatly enhance both the aesthetics and development potential of the downtown area.

I. The conditions hereinafter set forth in this contract and by the Old Orchard Beach Planning Board are sufficient to meet the intent of Section 1.8 Contract Zoning, Town of Old Orchard Beach Zoning Ordinance.

WHEREFORE, based on the findings above set forth, the Old Orchard Beach Town Council hereby agrees that this contract shall modify the Space & Bulk Requirements in the DD-1 district to allow a maximum principal building height of fifty-five feet from the first floor finished elevation to the mean height of the gable roof, and a maximum height of turrets, copulas and architectural features of eighty feet; that, as part of the development, Old Orchard Beach Associates, LLC shall be permitted to continue the use of its commercial parking lot on the northeasterly side of Cortland Avenue as set forth on the plan approved by the Planning Board; and it is expressly agreed that the proposed use as a condominium hotel shall be deemed a "hotel" and "lodging establishment" as defined in Section 3.2, and permitted under Section 7.1.1.1 of the Old Orchard Beach Zoning Ordinance. Provided, however, that this agreement shall be subject to the conditions and restrictions as follows:

A. Except as set forth herein, the applicant shall adhere to all other applicable provisions of the DD-1 zoning district and of the Town of Old Orchard Beach Zoning Ordinance and Subdivision Regulations.

B. All details shown on the plans approved by the Old Orchard Beach Planning Board on _____ are incorporated into this contract by reference. The site shall be developed substantially in conformance with those plans. Revisions to the Site Plan may be administratively approved by the Town Planner and Code Enforcement Officer in accordance with Section 12.3 and Section 12.4 of the Zoning Ordinance. Any changes determined by the Planning Staff to be "major" shall be submitted to the Planning Board for review. If it is determined by the Planning Board that the changes constitute a change in the contract, then Grand Victorian shall also be required to obtain Town Council approval of the changes.

C. These amendments affect only the parcels of land identified as Tax Map 306, Block 1, Lots 1 and 2, and Tax Map 306, Block 2, Lots 7 and 8, on the Town of Old Orchard Beach tax maps.

D. This contract and its provisions shall specifically and exclusively apply to the contract zone request submitted by Grand Victorian, LLC. Approval of this contract zone is in part based on the technical qualifications of Grand Victorian as submitted to the Town. Accordingly, without the prior written consent of the Town Council, which consent shall not unreasonably be withheld, this contract and the contract zone it creates shall not be transferable by Grand Victorian.

E. Failure of Grand Victorian to secure Site Plan and Subdivision approval from the Planning Board, and any and all other permits or approvals that may be required by the Town or other regulatory agencies including but not limited to the Maine Department of Environment Protection and/or Department of Transportation within one year of the approval of this Contract by the Town Council shall render this Contract null and void. In the event that permits or approvals are delayed due to circumstances beyond the control of Grand Victorian, this one year deadline may be extended by one year upon written request to the Town Council submitted by Grand Victorian prior to the expiration of the original one-year period, and in the event the final permits or approvals are delayed due to the pendency of an appeal, the one year deadline shall start to run from the date the appeal(s) are determined and such permits or approvals become final.

F. Failure of Grand Victorian to initiate substantial construction of the project within two (2) years from the date of final approval of this contract zone, or within two (2) years from the date the permits and approvals referred to in Subparagraph E above become final, whichever shall last occur, shall render this contract null and void. In the event that permits or approvals are delayed due to circumstances beyond control of Grand Victorian, this two year deadline may be extended by one year upon written request to the Town Council submitted by Grand Victorian prior to the expiration of the original two-year period.

G. Until substantial completion of the project, the property shall retain its AO, Amusement Overlay District designation and the existing AO uses permitted in the District shall be allowed to continue operating until substantial completion of the South Tower phase of the project. Upon the issuance of a certificate of occupancy for a unit in the South Tower, the AO designation shall be revoked, and the prevailing zoning requirements shall revert to those of the underlying DD-1 District.

H. It is a condition of this agreement that the applicant shall complete the off-site improvements as follows: 1.) to demolish the public bathroom adjacent to the project site, and to construct a boardwalk and reconstruct a portion of the frontal dune on Town-owned property substantially in accordance with the plans for the Grand Victorian Condo Hotel dated June 11, 2004; 2.) to bury the existing overhead utility lines along Cortland Avenue and adjacent to the project site along Old Orchard Street; and 3.) to cause to be constructed, at no expense to the Town, an extension of the natural gas line from the Ross Road to the project site along a route mutually acceptable to the Town and the applicant. Grand Victorian shall be responsible for obtaining all permits, approvals and consents necessary for such improvements; the Town will cooperate fully with Grand Victorian to the extent the participation of the Town is needed to obtain any

such permit, approval or consent, including acting as the applicant or co-applicant for permits or approvals where the Town is a necessary party to the proceedings. The off-site improvements must be substantially completed within two years of the date of this agreement, unless the time for completion is extended by the Town Council upon written request to the Council submitted by Grand Victorian prior to the expiration of the original two-year period. In the event that, despite its best good faith efforts, including the exhaustion of all reasonable appeals, Grand Victorian is unable to obtain a permit, approval or consent necessary for the construction or completion of any of the improvements identified in this Paragraph H, then Grand Victorian may submit a request to the town council to be relieved of the obligation to complete that specific improvement and the council shall grant that request if the council finds that grand victorian has, in fact, exerted its best faith efforts and has nevertheless been unable to obtain a permit, approval or consent necessary for that specific improvement. In the event the cost of constructing the extension of the natural gas line, documented by at least two written estimates from qualified contractors, will exceed $200,000., and the Town determines not to contribute the additional funds as may be required to complete the extension of the natural gas line, then Grand Victorian shall no longer be required to complete such off-site improvement.

I. Breach of these conditions and restrictions by Grand Victorian shall constitute a breach of the contract. Should Grand Victorian seek to modify these conditions or restrictions, it shall be required to apply for a contract modification. Failure to apply for and obtain a modification shall constitute a zoning violation, subject to enforcement action.

Based on the above findings, conditions and restrictions, the Town Council hereby incorporates this contract zoning agreement into the Old Orchard Beach Zoning Ordinance by reference. By signing this contract, both parties agree to abide by the conditions and restrictions contained herein. The above restrictions, provisions and conditions are an essential part of the rezoning of the property, shall run with the land, shall bind Grand Victorian, LLC, its successors in interest and assigns of the property or any part thereof, and shall inure to the benefit of and be enforceable by the Town of Old Orchard Beach.

Adopted by the Old Orchard Beach Town Council on October 19, 2004, 2004.

The Town of Old Orchard Beach

by Shawn E. O'Neill
Chairman Shawn O'Neill

by Roxanne V. Frenette
Councilor Roxanne Frenette

by Joel Kline
Councilor Joseph Kline

by James Foster Long
Councilor James Long

by Cheryl Ragué
Councilor Cheryl Ragué

Grand Victorian, LLC

by Timothy J Swanson

79 opp → Smith + Elliott Attn David Ordway PO Box 1175 Saco Me 04072

END OF DOCUMENT