THE BAY HOUSE CONDOMINIUM
Portland, Cumberland County, Maine

DECLARATION OF CONDOMINIUM

The Village at Oceangate, LLC, a Maine limited liability company with a principal place of business located c/o Atlas Investment Group, LLC, 35 Fay Street, Suite 107-B, Boston, MA 02118 (hereinafter with its successors and assigns, referred to as the "Declarant"), being the owner of that certain real property located in Portland, Cumberland County, Maine, as more fully described hereinafter, by duly executing and recording this Declaration, does hereby submit said land, together with the buildings and improvements now or to be hereafter erected thereon, and all easements, rights and appurtenances belonging thereto, excepting and reserving such rights and interests reserved by and to the Declarant hereunder (hereinafter collectively called the "Property"), to the provisions of Title 33 Maine Revised Statutes, Chapter 31, §§ 1601-101, *et seq.*, as now and as may be hereinafter amended (hereinafter referred to as the "Condominium Act"), and does hereby declare and create, with respect to the Property, a condominium governed by and subject to the provisions of the Condominium Act. To that end, the Declarant does hereby declare and provide as follows:

1. **Name of the Condominium; Defined Terms**. The name of the condominium created shall be THE BAY HOUSE CONDOMINIUM (hereinafter sometimes referred to as the "Condominium"). Capitalized terms used herein, if not defined herein, shall have the meanings defined in the Condominium Act or in the Association's By-Laws.

2. **Organization of Owners**. The organization through which the Unit Owners will manage and regulate the Condominium is THE BAY HOUSE CONDOMINIUM ASSOCIATION, a Maine non-profit corporation governed by By-Laws of even date and recorded herewith (hereinafter sometimes referred to as the "Association" and the "By-Laws," respectively). Said By-Laws are not incorporated into this Declaration and therefore may be amended pursuant to the terms of the By-Laws and without complying with the requirements for amending this Declaration by its terms or pursuant to the Maine Condominium Act. Said By-Laws establish an association of which all Owners shall be members and in which such Owners shall have a membership interest for voting, assessment, and all other purposes in proportion to the percentage of Undivided Interest in the Common Elements to which they are entitled hereunder, pursuant to and in accordance with the provisions of the Condominium Act. The names of the original Declarant-appointed members of the Association's Executive Board are as follows:

Demetrios Dasco, Gordon Reger, and Jordan Litwiniak
c/o Atlas Investment Group, LLC
35 Fay Street, Suite 107-B
Boston, MA 02118

The Declarant hereby reserves the right to control the Executive Board of the Association for a period of time, as follows: during the period from the date of the first conveyance of a Unit to a third party other than the Declarant until 60 days after the conveyance to third-party purchasers by the Declarant of sixty-nine (69) Units, or if sooner, seven (7) years from the date of the first conveyance of a Unit to a third party other than the Declarant (the "Transition Date"), there shall be three (3) Board Members so appointed by the Declarant, its successors or assigns. Upon any

vacancy existing in such Board, its or their successor(s) prior to the Transition Date shall be appointed solely by the Declarant, its successor or assigns. On or before the Transition Date, a special meeting of the Unit Owners shall be held for the purpose of electing five (5) Board Members, as described in the By-Laws.

3. **Description of the Land; Plats and Plans**. The Land portion of the Property comprising the Condominium (the "Land") is that certain parcel of land situated in Portland, Cumberland County, Maine, being described on **Schedule A-1** attached hereto. The Land is subject to such rights, easements, restrictions and encumbrances recited in **Schedule A-1**; and the rights and easements established herein. The Land is additionally subject to such rights, interests and easements as have been herein reserved to the Declarant, INCLUDING WITHOUT LIMITATION DECLARANT'S DEVELOPMENT RIGHTS AND SPECIAL DECLARANT RIGHTS, all of which rights, interests and easements shall, in all instances, be exercisable by the Declarant and its successors or assigns.

The Condominium is comprised of the Land and includes forty-two (42) residential units (the "Residential Units") and three (3) nonresidential units (the "Nonresidential Units"), located in one building, all forty-five (45) of which units hereby are created.

Recorded herewith is a certain site plan or plat (the "Condominium Plat" or "Site Plan"), depicting the Land and the location and dimension of the improvements thereon. Also recorded herewith are certain plans (the "Condominium Plans" or "Floor Plans") depicting the Units, their designated Unit numbers, horizontal Unit boundaries with reference to established datum, the location and dimensions of vertical Unit boundaries, Common Elements, the Parking Garage described below, certain Limited Common Elements appurtenant to certain Units (such as terraces, patios, balconies, parking spaces and storage closets).

4. **Description of the Building**. As described above, the Condominium consists of 45 Units: 42 Residential Units and 3 Nonresidential Units in one, wood-frame, mid-rise building (the "Building"). The Units are listed on Schedule B attached hereto, along with each Unit's appurtenant undivided percentage interest ("Undivided Interest") in the Common Elements of the Condominium. Below the Building is a steel and concrete indoor parking garage with 36 parking spaces, lobbies, elevator lobbies, vestibules, electrical rooms, a water service room, a trash room, and a storage room, all as shown on the Floor Plans.

5. **Descriptions of the Units and Their Boundaries**. Units in the Condominium are defined as those physical portions of the Condominium designated for separate ownership hereunder, or in any amendment hereto. The Units, their respective boundaries and the appurtenances thereof are as hereinafter delineated:

A. Boundaries of Units. The boundaries of each of the Units with respect to the floors, ceilings, and the walls, doors and windows thereof are as follows:

(i) Floors: The upper surface of the slab or structural joists below the sub-flooring of the Unit or the Unit's floor.

(ii) Ceiling: The lower plane of the slab or structural joists supporting the next level above the Unit.

(iii) Exterior and Demising Walls: The plane of the outside of exterior walls; the plane of the middle of partition walls (provided, however, that regardless of such unit boundaries, maintenance, repair and replacement of such exterior walls and partition walls, commencing from the plane of the wall framing facing the Unit and then proceeding outward, shall be performed by the Association rather than the Unit Owner, as provided elsewhere in this Declaration).

(iv) Doors and Windows: As to doors leading to the exterior of the Building or to interior of a Unit, the exterior surface of the door and of the door frame; as to windows, the exterior surface of the glass (and screens if any) and of the window frame (or in the case of storm windows, the exterior surface of the storm window glass and frame).

provided, however, that no pipes, wires, conduits, ducts, flues, shafts, structural beams, structural walls, exterior façade, structural supports or public utility lines situated within a Unit or Limited Common Elements shall be deemed to be a part of said Unit or Limited Common Element.

B. Alteration of Units. Unit owners, including Declarant, may alter, combine and/or subdivide Units, and/or relocate the boundaries between adjoining Units, provided, however, that: (1) the terms and provisions of Sections 1602-111, 1602-112 and/or 1602-113 of the Condominium Act (as applicable) are complied with, (2) the advance written consent of the Executive Board is obtained, which consent shall not be unreasonably withheld, and (3) any reasonable conditions imposed by the Executive Board are complied with in all respects.

6. Description of Common Elements and Limited Common Elements, Maintenance of Common Elements and Units.

(a) Description of the Common Elements. The common elements of the Condominium (the "Common Elements") consist of the entire Property described in Schedule A-1 exclusive of the Units, all as hereinbefore described and defined (and exclusive of any and all rights, interests and/or easements reserved by the Declarant).

The Common Elements shall be subject to the provisions hereof, and of the By-Laws, and the Rules and Regulations as may be promulgated thereunder with respect to the use and maintenance thereof.

Notwithstanding the foregoing, the Common Elements shall exclude the exclusive rights, interests and easements reserved to the Declarant by law or by the Declarant in this Declaration.

(b) Limited Common Elements.

As provided in Section 1602-102 of the Condominium Act:

- If any chute, flue, duct, wire, conduit, bearing wall, bearing column or any other fixture lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving only that Unit is a Limited Common Element allocated solely to that Unit, and any portion

thereof serving more than one Unit or any portion of the Common Elements is a part of the Common Elements; and

- Any shutters, awnings, window boxes, doorsteps, porches, balconies, patios and all exterior doors and windows or other fixtures designed to serve a single Unit, but located outside the Unit's boundaries, are Limited Common Elements allocated exclusively to that Unit.

The Floor Plans recorded herewith depict various private terraces or private balconies, with access thereto from adjacent Units. Such private terrace areas or balconies are Limited Common Elements for the exclusive use by the occupants of such adjacent Units subject to the terms of this Declaration and the Condominium Act.

The Declarant hereby reserves the development right to allocate the exclusive right to use certain other Limited Common Elements to the owner(s) of certain Units, which Limited Common Elements shall be appurtenant to the Unit(s) to which they are allocated. Such Limited Common Elements include, or may include, without limitation, the following:

- the parking spaces (the "Parking Spaces") in the Condominium's garage (the "Garage");
- Storage closets located in the Garage;
- the mailboxes.

Such allocations by the Declarant of Limited Common Elements, if not established as described above, may be carried out in any Unit Deed or other recorded instrument from the Declarant. The Declarant may, in the future, allocate additional Limited Common Elements (for additional Parking Spaces and/or storage areas, for example) by Special Amendment to this Declaration, and the Declarant hereby retains and reserves the exclusive right to so establish future Limited Common Elements.

Unit Owners having the exclusive right to use terraces and/or balcony areas may, at their sole cost and expense, install certain planters and/or privacy barriers with the prior written consent of the Executive Board, which consent shall not be unreasonably withheld, conditioned or delayed.

(c) Parking Spaces.

The Declarant, as one of its Development Rights, hereby retains and reserves the right to establish and thereafter use, allocate, convey and assign an exclusive right to use each of the Parking Spaces as shown on the Floor Plans recorded herewith, as well as those shown on any new or amended Floor Plan(s) which may be hereafter recorded.

Subject to the terms and provisions of the Condominium Act, the Parking Spaces (i) may only be used by the Declarant and by occupants of the Condominium and their guests, invitees and licensees, and (ii) may thereafter be transferred to other Unit Owners pursuant to Section 1602-108(b) of the Condominium Act.

The following additional restrictions and regulations shall apply to the use and occupancy of the Parking Spaces:

(i) The Parking Spaces shall be used only for the storage of personal property and/or the parking of registered and operational private automobiles, motorcycles, and noncommercial vans and trucks and recreational vehicles. No trucks, (except non-commercial pickup trucks), boats, trailers (whether capable of independent operation or attached to an automobile or other vehicle), commercial vehicles, and the like, may be parked in the Parking Spaces except with the written consent of the Executive Board. Any storage of personal property in or on the Parking Spaces shall only be in enclosed storage facilities approved in writing, in advance, by the Executive Board.

(ii) All vehicles shall be parked wholly within their respective Parking Spaces.

(iii) A Parking Space holder may permit any Unit tenant, guest, invitee or licensee the right to use a Parking Space which said holder is entitled to use, but all parties using said Parking Space shall comply with the provisions relating to such use and occupancy contained in this Declaration, the Condominium By-Laws, Rules and Regulations.

(iv) A Parking Space holder who permits any Unit tenant, guest, invitee or licensee to use a Parking Space to which said holder is entitled to use shall be responsible for the compliance by such other user with provisions of this Declaration, the Condominium By-Laws, Rules and Regulations, to the extent the same may be applicable.

(v) In instances where vehicles using the Parking Spaces and other facilities of the Condominium do not comply with this Declaration, the Executive Board is authorized to allow the towing of the offending vehicles at the expense of the owners of such vehicles and the Parking Space holder.

(vi) Since the Parking Garage is a relatively confined area, any user thereof may do so only in a cautious manner, and any Owner(s) or other party holding the right to use a Parking Space, by acceptance of their Deed or other right to use, thereby agrees to both release and indemnify the Declarant, the Condominium Association, its Executive Board from and against any and all claims, losses, costs, expenses or damages said parties may incur (including, without limitation, reasonable attorneys' fees and costs) or be hereafter subjected to and arising from the acts or omissions of the Owner or other party holding the right to use such Parking Spaces, unless arising from the indemnified party's gross negligence, willful misconduct or violation of the terms and provisions of this Declaration, the Condominium's By-Laws, Rules or Regulations.

(vii) Owners of Units to which certain parking spaces that can accommodate a vehicle lift may install such lifts at their own expense provided that such installation first receive approval of the Executive Board, which approval will not be unreasonably

withheld, and provided that the installation and use of the lift complies with any reasonable requirements imposed by the Executive Board relating to the safety of the lift, the maintenance of the lift, the removal of the lift in connection with Parking Garage maintenance and repair, and payment for the additional utility expenses associated with lift operation.

(d) Maintenance and Repair of Units and Common Elements.

Except as otherwise provided in the Condominium Act or this Declaration, the Association is responsible for carrying out maintenance, repair and replacement of the Common Elements, and each Unit Owner is responsible for the maintenance, repair and replacement of his or her Unit. Notwithstanding the foregoing, the following shall apply:

(i) Unit Owners shall keep their appurtenant balconies, terraces and Parking Spaces in a clean and neat condition.

(ii) The Association shall maintain, repair and replace any portion of a Unit that consists of exterior window and doors, structural wall, exterior siding or cladding, or other structural element, exterior wall, or interior partition walls. As such, Unit Owners shall not alter, maintain, repair, replace or alter such elements in any manner.

(iii) The cost of any maintenance, repair or replacement of any area or component of the Common Elements necessitated or arising from the act or omission of a Unit Owner (or his or her tenant, guest, invitee or licensee) may be assessed exclusively to such Unit Owner.

(iv) If the Executive Board shall at any time, in its reasonable judgment, determine that any Unit may be in such need of maintenance or repair that the Common Elements may be adversely affected, or that the market value or reasonable enjoyment of one or more other Units may be adversely affected, or that the condition of a Unit or fixtures, furnishings, facility or equipment therein may be or may become hazardous to any Unit or the occupants, the Executive Board may request in writing that the Unit Owner perform the needed maintenance, repair or replacement or to correct the hazardous condition, and in case such work shall not have been commenced within fifteen (15) days (or such reasonable shorter period in case of emergency as the Executive Board shall determine) of such request and thereafter diligently brought to completion, the Executive Board shall be entitled to have the work performed for the account of the Owner(s) of such Unit and to enter upon and have access to such Unit for that purpose. The cost of such work shall be reimbursed by the Unit Owner and constitute a lien upon such Unit and the Owner(s) of such Unit shall be personally liable therefore.

(v) The Association shall be responsible for causing the sidewalks surrounding the Property to be cleared of snow in accordance with the

City or Portland's snow removal ordinance, the cost of which shall be a Common Expense.

(vi) The Association shall be responsible for engaging a private trash hauler to pick up trash generated by the Residential Units, the cost of which service shall be a Residential Unit Common Expense; no unit owner shall attempt to utilize curb-side trash pick up services provided by the City of Portland, and the City has no intention or obligation to provide such service.

8. Undivided Interests. Each Unit shall have an Undivided Interest in the Common Elements in the percentages set forth in **Schedule B**, which have rounded to obtain a one hundred percent total for all Units. The Undivided Interests of Units have been determined by the calculating the relative floor areas of the Units. Declarant reserves the right to modify and adjust the Undivided Interests of the Units following the same methodology in connection with exercise by Declarant of its Development Rights pursuant to Section 13 of this Declaration.

9. Other Matters Relating to Condominium Association.

(a) Allocation of Undivided Interests. Each Unit's percentage of the Undivided Interests set forth herein have been, and will be, determined based upon each such Unit's floor area (as measured in square feet), in relation to the aggregate floor area of all Units. Such Undivided Interests shall be used in determining each Unit's Common Expense assessments, voting weight on Association matters for which Unit Owners have a right to vote, distribution of surplus assets, and certain other Association-related matters, all as described more fully in the Association's By-Laws and the Condominium Act.

(b) Common Expense Assessments.

(i) Assessments for Common Expenses (including assessments relating to the Residential Budget and the Garage Budget) shall be levied as per the terms and provisions of the relevant sections of the Condominium Act and the Association's By-Laws, the terms and provisions of which are incorporated into this Declaration by reference. Such assessments, as well as any late charges, interest, collection costs, attorneys' fees (whether a legal action is filed or not), service fees, charges and fines shall constitute, until paid in full, both the personal obligation of the Unit Owner and a lien against the Unit pursuant to Section 1603-116 of the Condominium Act.

(ii) If any Common Expense is caused by the negligence or misconduct of any Unit Owner, the Association may assess that expense exclusively against him or her, and his or her Unit.

(c) Executive Board's Power to Act on Behalf of Association. Except as expressly limited by the Condominium Act, this Declaration or the Association's By-Laws, the Executive Board shall be empowered to act on behalf of the Association as described in the By-Laws and Condominium Act, including (without limitation) the power and authority to assign its right to

collect future Common Expense assessments and other income as security for debt(s) of the Association, and the power to assess common expenses benefiting fewer than all the units exclusively against the units benefited.

(d) Notice of Matters Affecting the Condominium. Notice of matters relating to the Condominium shall be given to Unit Owners by the Executive Board by first class U.S. Mail, postage prepaid, at the Unit (unless the Unit owner has provided an alternate mailing address in writing to the Association), or by such other means as may be required by law. Notices relating to Condominium meetings shall be provided as set forth in the Condominium By-Laws.

10. Common Easements and Right of Access. To the fullest extent allowed by the Condominium Act, each Owner shall have an easement in common with the Owners of all other Units to use all pipes, wires, ducts, flues, cables, conduits, utility lines, and other Common Elements located in any of the other Units or elsewhere in the Condominium and serving his or her Unit. Each Unit shall be subject to an easement in favor of the Owners of all other Units to use the pipes, wires, ducts, flues, cables, conduits, utility lines, structural elements, and other Common Elements located in such Unit and serving other Units. The Executive Board, and any of them, any managing agent, and any other person authorized by the Executive Board or by the managing agent, shall have an easement and a right of access to each Unit at reasonable times and upon reasonable notice, except in emergencies, for the purpose of making inspections or for the purpose of correcting any conditions originating in any Unit or threatening another Unit or Common Element or adversely affecting the Common Expenses, or for the purpose of obtaining access to, and performing inspections, installations, alterations or repairs on the mechanical, electrical or fire alarm systems and services, exterior walls or structural elements, or any Common Elements in or adjacent to any Unit or elsewhere in the Building(s), or for any other purpose permitted by this Declaration or the By-Laws. In case of an emergency, such right of entry shall be immediate, by any appropriate means, whether the Unit occupant is present at the time or not.

11. Encroachments. If any portion of the Common Elements now encroaches upon any Unit, or if any Unit now encroaches upon any other Unit or upon any portion of the Common Elements, or if any such encroachment shall occur hereafter as a result of (a) alteration or repair to the Common Elements made by the Declarant, or by or with the consent of the Executive Board, or (b) settling of all or any portion of the Building(s), or (c) repair or restoration of the Building(s) or any Unit after damage by fire or other casualty, or (d) condemnation or eminent domain proceedings or (e) immaterial deviations from the Floor Plans, a valid easement shall exist for such encroachment and for the maintenance of the same.

12. Intended Use and Restrictions on Use of the Building and Units.

The purposes for which the Building and the Units and Common Elements are intended to be used are as follows:

A. The Nonresidential Units may be used for any lawful nonresidential (i.e., commercial purposes, to the extent allowed by local zoning laws as of right, or conditionally permitted, or permitted by special exception or by variance; provided, however, that notwithstanding the allowance of such uses, the following shall apply to the Nonresidential Units:

(i) Any and all utilities serving the Nonresidential Units shall be separately metered and billed to the Owner or tenant of the Nonresidential Unit in question.

(ii) Any exterior storefront of a Nonresidential Unit (meaning all windows, window frames, doors, door frames, signs and adjacent exterior moldings or trim) shall be maintained by, and at the sole cost and expense of, the Owner of the Unit in question, in accordance with reasonable architectural and maintenance guidelines established by the Executive Board.

(iii) Any signs and/or awning(s) erected upon the outside of the Building or visible from the Common Elements or sidewalk shall be subject to the approval of the Executive Board, which approval shall not be unreasonably withheld, conditioned or delayed, and shall comply with applicable ordinances and codes of the City of Portland. Any damage to the Building caused by such sign(s) or awnings shall be repaired at the sole cost and expense of the Nonresidential Unit Owner in question.

(iv) Owners and occupants of Nonresidential Units shall be responsible for their own trash/refuse removal, and may be assessed by the Executive Board for any material increase in insurance premiums and/or deductibles directly related to their use or occupancy.

(v) The Nonresidential Units, and their tenants and occupants, shall participate in the "Park and Shop Program" or a similar program with the so-called "Ocean Gateway Garage" located between Middle Street, Hancock Street and Fore Street and shall provide documentation of such participation to the City of Portland Planning Department at least every two (2) years.

(vi) The Nonresidential Units are not subject to any restrictions on leasing except that tenant must comply with this Declaration, the By-laws and the Rules and Regulations as the same may be amended from time to time.

(vii) The Nonresidential Units shall not be used for any restaurant or food service purpose that requires a hood or other commercial kitchen ventilation system.

(viii) The Nonresidential Units shall not be used for the following uses: nightclub; "headshop"; x-rated theatre; establishment for the sale of pornographic materials; massage parlor; steam bath; nude modeling studio; establishment with nude or semi-nude waiters, waitresses or entertainers; adult bookstore; billiard room; educational facilities (including but not limited to, beauty schools, barber colleges, reading rooms or libraries); discount store; second-hand store; army/navy type store; governmental "surplus" store; cooperative store or similar establishment; no auction, fire sale, "going out of business" sale,

bankruptcy sale, outdoor sale of merchandise, or continuous discount operation may be conducted in a Nonresidential Unit; nor shall any machine or device (including video games) operated by insertion of a coin, token, or similar object for the purpose of amusement or skill be permitted inside a Nonresidential Unit.

B. The Residential Units may be used only for residential purposes, subject, in all events, to the further restrictions set forth below in this Section 12, provided, however, that such Units may be used by the Declarant for other purposes pursuant to the provisions of Section 12.D and Section 13 below. This restriction shall not be construed to prohibit Unit Owners from leasing their Units, so long as any such leases are for an initial term of at least six (6) months and require any lessees to adhere to the provisions of this Declaration, the Association's By-Laws and the Rules and Regulations, and any lessees do so occupy and use the leased premises in accordance with the provisions of the Declaration, the Association and the Rules and Regulations. The Residential Units may also be used for "home office" purposes, so long as no commercial signage is used in connection therewith and no customers, clients or business associates visit the Condominium.

C. The Units and the Common Elements shall be subject to the restrictions that, unless otherwise permitted by instrument in writing duly executed by the Executive Board:

(i) Subject to prior written approval by the Executive Board of the plans and specifications related thereto, which approval shall not be unreasonably withheld, conditioned or delayed, the owner of a Unit may, at his sole cost and expense, if the rights of any other Unit Owner are not materially and adversely affected, and if the structural walls, supports and other structural aspects of the Building are not adversely affected, change or add to the interior partitioning thereof, by adding, modifying, removing or installing non-load bearing walls lying wholly within such Unit; provided, however, that the Executive Board may impose reasonable conditions on such work, and any and all work shall be done in a good and workmanlike manner, pursuant to a building permit validly issued therefor (if required by law).

(ii) Except for up to two (2) dogs or two (2) cats or one (1) dog and one (1) cat (i.e., two animals total), no animals, reptiles, birds, or pets of any kind (except fish) shall be raised, bred or kept in the Units or in the Common Elements without the approval of the Executive Board, which approval will be required for each specific animal, reptile or pet.

(iii) No Unit Owner (including the Unit Owner of any Nonresidential Unit) shall alter his Unit in such a way as to cause unreasonable levels of sound, vibration, light or odors to be transmitted to other Units, the Common Elements or neighboring buildings.

(iv) If any governmental license or permit (other than a Certificate of Occupancy, or a license or permit applicable to the Building as a whole and required in order to render lawful the operation of the Building) shall be required for any particular improvement or construction in any

particular Unit, and if failure to secure such license or permit would in any way affect any other Unit or the Owner thereof or the Association, the Owner of such particular Unit, at such Owner's expense, shall procure and maintain such license or permit, submit the same to inspection by the Executive Board, and comply with all terms and conditions thereof.

(v) A Unit Owner shall not place or cause to be placed in or on any of the Common Elements, other than a Limited Common Element, any furniture, packages, bicycles, carriages, baby strollers, or personal property of any nature whatsoever, provided, however, that the Residential Unit Owners have the right to use any bicycle storage facilities, dumpster, trash compactors or trash barrels, if any, located on the Common Elements, but only for ordinary household trash.

(vi) All use and maintenance of the Units (including any Nonresidential Unit) shall be conducted in a manner consistent with the reasonable comfort and convenience of the occupants of other Units.

(vii) The Common Elements shall be used only for the furnishing of the services and facilities for which they are reasonably suited and which are incident to the use and occupancy of Units or of the other premises entitled to the use or benefit thereof.

(viii) No nuisances shall be allowed on or in the Condominium, nor shall any use or practice be allowed which is a source of unreasonable annoyance to Unit Owners or which interferes with the reasonable peaceful possession or proper use of the Units by their occupants; provided, however, in determining compliance of the Nonresidential Units with the foregoing, the customary and reasonable activities associated with a permitted use shall be taken into account.

(ix) No Unit shall be rented or let for an initial term of less than six (6) months, any such leases or tenancies shall be pursuant to a written lease which shall specifically provide that the tenant/lessee is subject to the terms of this Declaration and the By-Laws and that the Executive Board is delegated the power to (but not the obligation) to evict the tenant/lessee for noncompliance, and a copy of said lease shall be delivered to the Executive Board of the Association.

(x) No immoral, improper, offensive, or unlawful use shall be made of the Condominium, or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed by the Unit Owners and the Association; provided, however, in determining compliance of the Nonresidential Units with the foregoing, the customary and reasonable activities associated with a permitted use shall be taken into account. Violations of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereof, relating to any Unit shall be eliminated by and at the

sole expense of the Unit Owner of said Unit and those relating to all Common Elements shall be eliminated by the Executive Board.

(xi) No pictures, advertisements, signs or posters of any kind shall be erected, posted or attached in or on the Residential Units if visible from the exterior of the Residential Units, except those approved in writing by the Executive Board, provided, however, this restriction shall not apply to pictures, advertisements, signs or posters utilized by the Declarant or its agents in selling or leasing the Units.

(xii) Except as allowed by the Rules and Regulations and applicable law with respect to television antennae and satellite dishes, no Unit Owner shall allow the installation of wiring for electrical or telecommunication use, an air conditioning unit or other machine or equipment which protrudes through the walls or the roof of the Building or is otherwise visible on the exterior of the Building.

(xiii) No activity shall be done or maintained in any Unit (including any Nonresidential Unit) which will materially increase the rate of insurance on any Unit or the Common Elements or result in the cancellation of insurance thereof, provided, however, that any use or activity which will increase the rate of insurance maintained by the Executive Board for the Condominium or by any individual Unit Owner may be permitted by the Executive Board, in the sole discretion of the Executive Board, if the Unit Owner conducting such use or allowing such use to be conducted agrees to conform to any special rules or regulations promulgated by the Executive Board with respect to such use and agrees to pay any and all additional costs associated therewith, including without limitation the increase in the insurance premiums paid by the Executive Board on behalf of the Condominium as a result thereof.

(xiv) Portions of any Residential Unit window treatments visible from the outside of the Building shall be white in color, and shall be of a material and style approved in writing by the Executive Board, such approval not to be unreasonably withheld, conditioned or delayed.

(xv) Owners of Units on the second floor or higher shall be required to cover at least 60% of the floor area of the Units (not including kitchens or bathrooms) with rugs or carpeting, or to take other reasonable measures to be defined by the Executive Board aimed at lessening sound transmission to Units below.

D. Notwithstanding anything to the contrary contained herein, the Declarant may, until all of said Units have been sold by said Declarant, (a) lease Units which have not been sold, as per the leasing requirements set forth in this Declaration; or (b) use any Units owned by the Declarant as models for display, as offices and/or as storage areas or for any other uses which it deems necessary or desirable in connection with redecoration and construction in the Units or Common Elements, or the sale or leasing of units.

13. Development Rights and Other Rights Reserved to the Declarant.

13.1 As stated above, the Declarant intends to develop and market the Condominium in stages, herein referred to as "Phases." Accordingly, the Declarant hereby expressly reserves to itself, its successors and assigns, for a period of seven (7) years from the recording of this Declaration, any and all Development Rights and Special Declarant Rights as defined in the Condominium Act or as set forth in this Declaration, and/or in the Association's By-Laws, including without limitation the right to add land to the Condominium, the right to create and declare additional units up to a maximum of 92 units, the right to convert common elements to units, the right to convert units to common elements, the right to allocate common elements to particular unit(s) as limited common elements, the right to relocate the boundaries between units or between units and common elements, and the right to combine units.

The "B" Phase Land described in **Schedule A-1**, together with the Building, initially shall comprise the Condominium. Said "B" Phase consists of 42 Residential Units and 3 Nonresidential Units. As stated above and hereinafter, the Declarant also hereby reserves the right in the future to declare as part of the Condominium an additional building ("A" Building) and 47 Additional Units therein (44 additional Residential Units and 3 additional Commercial Units), together with related Common Elements and Limited Common Elements, on the "A" Phase Land described in **Schedule A-2**. Declaring the additional Phase shall be accomplished by the Declarant's recording a "Phasing Amendment" as described below.

13.2 The "A" Building on the "A" Phase Land is to be constructed as approved by the City of Portland Planning Board and shown on the Amended Site Plan dated September 25, 2012, as the same may be modified with approvals. If and when all Phases of the Condominium have been declared, it is anticipated that there will be a total of up to 92 Units, in two Phases. The Declarant need not, however, declare the "A" Phase Land as part of this Condominium.

13.3 As described above, with respect to a building expressly made subject to this Declaration and part of the Condominium pursuant to a "Phasing Amendment" (as described above and below), the Declarant reserves for the benefit of itself and its successors and assigns the exclusive right to fully construct, develop and finish the same. Nothing contained in this Declaration or in future Amendments shall be held to limit or restrict said reserved rights of Declarant for the benefit of itself and its successors and assigns.

13.5 The Declarant, for itself and its successors and assigns, hereby reserves certain exclusive rights and easements to enter onto the Land made part of this Condominium now or in the future, to complete construction of any building thereon, along with all improvements, utility lines, driveways, wires, pipes, conduits, septic system(s), walkways, and drainage lines to service the Units constructed on the Land and/or to service any of the "A" Phase Land, whether part of the Condominium or not.

13.6 The Declarant expressly reserves for itself and its successors and assigns, and shall have the right, without the further consent of any Unit Owner or mortgagee, to amend this Declaration so as to include in this Condominium the "A" Phase Land and building thereon, as set forth above (hereinafter, the "Phasing Amendment"), pursuant to and in accordance with the provisions of this Section 13. Until the recording of Phasing Amendment or the expiration of the

time period described in Section 13.6(c) below, the buildings (if any) outside of the Land shall be deemed to be subject to the exclusive use, rights and easements hereby reserved by the Declarant and its successors and assigns in this Declaration, including the rights of the Declarant to convert said areas to Units, Limited Common Elements, and Common Elements as described herein and in the Phasing Amendment. With respect to the "A" Phase:

(a) The Declarant may Phase in fewer than all Units in a building as part of the "A" Phase. The Declarant may exercise the Development Rights described herein at different times with respect to different portions of the "A" Phase Land. The Declarant makes no assurances, however, as to either the boundaries of such development areas or the order in which those rights may be exercised. In the event that additional Units are declared on the "A" Phase Land, then the Declarant shall over time exercise the Development Rights to add all of the "A" Phase Land and the Units therein to the Condominium.

(b) The Declarant, in such Phasing Amendment, shall have the right, in its sole discretion, to declare additional Units, as well as the right to create and allocate Limited Common Elements. Upon the recording of a Phasing Amendment so as to declare a portion of the "A" Phase Land, such Units in "A" Phase shall become Units in this Condominium owned by the Declarant, and the Common Elements shall include, except as otherwise provided in said Phasing Amendment, the same elements, features, and facilities of the building and grounds which are described, defined, and referred to as to the "B" Phase in this Declaration as Common Elements. After the recording of such Phasing Amendment, the total number of Units in the Condominium shall be Units in the "B" Phase and the Units subsequently created by the Phasing Amendment;

(c) Except as otherwise provided herein, if the Declarant has not so amended this Declaration so as to include any or all of the "A" Phase Land in the Condominium within seven (7) years after the date of recording of this Declaration, then the foregoing reserved development rights shall terminate and be of no effect with respect to any such portion of "A" Phase Land not yet declared; and

(d) Nothing herein shall be deemed to obligate the Declarant to declare the "A" Phase Land or any Units therein. Moreover, notwithstanding any contrary or inconsistent provision above, the Declarant, and its successors and assigns, shall have the right, prior to the execution and recording of the Phasing Amendment declaring the "A" Phase, to change the number, size, design, layout and/or location of Units in the "A" Phase.

Any Phasing Amendment declaring the "A" Phase or any portion thereof shall contain all the particulars required by the Condominium Act. No such Phasing Amendment shall be effective until it is recorded in the Registry of Deeds. Any Phasing Amendment shall include a revised Schedule B showing the adjusted Undivided Interests in the Common Elements for each of the then existing Units, resulting from the creation of additional Units pursuant to such Phasing Amendment.

13.7 Until such time as a Phasing Amendment is recorded with respect thereto or the timeframe described in Section 13.6(c) above has expired, certain areas of the building(s) and/or land shown as being beyond the Land shall be restricted in use to the Declarant, and the Declarant and its

successors and assigns will have the exclusive right to use and develop said areas, and to rent, lease, occupy and enjoy any revenues derived from said areas.

13.8 The Declarant reserves the right for itself and its successors and assigns to construct or renovate the Units in the "A" Phase Land in styles and sizes other than those built in the "B" Phase, so long as those styles and sizes conform to applicable zoning ordinances and applicable governmental regulations. From and after the recording of a Phasing Amendments, the Condominium shall include the Phases created by such Phasing Amendments.

13.9 In addition to all other rights of Declarant hereunder and pursuant to Declarant's right to amend this Declaration so as to develop and market the Units and to create the "A" Phase as set forth above, Declarant reserves unto itself and its agents, servants, employees, independent contractors, workmen, work crews, successors and assigns the right and easement to use, occupy, and alter, for construction purposes, all areas of the Property, other than Units and Limited Common Elements already conveyed, for all purposes necessary or desirable in order to develop and/or manage the Property and to market the Units. The Declarant further reserves for itself and its successors and assigns the exclusive right to grant easements across all of the Property for the installation of utilities and the right to grant easements to others to use the Property for access to other property.

Without limiting the generality of the foregoing and in furtherance thereof, the Declarant hereby reserves unto itself and its agents, servants, employees, independent contractors, workmen, work crews, successors and assigns, the following rights over all of the Land and Building subject to this Declaration: the right of access, ingress, and egress over and upon the Land and the Common Elements of the Condominium, including that deemed by the Declarant to be necessary for marketing purposes and for the work of construction, reconstruction, rehabilitation, improvement, and other work in progress or contemplated by Declarant; the right to lay, maintain, repair and replace, construct, and install and connect (or connect with and make use of) all utilities, utility lines, poles, tanks, walls, ducts, conduits, and similar facilities to serve any or all of the buildings and/or Units and the Common Elements, and all conduits, ducts, plumbing, wiring, and other facilities for the furnishing of power, gas, light, master antenna, satellite antenna, cable television, water, air and all sewer and drainage pipes and fire alarms systems to serve any or all of the buildings and/or Units and the Common Elements and facilities; to pass and repass by foot and vehicle over all driveways, roadways, accessways, parking areas and walkways, whether now existing or to be constructed in the future, for all purposes for which driveways, roadways, accessways, parking areas and walkways are commonly used, including the transportation of construction materials, equipment, and personnel for the purposes of construction; to construct buildings and improvements on the Land, and to engage in all activities necessary or appropriate to accomplish the same, including without limitation the exclusive right to grant to others including any public utility or authority, easements for the installation and maintenance of utilities; to store construction materials, equipment, and supplies in those portions of the Common Elements and Limited Common Elements; to restrict (for periods of not more than eight (8) hours at any time during any day) the use by owners of any Common Elements to facilitate construction or for purposes of safety (provided, of course, no Owner shall be denied at least one means of access to his or her Unit during such periods of restriction); to leave debris resulting from construction in the Common Elements and facilities, provided the same do not endanger safety; to reasonably interrupt for brief intervals of time, water, gas, electric, and other utilities and service provided by such utility lines, pipes, tanks, wells, wires, cables, conduits, and septic and drainage lines in order to facilitate construction or in order to facilitate the installation of appliances or fixtures in the buildings, Units or Common Elements under construction without liability for such interruption

of service, provided however that the Declarant shall use reasonable efforts to minimize any such interruption of service; to park vehicles used in connection with the construction work or incident thereto in parking areas; and, in general, the right to do all things necessary or desirable in order to construct and complete all of the buildings and/or Units and the Common Elements and facilities in connection therewith.

The Declarant further reserves the exclusive right to use any office area, sitting area or storage area located in the Common Elements and not necessary to serve the Units already sold by the Declarant, as well as any Unit owned by the Declarant, for storage or as a model, for display, as an office, for purposes of facilitating sales, as well as the right to park and use one or more vehicles or trailers, for as long as the Declarant owns any Units or holds any Development Rights or Special Declarant Rights. Any such areas exclusively used by the Declarant shall be located either in Unit(s) owned by the Declarant or in the Common Elements of the Building at the ground (i.e., terrace) or Parking Garage levels.

The Declarant further hereby expressly reserves the right and easement, for itself and any occupants of Units on the Property not yet phased into the Condominium, to utilize the courtyard area, sidewalks, driveways and other recreational and access Common Elements located on or under the Land, in common with all other Owners.

13.10 The rights and easements reserved by the Declarant in this Section 13 shall be in addition to and not in limitation of, the rights and easements allowed in the Condominium Act, reserved by the Declarant in other sections of this Declaration, in the By-Laws, or in any prior-recorded instrument.

13.11 The rights and easements reserved by the Declarant for itself and its successors and assigns in this Declaration shall survive the sale of all of the Units in the "B" Phase by the Declarant, and are to be deemed to be fully transferable, running with the land.

13.12 Each Executive Board Member, as well as each Owner and mortgagee of an individual Unit, by the acceptance and recordation of a deed or mortgage, shall thereby have consented to any such Phasing Amendment to the Declaration (and corresponding modification of percentage of Undivided Interest) and/or the granting or exercise of any right or easement described in this Declaration without the necessity of securing any further consent or execution of any further documents by such Board Member, Owner or mortgagee. Each Owner and mortgagee of an individual Unit, by acceptance and recordation of a deed or mortgage, shall thereby be deemed to have further consented to any governmental permit, approval or zoning relief sought by the Declarant in connection with the development and construction of the Condominium and/or such other development and/or construction proposed by Declarant or Declarant's affiliates, successors and/or assigns with respect to the Land and the "A" Phase, and no such Owner or mortgagee shall object in any way to any such governmental permit, approval or zoning relief sought by the Declarant. At the request of the Declarant, the Executive Board and all Owners shall join in any application for such governmental permit, approval or zoning relief, provided Declarant shall bear any costs therefor. The foregoing shall not apply to any mortgagee of the Declarant.

13.13 The Declarant, by deed or by separate assignment, shall be entitled to assign, sell, grant or mortgage, any and all of its interests, rights and easements owned by it or reserved herein and in the By-Laws, at any time, and from time to time, to any mortgage holder, person, trust, firm, or entity as may be determined by Declarant. Each Board Member, as well as each

Owner and mortgagee of an individual Unit, by acceptance and recordation of a deed or mortgage, shall be deemed to have thereby consented to any such assignment, sale, grant or mortgaging of the Declarant's said interests, rights and easements without the necessity of securing any further consent or execution of any further documents by such Board Member, owner or mortgagee. The Condominium Board and Owners, at Declarant's request, shall execute whatever confirmatory instruments which Declarant deems appropriate or necessary in order to perfect, carry out, or effectuate the rights and easements reserved by the Declarant in this Declaration and in the Condominium By-Laws. The foregoing shall not apply to any mortgagee of the Declarant.

14. Title to Units. Title to Units may be taken in any form, including without limitation one or more corporations, companies, trusts or partnerships, or in the name of two (2) or more individuals, as tenants in common, joint tenants, or tenants by the entirety or in the name of a fiduciary.

15. Units Subject to Declaration and Condominium By-Laws. All present and future Owners, tenants, visitors, invitees, licensees and occupants of Units shall be subject to, and shall comply with, the provisions of this Declaration, the By-Laws, and the Rules and Regulations promulgated pursuant thereto, as they may be amended from time to time, and the instruments of record affecting title to the Property including, but not limited to, those instruments of record listed in the Schedules to this Declaration. The acceptance of a deed or conveyance of a Unit or the entering into occupancy of any Unit shall constitute an agreement that the provisions of this Declaration, By-Laws, and the Rules and Regulations promulgated pursuant thereto, as they may be amended from time to time, and the said instruments of record affecting title to the Property, are accepted and ratified by such Owner, tenant, visitor, invitee, licensee 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. A violation of the provisions of this Declaration, the Deed, the By-Laws, or the Rules and Regulations promulgated pursuant thereto by any such person shall be deemed a substantial violation of the duties and obligations of a Owner, which shall entitle the Executive Board and any Owner the right to recovery of damages and/or injunctive relief.

16. Amendment of Declaration.

A. (1) Declarant's Consent. Notwithstanding any contrary or inconsistent provision in this Declaration, for so long as Declarant owns one or more Units in the Condominium or holds any Development Rights or Special Declarant Rights, any amendment to the Declaration which affects a right reserved to the Declarant hereunder or imposes an additional obligation or duty upon the Declarant must be signed by the Declarant and/or its successors and/or assigns.

(2) Nonresidential Unit Owners' Consent. Notwithstanding any contrary or inconsistent provision in this Declaration, no amendment to this Declaration which materially and adversely affects the rights or obligations of Nonresidential Unit Owners shall be effective unless consented to by Nonresidential Unit Owners representing a majority of the aggregate Undivided Interests of said Nonresidential Unit Owners.

B. General Amendments. Amendments to this Declaration are governed generally by Section 1602-117 of the Condominium Act, this Section 16 of the Declaration, and Section 17 below. Except as may be inconsistent with the Condominium Act, and except as otherwise provided in Section 17 below or in Subsections A or C of this Section 16, this Declaration may be amended by the vote or agreement of Unit Owners representing 67% or more of the Undivided Interests in the Condominium.

C. Special Amendments. Notwithstanding the foregoing, this Declaration may also be amended by Special Amendment as follows: The Declarant, without the consent of any Unit Owner or mortgagee; may execute and record, as long as it owns any Units or holds any Development Rights or Special Declarant Rights, as well as Special Amendments in order to (i) correct any errors and/or omissions in this Declaration, provided no such correcting amendment shall materially and adversely affect the rights of any Unit Owner or mortgagee; or (ii) to make this Declaration comply with the provisions of the Condominium Act, any other law, code, permit or approval, or the requirements or guidelines of the Federal National Mortgage Association ("FNMA"), the Federal Home Loan Mortgage Corporation ("FHLMC") or any other insurer or guarantor of Unit mortgages.

Special Amendments may also be executed and recorded as described above in connection with the combination, subdivision, and/or alteration of Units.

D. Effective Date. Amendments to this Declaration shall be effective upon recording in the Registry of Deeds. As to General Amendments, the recorded version thereof need not include the signatures of Unit Owners agreeing thereto, but rather the recorded instrument need only be signed by an Officer of the Association, as long as such Officer certifies that the required consents described above have been obtained and will be retained with the Association's records for a period of at least two (2) years after recording.

17. Provisions Protecting Rights of Secured Lenders.

Subject to the limitations set forth in Section 1602-119(a) of the Condominium Act, the following shall apply with respect to the protection of rights of holders of first mortgages on Units ("First Mortgagees") and "Eligible Mortgage Holders" (meaning First Mortgagees who have delivered written notice to the Association by prepaid certified U.S. Mail, return receipt requested, or by delivery in-hand securing a receipt therefore, which notice states the First Mortgagee's name and address, the Unit upon which it holds first mortgage, the Unit Owner's name and address, and that it holds a first mortgage on such Unit).

A. Notwithstanding anything in this Declaration or in the By-Laws to the contrary, the following provisions shall apply for the protection of First Mortgagees, and shall be enforceable by any First Mortgagee:

(1) In the event that the Unit Owners shall amend this Declaration or the By-Laws to include therein any right of first refusal in connection with the sale of a Unit, such right of first refusal shall not impair the rights of a First Mortgagee to:

(a) Foreclose or take title to a Unit pursuant to the remedies provided in its mortgage; or

(b) Accept a deed (or assignment) in lieu of foreclosure in the event of default by a Unit Owner, or

(c) Sell or lease a Unit acquired by the First Mortgagee through the procedures described in subparagraphs (a) and (b) above.

(2) As to any conveyance whereby a party who takes title to a Unit through either a deed in lieu of foreclosure or a foreclosure sale duly conducted by a First Mortgagee, such conveyance shall be exempt from any such right of first refusal adopted by the Unit Owners and incorporated in this Declaration or the Condominium By-Laws, and the ownership of the Unit by such party shall be exempt from any leasing restrictions set forth therein but only for such party's period of ownership.

B. Any First Mortgagee who obtains title to a Unit by foreclosure shall not be liable for such Unit's unpaid common expenses or other amounts which accrued prior to the acquisition of title to such Unit by such First Mortgagee, except to the extent that such common expenses and/or other amounts are entitled to priority over such First Mortgage under the Condominium Act. Liens for any and all Common Expenses, assessments and charges that may be levied by the Association shall be subordinate to the rights of any First Mortgagee pursuant to its mortgage to the extent permitted by applicable Maine law.

C. A lien for Common Expenses assessments shall not be affected by any sale or transfer of a Unit, except that a sale or transfer pursuant to a foreclosure of a First Mortgage shall extinguish a subordinate lien for assessments which became payable prior to such sale or transfer. Any such sale or transfer pursuant to a foreclosure (1) shall not relieve the prior Unit Owner of a personal liability for any unpaid assessments or other sums owed to the Association, and (2) shall not relieve the purchaser or transferee from liability for, nor the Unit from the lien of, any assessments made thereafter.

D. As provided in Section 1602-119 of the Condominium Act, the Association shall send reasonable prior written notice by prepaid U.S. Mail to Eligible Mortgage Holders of the consideration by the Association of any of the following proposed actions:

(1) The termination of the Condominium pursuant to Section 1602-118 of the Condominium Act;
(2) A change in the percentage of Undivided Interest of a Unit, a change in the boundaries of a Unit, or a subdivision of a Unit, unless carried out by the Declarant pursuant to the terms of this Declaration;
(3) The merger or consolidation of the Condominium with another condominium;
(4) The conveyance or subjection to a security interest of any portion of the Common Elements;
(5) The proposed use of any proceeds of hazard insurance required to be maintained by the Association under Section 1603-113, subsection (a) of

the Condominium Act for purposes other than the repair or restoration of the damaged property;

(6) The adoption of any proposed Budget by the Executive Board and of the date of the scheduled Unit Owners' meeting to consider ratification thereof with a summary of the proposed Budget to accompany such notice; and

(7) Any default in the performance or payment by a Unit Owner of any obligation under the Condominium Declaration or By-Laws including, without limitation, default in the payment of common expense liabilities.

In the event of any proposed actions described in Subsection D., paragraphs (1), (2), (3), (4) or (5) immediately above, and Eligible Mortgage Holders shall have the right (but not the obligation) in place of the Unit Owner to cast the votes allocated to that Unit or give or withhold any consent required of the Unit Owner for such action by delivering written notice to the Association, with a copy of the Unit Owner prior to or at the time of the taking of the proposed action, which notice shall be sent by prepaid certified United States mail, return receipt requested, or by delivery in-hand. Failure of the Eligible Mortgage Holder to so exercise such rights shall constitute a waiver thereof, and shall not preclude the Unit Owner form exercising such right. In the event of any default described in Subsection D., paragraph (7) above, the Eligible Mortgage Holder shall have the right but not the obligation to cure such default.

In addition, an Eligible Mortgage Holder, or its representative, shall have the right to attend Association and Executive Board meetings for the purposes of discussing the matters described in Subsection D., paragraphs (1) to (6) above.

E. In addition to the statutory rights of Eligible Mortgage Holders summarized in Subsection D above, and subject in all events to the provisions of the Condominium Act, unless Unit Owners representing at least two-thirds (2/3) of the Undivided Interest hereunder (or such larger percentage as may be required by law) and at least two-thirds (2/3) of the First Mortgagees holding mortgages on the individual Units of the Condominium have given their prior written approval, neither the Owners nor the Executive Board shall be entitled to:

(1) By act or omission, seek to abandon or terminate the Condominium except in the event of substantial destruction of the Condominium premises by fire or other casualty or in the case of taking by condemnation or eminent domain;

(2) Change the percentage of Undivided Interest or obligation of any individual Unit for the purpose of: (a) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (b) determining the voting interest of each Unit;

(3) Partition any Unit (other than in connection with the subdivision of Units as permitted herein, which shall not require First Mortgagee consent);

(4) By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements; provided, however, that the granting of easements for purposes not inconsistent with the intended use of the

Common Elements by the Condominium and the exercise of other actions with respect to granting of special rights of use or Limited Common Elements contemplated herein or in the Condominium By-Laws shall not be deemed an action for which any prior approval of a First Mortgagee shall be required under this Subsection;

(5) Use hazard insurance proceeds for losses to any property of the Condominium (whether of Units or Common Elements) for other than the repair, replacement or reconstruction of such property of the Condominium, except as provided by statute; or

(6) Terminate professional management and establish self-management of the Condominium.

F. In no case shall any provision of the Declaration or the By-Laws give an Owner or any other party priority over any rights of a First Mortgagee pursuant to its mortgage in the case of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of such Unit and/or the Common Elements of the Condominium.

G. In addition to the statutory rights of Eligible Mortgage Holders summarized in Subsection D above, First Mortgagees, upon request to the Executive Board, will be entitled to:

(1) Written notification from the Executive Board of any default by its borrower who is the Owner of a Unit with respect to any obligation of such borrower under this Declaration or the provisions of the By-Laws which is not cured within sixty (60) days;

(2) Inspect the books and records of the Association at all reasonable times;

(3) Receive an audited annual financial statement of the Condominium Association (at its expense) within ninety (90) days following the end of any fiscal year of the Association;

(4) Receive written notice of all meetings of the Association and be permitted to designate a representative to attend all such meetings;

(5) Receive prompt written notification from the Executive Board of any damage by fire or other casualty to a material portion of the Condominium or the Unit upon which the First Mortgagee holds a mortgage or proposed taking by condemnation or eminent domain of said Unit or the Common Elements of the Condominium;

(6) Receive written notice of any lapse, cancellation or material modification of any insurance policy maintained by the Association; and

(7) Receive written notice of any action which requires the consent of a specified percentage of Eligible Mortgage Holders.

H. No amendment of a material nature to this Declaration will be made unless such is agreed to by Eligible Mortgage Holders who represent at least fifty-one percent (51%) in number of the First Mortgages on the Units that are subject to mortgages held by Eligible Mortgage Holders. A change to any provisions governing the following shall be considered material, unless done in connection with the exercise of the Declarant's Development Rights or Special Declarant Rights:

(1) Voting;

(2) Assessments, assessment liens or subordination of such liens;

(3) Reserves for maintenance, repair and replacement of the common areas;

(4) Insurance;

(5) Rights to use of the Common Elements;

(6) Responsibility for maintenance and repair of the several portions of Property;

(7) Expansion or contraction of the Condominium or the addition, annexation or withdrawal of property to or from the Condominium;

(8) Boundaries of any Unit;

(9) The apportionment of Undivided Interests in the Common Elements;

(10) Convertibility of Units into Common Elements or of Common Elements into Units;

(11) Leasing of Units;

(12) Imposition of any right of first refusal or similar restriction on the right of a Unit Owner to sell, transfer, or otherwise convey his/her/their Unit estate; and

(13) Any provisions which are for the express benefit of First Mortgagees, Eligible Mortgage Holders or insurers or guarantors of first mortgages on Units.

The Declarant intends that the provisions of this Section 17 and all other provisions of this Declaration comply with the requirements of FHLMC and FNMA with respect to condominium mortgage loans and, except as otherwise required by the provisions of Condominium Act, all questions with respect thereto shall be resolved consistent with that intention. In the event of any conflict between the approval requirements of FNMA, FHLMC, other sections of the Declaration and the Condominium Act with respect to any action or non-action to be taken or omitted by the Unit Owners or Executive Board, or with respect to any other matter, the greatest percentage requirement shall control. This Section 17 may be amended only with prior written approval of First Mortgagees representing 67% in number and Undivided

Interest of the mortgaged Units in the Condominium and 67% in Undivided Interest of the Unit Owners in the Condominium.

Except as otherwise provided in the Condominium Act, any consent of an Eligible Mortgage Holder or First Mortgagee herein provided for shall be deemed given if such mortgagee fails to submit a response to any written proposal for an amendment within sixty (60) days after it received proper notice of the proposal, provided the notice was delivered by certified mail, return receipt requested.

18. Common Expenses.

Until such time as the Association makes a Common Expense assessment, the Declarant shall pay all Common Expenses, as provided in Section 1603-115(a) of the Condominium Act. Once a Common Expense assessment is made, Unit Owners shall be liable for Common Expenses as provided in this Declaration, as amended.

A. Determination of Common Expenses and Fixing of Common Charges. The Executive Board shall prepare budgets (the "Budgets") for the Condominium by establishing the Common Expenses expected to be incurred during the ensuing fiscal year, together with a reasonable provision for contingencies and reserves equal to at least ten percent (10%) of the total annual budget, and after taking into account any undistributed surplus from prior years (reserves excepted), shall determine the assessment to be made for such fiscal year (herein referred to as "Common Expenses"). The Common Expenses shall include, but in no way be limited to, all such amounts as the Board may deem proper for the operation and maintenance of the Condominium, including, without limitation, the cost of all insurance premiums on all policies of insurance required to be or which have been obtained pursuant to the provisions of this Declaration and adequate reserves to pay for insurance deductibles in the event of a casualty loss, and an amount to make up for any deficit in the Common Expenses for any prior year. The Common Expenses may also include such amounts as may be required for the purchase or lease by the Executive Board, on behalf of all Owners of any Unit which is to be sold at foreclosure or other judicial sale, or otherwise.

Unless otherwise determined by the Board, there shall be three (3) Association Budgets each fiscal year, as contemplated by Section 1603-115(c) of the Condominium Act, as follows:

1. The General Budget: This is the Budget which accounts for all of the Condominium expenses and services which benefit, or may benefit, all Units generally. Examples include electricity for exterior lighting, exterior maintenance, legal fees, sewer and water fees, landscaping and grounds maintenance, insurance premiums, snow removal, and management fees.

2. The Residential Budget: This is the Budget for expenses and services which benefit only the Residential Units. Examples include the operation, maintenance, repair, or replacement of residential lobby, elevator, life safety systems, interior stairways, interior hallways, balconies and patios; elevator inspection and permitting; interior lighting and electricity.

3. The Garage Budget: This is the Budget for expenses and services relating solely to the Parking Garage.

Assessments for expenses set forth in the General Budget will be based upon each Unit's Undivided Interest in the Common Elements, or otherwise in accordance with benefits received therefrom, in the Executive Board's discretion. Each Residential Unit's assessments for expenses set forth in the Residential Budget will be based upon a fraction, the numerator of which shall be that Residential Unit's Undivided Interest in the Common Elements and the denominator of which shall be the aggregate Undivided Interest of all Residential Units, or, in the Executive Board's discretion, based upon benefits received. Assessments under the Garage Budget will be assessed to each holder of the right to use an On-Site Parking Space, on an equal basis for each such Parking Space.

Upon adoption, the Executive Board shall then pursue ratification of the Budgets at a Special Budgetary Meeting of Unit Owners as provided in Section 1603-103(c) of the Condominium Act, and then promptly render statements to the Unit Owners for their respective shares of such assessment, according to the formulas set forth above, and the amount shown on such statement shall, unless otherwise provided therein, be due and payable in equal monthly installments during the fiscal year to which it applies. In the event an annual assessment is not made as above required, an assessment shall be presumed to have been made in the amount of the last prior assessment. In the event that the Executive Board shall determine at any time during any fiscal year that the assessment so made is less than the Common Expenses actually incurred, or in the reasonable opinion of the Executive Board, likely to be incurred, or in the event that the Executive Board shall determine that it is advisable to establish a larger reserve or other fund for projected capital or other expenditures or otherwise, the Executive Board may make one or more supplemental assessments ("Special Assessments") and render such statements as they may deem necessary therefor in the manner aforesaid, and the amount shown in such statement shall be payable and take effect as aforesaid.

B. Payment and Collection of Common Expenses. The Executive Board shall, so far as reasonably possible, provide for payment of the annual assessment of Common Expenses in monthly installments, in advance. The amount of each such assessment, together with late charges as may be reasonably imposed by the Executive Board, reasonable attorneys' fees (whether or not a legal action is filed), fines, and interest on the assessment at the rate of 18% per annum or as otherwise determined from time to time by the Executive Board, if not paid when due, shall constitute a lien on the Unit and shall be the personal obligation of the Owner.

C. Default in Payment of Common Expenses. In the event of default by any Unit Owner in paying to the Association the Common Expenses attributable to his Unit, such Unit Owner shall be obligated to pay all expenses, including attorneys' fees (whether or not a legal action is filed), fines, late charges and interest imposed or incurred by the Association in any proceeding brought to collect such unpaid Common Expenses, irrespective of the amount so unpaid. The Executive Board shall have the right to attempt to recover such amounts in an action to recover the same brought against such Unit Owner, or by

foreclosure of the statutory lien on such Unit, or in any proceeding wherein the Unit Owner seeks to avoid payment of the Common Expenses due.

19. Insurance.

The Association shall obtain and maintain, to the extent reasonably available, the following insurance policies:

A. Casualty Insurance. The Executive Board shall obtain and maintain, to the extent reasonably obtainable at reasonable costs and permitted by applicable law, so-called master policies of insurance providing fire-with-extended-coverage and so-called all risk coverage insurance, insuring the Condominium, including, without limitation, the Common Elements, all of the Units with all fixtures therein, all heating and cooling equipment and other service machinery, apparatus, equipment and installations comprising the Common Elements or Units, and also all such portions normally deemed to constitute part of the building and customarily covered by such insurance, but not including any personal property belonging to and owned by individual Unit Owners or tenants, in an amount equal to not less than one hundred percent (100%) of the full replacement value thereof, exclusive of foundations, land and other items normally excluded therefrom without deduction for depreciation, but subject to a reasonable deductible as the Executive Board may determine, and which shall include, if available, so-called Agreed Amount, Inflation Guard, Construction Code and Replacement Cost Endorsements. Any insurance deductible shall be deemed a Common Expense, unless such amount may lawfully be allocated or assessed to one or more individual Unit Owner(s). In determining full replacement value, the Executive Board may reasonably rely upon the advice of the insurer or insurance agent. The name of the insured under such policy shall be stated in form, substance and effect similar to the following: "THE BAY HOUSE CONDOMINIUM ASSOCIATION and its Unit Owners and mortgagees as their interests may appear." Such insurance shall name the Executive Board as Insurance Trustee(s) for the use and benefit of all Unit Owners and their mortgagees as their interests may appear, with losses payable to and adjusted by the Executive Board as Insurance Trustee(s) in accordance with the provisions of these By-Laws and the Condominium Act. The Executive Board may insure against such other hazards or risks of casualty as the Executive Board from time to time in its discretion shall determine to be appropriate, including, but not limited to, vandalism, malicious mischief, windstorm and water damage, earthquake, flood and machinery explosion or damage.

B. Liability Insurance. The Executive Board shall obtain and maintain, to the extent reasonably obtainable at reasonable costs and/or applicable, master policies of insurance with respect to the Common Elements for the benefit and protection of the Association and all Unit Owners for: (i) comprehensive general liability insurance in such limits as the Board may, from time to time, determine but in no case less than $1,000,000/$1,000,000 in coverage, covering the Association, the Executive Board, the Property Manager, if any, and each Unit Owner with respect to liability arising out of ownership, maintenance or repair of the Common Elements and structural and exterior wall portions of the Units, such insurance containing a "severability of interest" endorsement which shall preclude the insurer from denying the claim of a Unit Owner because of negligent acts of the Association, the Executive Board, the Unit Owner or other Unit Owners, and other provisions commonly referred to as a "Special Condominium Endorsement" or its

equivalent; (ii) workmen's compensation and employee's liability insurance; (iii) boiler and machinery insurance in such limits as the Executive Board may, from time to time, determine; and (iv) such other liability insurance as the Executive Board may from time to time deem appropriate and desirable.

C. Fidelity Coverage. The Executive Board shall obtain fidelity coverage against dishonest acts on the part of the Executive Board, the Property Manager, if any, employees or volunteers responsible for handling funds belonging to Association or administered by the Executive Board.

D. Directors' and Officers' Liability Insurance. The Executive Board may obtain as a Common Expense, Directors' and Officers' Liability Insurance in such amounts and upon such terms as they deem appropriate.

E. Executive Board as Insurance Trustee(s). The Executive Board (i) shall have exclusive authority to negotiate all losses as herein provided for, (ii) shall collect and receive all loss insurance proceeds, and (iii) shall hold, use, apply and disburse the same in accordance with the applicable provisions of the Declaration, these By-Laws and the Maine Condominium Act for the benefit of the Owners and their respective mortgagees. With respect to losses which affect portions or elements covered by such insurance of more than one Unit and/or the Common Elements to different extents, the proceeds relating thereto shall be used, applied and disbursed by the Executive Board in their judgment in a fair and equitable manner, primarily based upon the relative losses.

F. Additional Requirements. Insurance policies obtained pursuant to the above shall also provide that:

1. Each Unit Owner is an insured person under the policy with respect to liability arising out of his ownership of an undivided interest in the Common Elements or membership in the Association;

2. The insurer waives its right to subrogation under the policy against any Unit Owner or members of his household;

3. No act or omission by any Unit Owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or be a condition to recovery under the policy; and

4. If, at the time of a loss under the policy, there is other insurance in the name of a Unit Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

In the event that any insurance coverage described above is not reasonably available, the Association shall cause notice of that fact to be sent to all Unit Owners, as required by Section 1603-113(c) of the Maine Condominium Act.

20. Rebuilding, Restoration and Condemnation.

A. Casualty Loss. Except as provided in Section 1603-113(h) of the Condominium Act, and subject to such statutory provisions, in the event of damage to or destruction of the Condominium as a result of fire or any other casualty, the Executive Board, acting as Insurance Trustee(s) designated herein, shall promptly adjust and collect the loss and disburse the master policy insurance proceeds in appropriate progress payments with appropriate retainage, so as to facilitate and ensure the repair and restoration of the Unit or Units or Common Elements so damaged or destroyed.

The Executive Board may perform emergency work essential to the preservation and safety of the property or the safety of persons, or required to avoid the suspension of any essential service to the Condominium without having first adjusted the loss or obtained proceeds of insurance or otherwise having complied herewith.

The cost of repair or replacement in excess of insurance proceeds and reserves shall be a Common Expense. If there shall have been a repair or restoration pursuant to the foregoing and the amount of insurance proceeds shall have exceeded the cost of such repair or restoration, then the excess of such insurance proceeds, if any, shall be added to the Association's capital expense reserve account or shall be, at the option of the Executive Board, divided among the Owners in proportion to their respective Undivided Interests; provided, however, that no provision herein shall be deemed to give an Owner or any other party priority over any rights of the holder of a first mortgage (if any) on such Owner's Unit pursuant to such mortgage in the case of a distribution to such Owner of insurance proceeds for losses to Units and/or Common Elements. First Mortgagees of Units will be entitled to priority with respect to any insurance proceeds distributed to their mortgagors.

B. Eminent Domain. In the event of a total or partial taking under the powers of eminent domain, the Owners shall be represented by the Condominium acting through the Executive Board. Eminent domain proceedings and awards shall be governed by Section 1601-107 of the Condominium Act.

21. Rules, Regulations, Restrictions and Requirements.

The use and occupancy of the Condominium and each Unit shall be restricted to and shall be in accordance with the provisions of this Declaration, the By-Laws and such Rules and Regulations as the Executive Board may adopt, and all applicable laws, zoning ordinances, rules, regulations and requirements of all governmental bodies having jurisdiction over the Condominium or the use and occupancy thereof.

The Executive Board shall have the right at any time and from time to time to adopt, amend and rescind Rules and Regulations governing the operation, appearance and use of the Common Elements and the occupancy of Units.

This Declaration, the By-Laws and the Rules and Regulations, as from time to time amended, may be enforced by the Executive Board, in its discretion. The Executive Board may eliminate any violation, and the cost and expense, including but not limited to attorneys' fees (whether or not a legal action is filed), of eliminating such violation may be chargeable to the Unit Owner who himself or whose family, servants, employees, agents, visitors, lessees, tenants, licensees, or pets are responsible for such violation. Otherwise, the cost of so eliminating a

violation shall be a Common Expense. The Executive Board may also levy reasonable fines against the Owner for such violations if any such violation is not cured immediately, and such fine shall constitute a portion of such Unit Owner's Common Expenses which shall be payable by the Owner upon demand and enforceable as a Common Expense. For each day a violation continues after notice it may, in the discretion of the Executive Board, be considered a separate violation.

In enforcing this Declaration, the By-Laws or the Rules and Regulations, the Executive Board may proceed against the Owner, any tenant, or both as the Executive Board, in its sole discretion, may determine.

22. Unit Owner Responsibility. Except as may be otherwise specifically provided in this Declaration, a Unit Owner shall be fully responsible for the acts and omissions, feasance, malfeasance and misfeasance, and all other conduct of his family members, servants, agents, employees, invitees, lessees, tenants, licensees, guests, pets or others upon the property at the behest of the Unit Owner.

23. Enforcement of Charges, Fines, Obligations. Any charge, fine, interest, attorneys' fees or other financial obligation to, of or on any Unit Owner shall constitute a lien upon such Unit and be enforceable to the same manner and extent as for Common Expenses.

24. Attorneys' Fees and Costs. In such case as it is necessary for the Executive Board to engage the services of an attorney, or attorneys, for the purpose of enforcing (whether a legal action is filed or not) against an Owner, tenant, occupant, or other person bound thereby, any provision of the Declaration, the By-Laws, the Rules and Regulations, or obligations thereunder, and/or for the purpose of defending any action brought by such person(s), said Unit Owner, tenant, occupant or other such person shall be liable for, in addition to any other liability, the fees and costs of such attorneys in so proceeding thereto, including the fees of all experts engaged in connection therewith. As to Unit Owners, the amount of such fines, fees, interest and costs and attorneys' fees shall constitute a lien upon the Unit enforceable to the same manner and extent as a lien for Common Expenses, and the Unit Owner shall be personally liable therefor.

25. Conflicting Provisions. If any provisions of this Declaration shall be invalid or shall conflict with the Condominium Act, as amended, or if any provision of this Declaration conflicts with any other provision thereof or with any provision of the By-Laws, then the following rules of construction shall be used:

A. In the event of a conflict between the Declaration and said Condominium Act, as amended, the provisions of the Condominium Act shall control; and

B. In the event of a conflict between this Declaration and the By-Laws, this Declaration shall control.

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

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

28. Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of this Declaration nor the intent of any provision hereof. Terms of gender shall be interchangeable, as shall be terms reflecting the singular and plural.

29. Declarant. The term declarant shall include the Declarant and its successors and assigns. Successors and assigns shall include, but not be limited to, those succeeding to the Declarant's interest by foreclosure, deed in lieu of foreclosure, deed, grant or assignment. Successors and assigns shall not include individual Unit Owners. All rights of the Declarant contained in this Declaration, the By-Laws and Rules and Regulations shall pass to the successors and assigns of the Declarant. This Declaration, the By-Laws and Rules and Regulations may not be amended to affect the rights of the Declarant and its mortgagee(s), successors and assigns without the written consent of the Declarant and its mortgagee(s), successors and assigns.

[SIGNATURE APPEARS ON THE FOLLOWING PAGE]

Witness the execution hereof under seal this 16th day of December, 2013.

THE VILLAGE AT OCEANGATE, LLC

By: _____
Gordon Reger, Managing Manager

State of ~~Maine~~ New York
~~Cumberland~~ County Erie

December 16th, 2013

Personally appeared the above-named Gordon Reger, Managing Manager of The Village at Oceangate, LLC as aforesaid, and acknowledged the foregoing to be his free act and deed and the free act and deed of said limited liability company.

_____
Notary Public/Attorney at Law
Print name:_____
My Commission Expires:_____

Edith M. Bluhm
Notary Public, State of New York
No. 01BL6180099
Qualified in Erie County
Commission Expires 01 / 07 / ~~2012~~ 2016

Attachments:

Schedule A-1: Description of Land, Appurtenant Rights and Encumbrances
Schedule A-2: Description of "A" Phase Land
Schedule B: List of Units and Appurtenant Percentage Interests in Common Elements

THE BAY HOUSE CONDOMINIUM

SCHEDULE A-1

LAND SUBMITTED TO CONDOMINIUM (I.E., THE "B" PHASE LAND)

A certain parcel of land situated on the southeasterly side of Newbury Street, southwest side of Hancock Street, northwest side of Middle Street and northeasterly of but not adjacent to India Street, in the City of Portland, County of Cumberland, State of Maine, as shown on a ALTA/ACSM Land Title Survey of The Bay House for The Village at Ocean Gate, LLC, by Sebago Technics, Inc., dated August 27, 2012, last revised September 13, 2012, and being bounded and described as follows:

Beginning at the southwesterly sideline of Hancock Street and the southeasterly sideline of Newbury Street;

Thence S 36°-27'-23" E along the southwesterly sideline of Hancock Street a distance of 219.18 feet to the northwesterly sideline of Middle Street;

Thence S 50°-24'-52" W along the northwesterly sideline of Middle Street, a distance of 172.32 feet to an angle point in said street;

Thence S 44°-09'-52" W along the northwesterly sideline of Middle Street, a distance of 44.04 feet to land now or formerly of Hilary and Stephen Andrew as described in deed recorded in Book 19479, Page 226;

Thence N 47°-17'-19" W along land of Andrew and Pearl Properties, LLC as described in deed recorded in Book 23008, Page 267 a distance of 117.86 feet;

Thence N 42°-31'-42" E along land of Pearl Properties, LLC, including deed recorded in Book 28798, Page 100 with reference to deed recorded in Book 29709, Page 312 a distance of 14.79 feet;

Thence N 46°-40'-00" W along land of Pearl Properties, LLC, a distance of 35.87 feet;

Thence N 44°-39'-29" W along land of Pearl Properties, LLC, a distance of 20.85 feet;

Thence S 50°-04'-29" W along land of Pearl Properties, LLC, a distance of 19.14 feet;

Thence N 42°-26'-53" W along land of Pearl Properties, LLC and land now or formerly of Bartlett Island, LLC as described in deed recorded in Book 17068, Page 212, a distance of 38.30 feet to the southeasterly sideline of Newbury Street;

Thence N 48°-06'-32" E along the southeasterly sideline of Newbury Street, a distance of 256.74 feet to the Point of Beginning.

Together with perpetual, irrevocable and appurtenant easements over, across, and under the land adjacent to the subject property to the north, being part of the "A" Phase Land (as described in Schedule A-2 of this Declaration) for purposes of: (1) vehicular access to and from the parking garage of the Condominium using the common driveway from Middle Street; (2) pedestrian access from and to Middle Street and Hancock Street and pedestrian use for passive recreational activities (e.g., sitting, walking, reading, sunbathing) on the landscaped plaza area between the buildings on the Condominium and the "A" Phase Land; (3) for structural, subjacent and lateral support for all improvements in the Condominium; and (4) all above and underground utility lines, wires, pipes, conduits and similar improvements reasonably necessary for all utility services to the Condominium, including without limitation for electricity, telecommunications, water, sewer, and telephone. Included with the foregoing easements are the right to enter onto the easement areas on the "A" Phase Land with workers and equipment to install, maintain, repair, and replace the improvements reasonably necessary to provide the practical benefit of the foregoing easements; provided, however, that the Association shall restore all disturbances (beyond the maintenance, repair or replacement work) to the "A" Phase Land following any such work and provided that the Association shall indemnify and hold harmless the owner of the "A" Phase Land for any claim, cause of action, damages, penalties, fines, liens, or costs, including without limitation reasonable attorneys' fees, incurred by the owner of the "A" Phase Land and caused by the exercise of the foregoing easement rights. The Association shall reimburse the owner of the "A" Phase Land for Fifty-Two Percent (52%) of the commercially reasonable costs incurred by the owner of the "A" Phase Land to perform reasonably necessary maintenance, repairs and replacements to the improvements in the easements areas that are shared by the Condominium and the "A" Phase Land pursuant to the foregoing easements provided that at least thirty (30) days advance written notice of such work is provided to the owner of the "A" Phase Land (except in case of emergency, in which case such notice as is reasonable under the circumstances shall be provided), such reimbursement to be paid within sixty (60) days of delivery of invoices for the work performed.

EXCEPTING AND RESERVING FROM THE FOREGOING (I.E., THE "A" PHASE LAND):

A certain portion of land situated on the southeasterly side of Newbury Street, southwest side of Hancock Street, northwest side of Middle Street and northeasterly of but not adjacent to India Street, in the City of Portland, County of Cumberland, State of Maine, being bounded and described as follows:

Beginning at the southwesterly sideline of Hancock Street and the southeasterly sideline of Newbury Street;

Thence S 36°-27'-23" E, along the southwesterly sideline of Hancock Street, a distance of 219.18 feet to the northwesterly sideline of Middle Street;

Thence S 50°-24-52" W, along the northwesterly sideline of Middle Street, a distance of 100.00 feet;

Thence N 38°-30'-12" W, through The Village at Oceangate LLC property, a distance of 214.55 feet to the southeasterly sideline of Newbury Street;

Thence N 48°-06'-32" E, along the southeasterly sideline of Newbury Street, a distance of 108.00 feet to the Point of Beginning.

Meaning and intending to describe a zoned area over a portion of land containing approximately 0.52 Acres.

Bearings are Maine State Plane Grid, West Zone.

The declared land is conveyed together with, benefits from and is subject to the following matters, as applicable:

1. Real estate taxes not yet due and payable.
2. Title to and rights of the public and others entitled thereto in and to those portions of the insured premises lying within the bounds of adjacent streets, roads and ways.
3. The exact acreage or square footage of the Land will not be insured.
4. Perpetual rights and easements (noise, vibration, smoke, soot, cinders, fumes, gases and vapors) granted to The Thomas Laughlin Company by the following instruments:
    a. Dated December 12, 1947 and recorded in the Cumberland County Registry of Deeds in Book 1899, Page 75;
    b. Dated July 13, 1951 and recorded in the Cumberland County Registry of Deeds in Book 2064, Page 472;
    c. Dated October 15, 1941 and recorded in the Cumberland County Registry of Deeds in Book 1658, Page 313;
    d. Dated April 4, 1951 and recorded in the Cumberland County Registry of Deeds in Book 2041, Page 135;
    e. Dated July 11, 1940 and recorded in the Cumberland County Registry of Deeds in Book 1611, Page 362; and
    f. Dated July 11, 1940 and recorded in the Cumberland County Registry of Deeds in Book 1611, Page 321.
5. Rights and easements granted by Amedeo Reali and Brigida Dimillo to Central Maine Power Company and New England Telephone and Telegraph Company by instrument dated January 9, 1964 and recorded in the Cumberland County Registry of Deeds in Book 2806, Page 166.
6. Rights and easements granted by Amedeo Reali and Brigida Dimillo to Central Maine Power Company and New England Telephone and Telegraph Company by instrument dated September 1, 1967 and recorded in the Cumberland County Registry of Deeds in Book 3027, Page 770.
7. Rights and easements granted by The Village Café, Inc. to Central Maine Power Company and New England Telephone and Telegraph Company by instrument dated

January 3, 1973 and recorded in the Cumberland County Registry of Deeds in Book 3406, Page 116.

8. Rights and easements granted by The Village Café, Inc. to Central Maine Power Company and New England Telephone and Telegraph Company by instrument dated May 13, 1985 and recorded in the Cumberland County Registry of Deeds in Book 6793, Page 349.

9. Conditional Zoning Agreement by the City of Portland dated December 19, 2006 and recorded in the Cumberland County Registry of Deeds 24680, Page 287, as affected by First Amendment to Conditional Zoning Agreement dated June 19, 2008 and recorded in the said Registry of Deeds in Book 26146, Page 291, Amendment to City Zoning Code dated August 11, 2011 and recorded in the said Registry of Deeds in Book 28896, Page 7, and Amendment to City Zoning Code dated August 6, 2012 and recorded in the said Registry of Deeds in Book 29832, Page 47.

10. Easements Relocation Agreement by and between Village Café, Inc. and Pearl Properties, LLC dated May 3, 2006 and recorded in the Cumberland County Registry of Deeds in Book 25615, Page 187.

11. Certificate of Subdivision Waiver Approval by the City of Portland dated January 25, 2008 and recorded in the Cumberland County Registry of Deeds in Book 25785, Page 245.

12. Rights and easements granted by The Village at Oceangate, LLC to Pearl Properties, LLC by instrument dated January 31, 2009 and recorded in the Cumberland County Registry of Deeds in Book 26630, Page 131.

13. Rights and easements granted by The Village at Oceangate, LLC to Pearl Properties, LLC by instrument dated April 6, 2012 and recorded in the Cumberland County Registry of Deeds in Book 27700, Page 133, amended by Amendment to Easement dated June 20, 2011 and recorded in the said Registry of Deeds in Book 28798, Page 104.

14. Terms, conditions, restrictions and obligations related to the appurtenant rights and easements set forth in Warranty Deed granted by Pearl Properties, LLC to The Village at Oceangate, LLC dated April 2, 2010 and recorded in the Cumberland County Registry of Deeds in Book 27688, Page 258.

15. Rights and easements reserved in deed granted by Pearl Properties, LLC to The Village at Oceangate, LLC dated June 25, 2011 and recorded in the Cumberland County Registry of Deeds in Book 28798, Page 97, as corrected by deed recorded in Book 29934, Page 6.

16. Terms and conditions related to the appurtenant rights and easements reserved in deed from The Village at Oceangate, LLC to Pearl Properties, LLC dated June 20, 2011 and recorded in the Cumberland County Registry of Deeds in Book 28798, Page 100, as corrected by deed recorded in Book 29934, Page 1.

17. Sidewalk Easement granted by The Village at Oceangate, LLC to the City of Portland by instrument dated August 13, 2012 and recorded in the Cumberland County Registry of Deeds in Book 29836, Page 41.

18. Title to the rights described in License Agreement granted by the City of Portland to The Village at Oceangate, LLC dated September 12, 2012 and recorded in said Registry of Deeds in Book 29942, Page 5, and the terms and provisions set forth therein.

19. Sidewalk Easement granted by The Village at Oceangate, LLC to the City of Portland dated September 17, 2012 recorded in said Registry of Deeds in Book 29942, Page 1.

20. Title to the rights described in License Agreement granted by the City of Portland to The Village at Oceangate, LLC dated March 14, 2013 and recorded in said Registry of Deeds in Book 30526, Page 243, and the terms and provisions set forth therein.

21. Such state of facts disclosed on survey entitled "ALTA/ACSM Land Title Survey of: The Bay House", prepared by Sebago Technics dated August 27, 2012, last revised September 13, 2012.

22. Such state of facts disclosed on "3rd Amended Subdivision Plat of: The Bay House" prepared by Sebago Technics dated May 16, 2012, last revised August 14, 2012 recorded in said Registry of Deeds in Plan Book 212, Page 307.

23. Such state of facts disclosed on the "4th Amended Subdivision Plat of: The Bay House" dated September 11, 2012 and Site Plan referenced in License Agreement recorded in Book 29942, Page 5.

24. Easement from The Village at Oceangate, LLC to Central Maine Power and New England Telephone Operations, LLC dated May 28, 2013, and recorded in Book 30783, Page 95.

25. Perpetual and irrevocable easements, appurtenant to the "A" Phase Land (described in Schedule A-2 attached hereto), over, across, and under the Land for purposes of: (1) vehicular access to and from the parking garage of the "A" Phase Land using the common driveway from Middle Street; (2) pedestrian access from and to Middle Street and Hancock Street and pedestrian use for passive recreational activities (e.g., sitting, walking, reading, sunbathing) on the landscaped plaza area between the buildings on the Condominium and the "A" Phase Land; (3) for structural, subjacent and lateral support for all improvements in the "A" Phase Land; and (4) all above and underground utility lines, wires, pipes, conduits and similar improvements reasonably necessary for all utility services to the "A" Phase Land, including without limitation for electricity, telecommunications, water, sewer, and telephone. Included with the foregoing easements are the right to enter onto the easement areas on the Land with workers and equipment to install, maintain, repair, and replace the improvements reasonably necessary to provide the practical benefit of the foregoing easements; provided, however, that the owner of the "A" Phase Land shall restore all disturbances (beyond the maintenance, repair or replacement work) to the Land following any such work and provided that the owner of the "A" Phase Land shall indemnify and hold harmless the Association and its members for any claim, cause of action, damages, penalties, fines, liens, or costs, including without limitation reasonable attorneys' fees, incurred by the Association or its members and caused by the exercise of the foregoing easement rights by the owner of the "A" Phase Land. The owner of the "A" Phase Land shall reimburse the Association for Forty-Eight

Percent (48%) of the commercially reasonable costs incurred by the Association to perform reasonably necessary maintenance, repairs and replacements to the easement area improvements that are shared by the Condominium and the "A" Phase Land pursuant to the foregoing easements provided that at least thirty (30) days advance written notice of such work is provided to the owner of the "A" Phase Land (except in case of emergency, in which case such notice as is reasonable under the circumstances shall be provided), such reimbursement to be paid within sixty (60) days of delivery of invoices for the work performed.

THE BAY HOUSE CONDOMINIUM

SCHEDULE A-2

LAND THAT MAY BE SUBMITTED TO CONDOMINIUM PURSUANT TO DEVELOPMENT RIGHTS (I.E., THE "A" PHASE LAND)

A zoned area over a certain portion of land situated on the southeasterly side of Newbury Street, southwest side of Hancock Street, northwest side of Middle Street and northeasterly of but not adjacent to India Street, in the City of Portland, County of Cumberland, State of Maine, being bounded and described as follows:

Beginning at the southwesterly sideline of Hancock Street and the southeasterly sideline of Newbury Street;

Thence S 36°-27'-23" E, along the southwesterly sideline of Hancock Street, a distance of 219.18 feet to the northwesterly sideline of Middle Street;

Thence S 50°-24-52" W, along the northwesterly sideline of Middle Street, a distance of 100.00 feet;

Thence N 38°-30'-12" W, through The Village at Oceangate LLC property, a distance of 214.55 feet to the southeasterly sideline of Newbury Street;

Thence N 48°-06'-32" E, along the southeasterly sideline of Newbury Street, a distance of 108.00 feet to the Point of Beginning.

Meaning and intending to describe a zoned area over a portion of land containing approximately 0.52 Acres.

Bearings are Maine State Plane Grid, West Zone.

THE BAY HOUSE CONDOMINIUM

SCHEDULE B:

Unit	Common Element Interest, Vote, and Common Expense Liability
B-C1	1.608%
B-C2	1.540%
B-C3	1.608%
B-201	2.157%
B-202	2.145%
B-203	2.002%
B-204	2.009%
B-205	1.011%
B-206	1.975%
B-207	3.329%
B-208	3.371%
B-209	2.490%
B-210	1.415%
B-211	1.949%
B-301	2.157%
B-302	2.145%
B-303	2.002%
B-304	2.009%
B-305	1.011%
B-306	1.975%
B-307	3.329%
B-308	3.371%
B-309	2.490%
B-310	1.415%
B-311	1.949%
B-401	2.157%
B-402	2.145%
B-403	2.002%
B-404	3.027%
B-405	1.975%
B-406	3.329%
B-407	3.371%
B-408	2.490%
B-409	1.415%
B-410	1.949%
B-501	2.105%

B-502	2.104%
B-503	2.002%
B-504	3.027%
B-505	1.975%
B-506	3.298%
B-507	3.313%
B-508	2.490%
B-509	1.415%
B-510	1.949%

Received
Recorded Register of Deeds
Dec 23,2013 02:54:14P
Cumberland County
Pamela E. Lovley