

CLARK FARM CONDOMINIUMS
DECLARATION OF CONDOMINIUM
(AS AMENDED THROUGH SEPTEMBER 26, 2013)

(Note: This document is excerpted from the original document recorded as book 238, pages 298-360, in the records of the Town of Narragansett and additionally incorporates amendments that have been made from time to time. Comments and annotations are also added where appropriate to enhance understanding of the original document.)

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CHAPTER ONE: THE CONDOMINIUM; UNITS; DEFINITIONS

ARTICLE I

SUBMISSION STATEMENT

1.1 DECLARANT; LAND

CLARKE FARM ASSOCIATES, L.P., a Rhode Island limited partnership (“Declarant”), being the record owner in fee simple title of the real property located in the Town of Narragansett, County of Washington, State of Rhode Island, and commonly known and referred to as the real estate located at:

Clarke Road

Narragansett, RI 02882

Assessors Flat T, Lots 526, 526 and 540

and the legal description of said parcel is more specifically set out on **Exhibit A-1** attached to this Declaration,

HEREBY DECLARES THIS LAND, and all Improvements erected or to be erected thereon, and all easements, rights and appurtenances belonging to this land, and all other property, real, personal or mixed, intended for use in connection with this land, (all together referred to as “Land”) to be Condominium Property. *(Note: The Agreement and Second Amendment - January 21, 1998, provided that all references in the Declaration shall hereinafter mean the Buyer, CF Realty, LLC, a Rhode Island Limited Liability Company, its successors and assigns and the Buyer shall thereafter be vested with all of the rights and obligations as a substituted Declarant under the Declaration as if originally named therein.)*

1.2 SUBMISSION TO CONDOMINIUM

The Declarant submits the Land to the Condominium form of ownership pursuant to Title 34, Chapter 36.1 of the General Laws of Rhode Island, 1956, as amended (“Act”).

This submission is made upon, and subject to, the terms, conditions, restrictions, reservations and limitations set forth in this Declaration.

WITH RESPECT TO THE CONDOMINIUM CREATED BY THIS DECLARATION, DECLARANT MAKES NO WARRANTY AS TO MERCHANTABILITY, MARKETABILITY, OR FITNESS FOR A PARTICULAR USE.

ARTICLE II

DEFINITION OF TERMS

The following terms, when used in this Declaration, shall have the stated meanings except where the context clearly indicates a different meaning.

Act: The Rhode Island Condominium Act of 1982, as amended, Title 34, Chapter 36.1 of the General Laws of Rhode Island, 1956, as amended.

Assessment: A share of the Common Expenses (see below) required to be paid on a periodic or other basis by Assessment each Unit Owner to defray the Common Expenses of the Condominium.

Association: CLARKE FARM CONDOMINIUMS ASSOCIATION (an unincorporated condominium association operating in the state of Rhode Island), the entity responsible for the operation of the Condominium. *(Note: This definition has been edited to reflect the Amendment to Declaration and By-Laws - September 26, 2013 to the effect that the Association is an unincorporated condominium association.)*

Building(s): The structure(s) in which the Units (see below) of the Condominium (see below) are located. In addition, the proposed clubhouse may be defined as a Building as appropriate.

Common Elements: The term "Common Elements" is defined to include:

- (a) All portions of the Condominium Property (see below) which are not included within Units (see below).
- (b) Easements through Units for conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility and other services to Units and the Common Elements.
- (c) An easement of support in every portion of a Unit which contributes to the support of the Building.
- (d) The property and installations required for the furnishing of utilities and other services to more than one Unit, or to the Common Elements.
- (e) Any other parts of the Condominium Property designated as Common Elements in this Declaration or by the terms of the Act.

Common Expenses: All expenses (including allocations to reserves) incurred by the Association for the operation and maintenance of the Condominium.

Common Surplus: The excess of all receipts of the Association (including, but not limited to, Assessments, fees, rents, profits and revenues on account of the Common Elements) over the Common Expenses.

Condominium Property: The Land (see below), all Buildings and other Improvements (see below) on or servicing the Land, and all easements and rights appurtenant to the Land intended for use in connection with the Condominium, and all other property (real, personal and mixed) which may subsequently be made subject to this Declaration.

Declaration or Declaration of Condominium: This instrument, together with all of its Exhibits, as it may be amended from time to time.

Declarant: CLARKE FARM ASSOCIATES, L.P., its successors and assigns. *(Note: References to the Declarant or Developer in this document can generally be disregarded as the exclusive control of the condominium association was turned over to the owners from the Declarant in the year 2000.)*

Eligible Mortgage Holder: A Mortgage Holder (see below) who has registered with the Association and is entitled to receive notice of certain matters and to participate in certain decisions affecting the Condominium, as described in this Declaration.

Improvements: All structures (including the Building(s)) and artificial changes to the natural environment (exclusive of landscaping) located on or appurtenant to the Condominium Property.

Limited Common Elements: Common Elements whose use is reserved to a certain designated Unit or Units to the exclusion of other Units, as specified in this Declaration (for example, but not limited to balconies, patios, storage areas and parking spaces). Reference to Common Elements shall include all Limited Common Elements unless the context would prohibit it, or unless this Declaration otherwise expressly provides.

Mortgage Holder: Any holder of a recorded first mortgage on a Unit (see below) of the Condominium and the holder of Declarant's mortgages of record affecting condominium property and/or any insurer or governmental guarantor of a record first mortgage.

Parking Space: A designated space in a parking area, adjacent to or associated with one particular Unit (see below) and intended for the exclusive use of such Unit as a Limited Common Element.

Percentage Interest: An undivided interest in the Common Elements, appurtenant to a Unit Estate (see below), and expressed as a percent.

Reserved Common Element: A portion of the Common Elements set aside for use by less than all of the Unit Owners not by the condominium instruments but, rather, by the Board of Directors of the Association.

Resident: Such adult person(s) residing in any Unit including, but not limited to, Unit owners and tenants.

Unit or Unit Estate: A part of the Condominium Property which is subject to exclusive ownership in fee simple, and including an appurtenant undivided Percentage Interest in the Common Elements, the exclusive right and easement to use any Limited Common Elements designated in this Declaration, all other appurtenant easements described in this Declaration, and membership in the Association.

Unit Owner: The record holder(s) of title to a Unit Estate.

Withdrawable Land: Such land as has been reserved by the Declarant to be withdrawable from the Condominium should the Declarant elect to contract the Declared Condominium. (See Exhibit A-3)

Unless the context requires otherwise, any other terms used in this Declaration shall have the meanings ascribed to them by the Act.

ARTICLE III

NAME AND ADDRESS OF CONDOMINIUM

The name by which this Condominium is to be identified is: CLARKE FARM CONDOMINIUMS, Clarke Road, Narragansett, RI 02882.

ARTICLE IV

IDENTIFICATION OF UNITS, COMMON ELEMENTS AND SURVEY

4.1 DESCRIPTION OF CONDOMINIUM PROPERTY AND UNIT ESTATE

- A. Improvements: The Improvements on the Land consist of up to thirteen (13) Buildings (including the proposed clubhouse), Common Elements, and Limited Common Elements. There shall be a total of forty-two (42) residential Units in the Condominium, each of which shall be identified by a separate number and/or letter designation. CLARKE FARM CONDOMINIUMS is a phased condominium project. The condominium hereby created will consist of the first phase which will contain eight (8) units in three (3) attached Buildings; and subsequent phases shall be contained in a total of nine (9) Buildings containing a total of thirty-four (34) additional units and one clubhouse, all of which need not be built. There may be a total of forty-two (42) residential units in the condominium and one clubhouse located in a total of thirteen (13) Buildings, and each Unit shall be identified by a separate number and/or letter designation. In addition to the clubhouse, the Common Elements are proposed to include a pool and tennis court. These improvements are proposed to be built in subsequent phases which need not be built. *(Note: The Buyer, as substituted Declarant, in its sole discretion, may elect not to create any or all additional Units or other Improvements, including, but not limited to, a clubhouse, pool, and tennis court, and the Buyer makes no representation, express or implied, with respect to the creation of any of such additional Improvements; Added by the Second Special Amendment recorded January 22, 1998.)*
- B. Exhibit A: There is attached hereto, marked as Exhibit "A-1," a legal description of the entire premises. There is attached hereto marked as Exhibit "A-2" a Graphic Description of all proposed Units in the Development, showing the designations thereof in Exhibit "B," and the location of the buildings and other improvements on the land as shown on the Plat and Plans attached consisting of _____ () pages. Exhibit "A-3" attached hereto is a description of the Withdrawable Land. *(Note: The exhibits referenced in this paragraph are not included in this document but can be obtained by request to the Property Manager. They were originally recorded in Book 238, pages 361-378 of the records of the Town of Narragansett.)*
- Exhibit B also identifies the percentage common interest ascribed to each Unit in Phase One of the development. *(Note: Exhibit B was subsequently amended with each phase adding additional completed units. Exhibit B is replaced in its entirety by Exhibit C to The Sixth Amendment, a corrected copy of which is attached to this document.)*
- C. Unit Estate: There shall pass with fee simple title to a Unit, as appurtenant to the Unit Estate:
- 1). an undivided share in the Common Elements and Common Surplus, as designated for each Unit by the terms of this Declaration (see Exhibit "B"); *(Note: Exhibit B was subsequently amended with each phase adding additional completed units. Exhibit B is replaced in its entirety by Exhibit C to The Sixth Amendment, a corrected copy of which is attached to this document.)*
 - 2). the exclusive right to use such Limited Common Elements as may be provided for and/or designated in this Declaration;
 - 3). an easement for the exclusive use of the air space occupied by the Unit, as it may exist at any particular time and as the Unit may lawfully be altered or reconstructed from time to time;

- 4). membership in the Association; and
- 5). such other appurtenances as may be provided in this Declaration or in the Act.

4.2 UNIT BOUNDARIES

- A. Description: Each Unit within a Building shall include that part of the Building containing the Unit, the boundaries of which are as follows:
- 1). Floors: The plane of the unfinished and undecorated upper surface of the wood or concrete floor;
 - 2). Ceilings: The plane of the lower surface of the unfinished surface of the ceiling or roof or roof rafters, joints or trusses thereof;
 - 3). Vertical Boundaries: As to exterior perimeter walls, the plane of the interior surface of the wall studs or concrete block facing the Unit; as to doors, the exterior surface thereof; and as to windows, the exterior surface of the glass and the window frames.

All lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring, and any other materials constituting any part of the finished surfaces thereof are a part of the Unit, and all other portions of the walls, floors, or ceilings are a part of the Common Elements. In addition, each Unit shall include the space and water heating apparatus and air conditioning equipment appurtenant to such Unit, whether or not the same are located in the Unit; the electrical wiring, outlets, and receptacles commencing with an including the electric meter box (including any exterior lighting fixtures) appurtenant to the Unit; and the gas and plumbing fixtures, pipes and valves within the perimeters of the Unit and serving only such Unit. A Unit shall not include any load-bearing members of walls and partitions located within the perimeter of such Unit or any pipes, wires, ducts, flues, chutes, conduits, common utility lines and structural components within the perimeter of such Unit but utilized by, or serving, another Unit or Units or a part of the Common Elements.

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. Subject to the provisions of the preceding sentence, all spaces, interior partitions, and other fixtures and improvements within the boundaries of a Unit are a part of the Unit.

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

- B. Applies to all Units: The description of Unit Boundaries given in Paragraph 4.2(A) shall apply to all Units within the confines of the Building itself.

4.3 COMMON ELEMENTS AND LIMITED COMMON ELEMENTS

- A. Common Elements: The Common Elements of the Condominium are all portions of the Condominium which are not Units, including, but not limited to, the proposed clubhouse, pool and tennis court.
- B. Limited Common Elements: Each residential Unit within a Building shall have, as Limited Common Elements, the exclusive right and easement to use designated parking space(s) having the same identification number as the Unit.
- C. Reserved Common Elements: Reserved Common Elements are those parts of the Common Elements which the Executive Board may designate from time to time for use by less than all of the Unit owners or by non—owners of any Unit for specified periods of time by only those persons paying fees or satisfying other reasonable conditions for use as may be established by the Executive Board. Such designation by the Executive Board shall not be construed as a sale or disposition of such portions of the Common Elements.

4.4 EASEMENTS

- A. Support: Each Unit shall have an easement of support and of necessity, and shall be subject to an easement of support and necessity in favor of all other Units and the Common Elements.
- B. Utility Services: Easements are reserved under, through and over the Condominium Property as may be required for utility services in order to serve the Condominium.

Any easements for utility services running through a Unit shall be limited to those provided in the plans and specifications for a Building, for the Condominium Property or existing in a Building or Condominium Property, as constructed or as reconstructed, unless the easement is approved in writing by the affected Unit Owner. Said easement may not be unreasonably denied.

A Unit Owner shall do nothing within or outside his Unit that interferes with or impairs, or may interfere with or impair, the provision of such utility or other services or the use of these easements.

- C. Association Right to Grant: The Association shall have the right to make grants of easements over the Common Elements for utilities, roads and other purposes necessary for the proper operation of the Condominium.
- D. Association Right of Access: The Board of Directors of the Association or its designee shall have a right of access to each Unit to inspect the Unit, and to maintain, repair or replace the pipes, wires, ducts, vents, cables, conduits, and other utility service and Common Elements in the Unit or elsewhere in the Condominium property, and to remove any improvements interfering with or impairing such easements herein reserved.

This right of access, except in the event of an emergency, shall not unreasonably interfere with the Unit Owner's permitted use of his/her Unit.

- E. Encroachments: If any portion of the Common Elements encroaches upon any Unit, or if any Unit encroaches upon any other Unit or upon any portion of the Common Elements, or any

encroachment shall hereafter occur as a result of:

- 1). construction, settling or shifting of the Improvements, or
 - 2). any alteration or repair to the Common Elements made by or with the consent of the Association, or
 - 3). any repair or restoration of the Improvements (or any portion thereof), or any Unit after damage by fire or casualty or any taking by condemnation or eminent domain proceedings of all or any portion of any Unit or of the Common Elements;
 - 4). then, in any such event, a valid easement shall exist for the encroachment, and for the maintenance of the encroachment, so long as the Improvements shall stand.
- F. Ingress and Egress: There is created a perpetual nonexclusive easement for ingress and egress to and from Units and over the streets, walks, and other rights of way serving the Units of the Condominium as part of the Common Elements, necessary to provide reasonable access to the Units, the public ways, or a dedication of the streets, walks and other rights of way to the Public.
- G. Construction, Maintenance: The Declarant (including its designees, contractors, successors and assigns) shall have the rights, but not the obligation, in its and their sole discretion from time to time, to enter the Condominium Property and take all other action necessary or convenient for repair, replacement and maintenance purposes where the Association fails to do so, provided that none of this activity shall prevent or unreasonably interfere with the use of enjoyment by the Unit Owners or any part of the Condominium Property. *(Note: This easement is no longer applicable as control has been turned over to the Unit Owners.)*
- H. Sales Activity: Notwithstanding any provision in the Declaration (including the By-Laws) to the contrary, the Declarant shall have the right to maintain an office, post signs and to take such other action on the Property as it may deem desirable in connection with the development, renovation and/or construction of the Condominium or any part thereof and the renovation or sale of any Unit. *(Note: This easement is no longer applicable as control has been turned over to the Unit Owners.)*
- I. Reservation of Easement Rights: Declarant reserves for the period of ten (10) years from the date of the filing of Second Amendment to this Declaration an easement to go upon any and all of the property for the purposes of construction, reconstruction, maintenance, repair, renovation, replacement or correction of the Units or Common Elements including, without limitation, the Limited Common Elements. *(Note: Amended by the Agreement and Second Amendment - January 21, 1998. This easement, however, is no longer applicable as control has been turned over to the Unit Owners.)*
- J. Assignable Easement Rights: The Declarant for the period of seven (7) years from the date of this Declaration reserves the right to grant to any third party at any time any license or easement, in, over or through the property, in addition to and not in limitation, of those set forth above, which license or easement is determined by the Declarant, in its reasonable judgment, to be necessary or appropriate for the development or improvement of the property. Any such license or easement granted hereunder or under any other article or section of this declaration may be recorded by the Declarant at its sole cost and expense. The Association, at the request of the Declarant, shall execute and deliver in recordable form an instrument or document necessary or appropriate to confirm the grant of such license or easement. *(Note: This easement is no longer applicable as control has been*

turned over to the Unit Owners.)

4.5 ADDITIONS. ALTERATIONS OR IMPROVEMENTS. RELOCATION OF UNIT BOUNDARIES AND SUBDIVISION OF UNITS

Additions, alterations or improvements, relocation of Unit boundaries and subdivision of Units is permitted subject to compliance with the provisions of this Declaration and its exhibits and the Act.

4.6 MAINTENANCE RESPONSIBILITIES

Notwithstanding the ownership of the various portions of the Common Elements and the Units by virtue of the provisions of the Declaration, the Units and Common Elements shall be cleaned, replaced, maintained and repaired by each Unit Owner and by the Association in accordance with the provisions of the Act except as expressly set forth to the contrary in the Association By-Laws.

4.7 SUBJECT TO DOCUMENTS

Each Unit Estate is subject to all the rights, duties, easements, restrictions and obligations as are set forth in this Declaration and its Exhibits. When there are unsold Units in the Condominium, the Declarant also enjoys the same rights and assumes the same duties as they relate to each individual unsold Unit. *(Note: The last sentence was added by the Special Amendment - April 20, 1998, but it is no longer applicable as control has been turned over to the Unit Owners.)*

ARTICLE V

UNDIVIDED SHARE IN COMMON ELEMENTS AND SHARE OF COMMON EXPENSES AND COMMON SURPLUS AS APPURTENANCES

5.1 PERCENTAGE INTERESTS

The allocated interests appurtenant to each Unit is determined by taking the relative floor area of each Unit as compared to the floor area of all of the Units in the Condominium. Therefore, for illustrative purposes only, if eight (8) units have been built and declared, and the total floor area of the eight units equals 13,200 square feet and one unit consists of 1,850 square feet, such unit will have a 14.02% interest (1,850/13,200) in the common elements. For purposes of these calculations, the floor area of basements and attics are not to be counted. As the number of units built and declared increases, the appurtenant percentage interest shall be adjusted accordingly. This method is deemed by the Declarant to be a fair measure to allocate said appurtenant interest. *(Note: The current percentage of allocated interest chart of the entire 42 units in the Condominium is attached as Exhibit C to The Sixth Amendment.)*

5.2 ALLOCATION OF COMMON EXPENSES AND COMMON SURPLUS

The Common Expenses shall be shared by, and Common Surplus distributed to, the Unit Owners in accordance with their respective Percentage Interest in the Common Elements as set forth on Exhibit B and in accordance with Section 5.1 above. *(Note: Exhibit B was subsequently revised and replaced in its entirety with each completed phase adding additional units. The current percentage of allocated interest chart of the entire 42 units in the Condominium is attached as Exhibit C to The Sixth Amendment as corrected.)*

ARTICLE VI

CONDOMINIUM DEED AND CONVEYANCE INSTRUMENT

There is attached to this Declaration, marked "Exhibit G," the form of Condominium Warranty Deed by which the Declarant will convey Units, included designated Limited Common Elements and other appurtenant interest, to the purchasers thereof.. *(Note: Exhibit G is no longer applicable as the control has been turned over to the Unit Owners and the Declarant does not own any units.)*

CHAPTER TWO: ADMINISTRATION; BUDGET AND EXPENSES

ARTICLE VII

ASSOCIATION. MEMBERSHIP AND VOTING RIGHTS

7.1 ASSOCIATION

The organization of Unit Owners which shall operate and manage the Common Elements of the Condominium, and otherwise manage and regulate the affairs of the Condominium, shall be the CLARKE FARM CONDOMINIUMS ASSOCIATION. *(Note: Amended from a non-profit corporation to an unincorporated condominium association by the Amendment to Declaration and By-Laws - September 26, 2013 .)*

7.2 MEMBERSHIP

Each Unit Owner shall be a member of the Association. and membership shall be restricted to record Owners of Units and the Declarant to the extent of ownership of a Condominium Unit *(Note: Amended by the Special Amendment - October 9, 1990.)*

7.3 VOTES

Unless otherwise provided in the case of specific matters described in this Declaration, each Unit Owner and the Declarant, if applicable, is entitled to one vote.

7.4 BY-LAWS

The By-Laws of the Association are attached hereto, marked "Exhibit D."

7.5 VOTING BY UNIT OWNERS

- A. One Vote Per Unit: The voting rights appurtenant to each Unit of the Condominium shall be held and exercised as a Unit, and shall not be divided among several Owners of a single Unit.
- B. Designation of Person to Cast Vote: Whenever any Unit is owned of record by more than one person, the several Owners of such Unit shall determine and designate which of their number shall be authorized to cast votes, execute instruments and otherwise exercise the rights appertaining to the Unit hereunder, and shall notify the Board of Directors of such designation by notice in writing signed by all of the record Owners of the Unit.

Such designation shall take effect upon receipt of the notice of the Board of Directors, as may be changed at any time and from time to time by notice as aforesaid. *(Note: This section was on the missing page 12 of the original filed Declaration document and was subsequently included in the Special Amendment - October 9, 1990.)*

In the absence of any such notice of designation, the Board of Directors may designate one of the Owners for these purposes. *(Note: This section was on the missing page 12 of the original filed*

Declaration document and was subsequently included in the Special Amendment - October 9, 1990.)

Nothing contained in this Section shall be construed to limit any liability, under this Declaration or under any of its Exhibits, of any person or entity who is a Unit Owner of record. *(Note: This section was on the missing page 12 of the original filed Declaration document and was subsequently included in the Special Amendment - October 9, 1990.)*

Any such liability provided for in this Declaration and its Exhibits *shall* be joint and several as among the several Owners of a single Unit. *(Note: This section was on the missing page 12 of the original filed Declaration document and was subsequently included in the Special Amendment - October 9, 1990.)*

7.6 AVAILABILITY OF BOOKS, RECORDS, DOCUMENTS

The Board of Directors shall make available to the Unit Owners and the holder of any first mortgage upon the development and/or an individual Unit current copies of the Declaration of Condominium, the Articles of Incorporation of the Association, the By-Laws and Rules and Regulations, and the books, records, and financial statements of the Association. *(Note: This section was on the missing page 12 of the original filed Declaration document and was subsequently included in the Special Amendment - October 9, 1990.)*

“Available” means available for inspection upon request during normal business hours or under other reasonable circumstances upon written notice to the President of the Association *(Note: This section was on the missing page 12 of the original filed Declaration document and was subsequently included in the Special Amendment - October 9, 1990.)*

ARTICLE VIII

OPERATION OF THE CONDOMINIUM BY THE ASSOCIATION; POWERS AND DUTIES

8.1 GENERAL AUTHORITY

- A. Responsibility for Operation; General Powers: The Association shall be the entity responsible for the operation of the Condominium. The powers and duties of the Association shall include those set forth in the Articles of Incorporation and By-Laws of the Association, as amended from time to time, in the Act, and as granted or imposed by this Declaration. *(Note: This section was on the missing page 12 of the original filed Declaration document and was subsequently included in the Special Amendment - October 9, 1990.)*
- B. Other Powers of Association: Pursuant to R.I.G.L. 34-36.1-3.01, et seq., the powers of the Association shall include, without limitation: *(Note: This section was on the missing page 12 of the original filed Declaration document and was subsequently included in the Special Amendment - October 9, 1990.)*
 - 1). The irrevocable right to have access to each Unit, from time to time during reasonable hours as may be necessary for the maintenance, repair, or replacement of any Common Elements therein, or for making emergency repairs therein necessary to prevent damage to the Common

Elements or to any other Unit(s), or to determine compliance with the terms and provisions of this Declaration and its Exhibits, as amended from time to time.

- 2). The power to make and collect Assessments, fees, and other charges against Unit Owners.
- 3). The duty to maintain accounting records according to generally accepted accounting practices, which shall be open to inspection by Unit Owners or their authorized representatives at reasonable times.
- 4). The power to enter into contracts with others (whether or not they are affiliated with the Association or Declarant), for valuable consideration, for maintenance and management of the Condominium Property, and in connection therewith, to delegate those powers and rights not in conflict with the Act or with this Declaration and its Exhibits.
- 5). Pursuant to R.I.G.L. 34-35.1-3.02 the power to borrow money, execute promissory notes and other evidences of indebtedness, and to give as security therefor mortgages and security interests in property owned by the Association, provided that such actions are approved by an eighty percent (80%) membership of the Unit Owners represented at a meeting at which a quorum has been obtained, or by such greater percentage of the Board of Directors or Unit Owners as may be specified in the By-Laws with respect to certain borrowing in accordance with R.I.G.L. 34-36.1-3.12.
- 6). Pursuant to R.I.G.L. 34-36.1-3.12 and other sections, subsequent to the recording of this Declaration, the Association, when authorized by a majority of the Unit Owners represented at a meeting at which a quorum has been attained, shall have the power to acquire and enter into agreements for the acquisition of fee interests, leaseholds, memberships, and other possessory or use interests in land or facilities, including but not limited to, country clubs, parking lots or areas, golf courses, marinas and other recreational facilities, whether or not contiguous to the lands of the Condominium, intended to provide for the use or benefit of the Unit Owners. The expenses of ownership (including the expense of making and carrying any mortgage related to such ownership), rental membership fees, operation, replacements and other expenses and undertakings in connection therewith shall be Common Expenses.
- 7). Pursuant to R.I.G.L. 34-36.1-3.02(a)(1), the power to adopt and amend Rules and Regulations covering the details of the operation and use of the Condominium Property.

8.2 LIMITATIONS UPON LIABILITY OF ASSOCIATION

Notwithstanding the duty of the Association to maintain and repair parts of the Condominium Property, the Association shall not be liable to Unit Owners for injury or damage, other than for the cost of maintenance and repair, caused by any latent condition of the Condominium Property.

8.3 RESTRAINT UPON ASSIGNMENT OF SHARES IN ASSETS

No interest of a Unit Owner in the funds and assets of the Association may be assigned, hypothecated or transferred in any manner except as appurtenant to the Unit Estate.

8.4 APPROVAL OR DISAPPROVAL OF MATTERS

Whenever the decision of a Unit Owner is required upon any matter, whether or not the matter is subject of an Association meeting, the decision shall be expressed by the same person who would be entitled to cast the

vote for that Unit if present at any Association meeting, unless the joinder of all record Unit Owners is specifically required by this Declaration or by law.

8.5 ACTS OF THE ASSOCIATION

Unless the approval or action of Unit Owners, and/or a certain specific percentage of the Board of Directors of the Association and/or a specified percentage of Eligible Mortgage Holders, is specifically required in this Declaration, the Articles of Incorporation or By-Laws of the Association, or by applicable Rules and Regulations or applicable law, all approvals or actions required or permitted to be given or taken by the Association may be by a majority of the Board of Directors at a meeting held at which a quorum is in attendance, without the further consent of Unit Owners, and the Board may so approve and act through the proper officers of the Association without a specific resolution .

When an approval or action of the Association is permitted to be given or taken, the action or approval may be conditioned in any manner the Association deems appropriate. The Association may refuse to take or give such action or approval without the necessity of establishing the reasonableness of the conditions or refusal.

A First Mortgagee, upon request made to the Condominium Association, shall be entitled to:

- 1). written notification from the Condominium Association of any default by its borrower who is an owner of a Unit with respect to any obligation of such borrower under this declaration or bylaws of the Condominium Association which is not cured within thirty (30) days;
- 2). inspect the books and records of the Condominium Association at all times;
- 3). receive an annual financial statement of the Condominium Association within ninety (90) days following the end of any fiscal year of the Condominium Association;
- 4). receive timely written notification of all meetings of the Condominium Association and be permitted to designate a representative to attend all such meetings;
- 5). receive timely written notice from the Condominium Association of any damage by fire other casualty to the Unit upon which the First Mortgagee holds a first mortgage or eminent domain of said Unit or the Common Areas and facilities of the Condominium;
- 6). receive timely written notification of any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Condominium Association; and
- 7). receive timely notice of any proposed action which requires the consent of a specific percentage of the eligible mortgage holders, as specified in this declaration, the By-laws or the rules and regulations of the Condominium Association.

8.6 INITIAL RULES AND REGULATIONS

In order to provide for a congenial and compatible private community and to preserve the value of the Condominium Property and the individual Units, and the use of Condominium Property, the Association has promulgated certain Rules and Regulations, copies of which are attached to this Declaration, marked "Exhibit E."

These Rules and Regulations may be amended from time to time as provided in the By-Laws.

A Unit Owner's use and enjoyment of the Condominium Property will be subject to these Rules and

Regulations, as they may be amended to from time to time.

ARTICLE IX

DETERMINATION OF COMMON EXPENSES AND FIXING OF ASSESSMENTS AND FEES THEREFOR

9.1 BOARD OF DIRECTORS

- A. Preparation of Budget: The Board of Directors shall from time to time, at least annually, prepare a budget for the Condominium, and determine the amount of Assessments payable by the Unit Owners necessary to meet the Common Expenses of the Condominium, and allocate and assess such expenses among the Unit Owners in accordance with the provisions of this Declaration.

The Declarant's Estimated Operating Budget for the first year of operation of the Condominium is attached to this Declaration, marked "Exhibit F." *(Note: This exhibit is not included in this document as it is outdated and not relevant to the current operation of the Condominium. A copy of the current year operating budget is available on request from the Property Manager.)*

- B. Notice to Unit Owners: The Board of Directors shall advise all Unit Owners promptly in writing of the amount of the Assessments and/or fees payable by each of them, and shall furnish a copy of each budget, on which the Assessments are based, to each Unit Owner and (if requested in writing), to each Mortgage Holder.

9.2 BUDGET

- A. Items Included: The Common Expenses shall include the expenses of the operation, maintenance, repair and replacement of the Common Elements, the cost of carrying out the powers and duties of the Association, and any other expenses designated as Common Expenses by the Act, by this Declaration, by the Articles of Incorporation or the By-Laws of the Association, by applicable Rules and Regulations, or by the Association.

- B. Reserves: The budget shall include an adequate reserve fund for periodic maintenance, repair and replacement of improvements to the Common Elements, and to those Limited Common Elements which the Association is obligated to maintain.

The reserve fund is to be maintained out of regular Assessments for Common Expenses.

- C. Subject to Change: Any budget adopted shall be subject to change to cover actual expenses at any time. Any such change shall be adopted consistent with the provisions of the By-Laws.
- D. Special Assessments: The Board of Directors may likewise, from time to time, establish special Assessments chargeable to the Unit Owners in the same fashion as regular Assessments are chargeable under the conditions of this Declaration.

In the event that any Special Assessment is caused by failure of a Unit Owner to fulfill his

obligations under this Declaration, then this Special Assessment may be levied solely against the offending Unit Owner.

9.3 WORKING CAPITAL RESERVE

- A. Fund Established: In addition to the Common Expense Budget, there is established a working capital reserve contribution to this fund in an amount equal to two months' Common Expense Assessments for the Unit.
- B. Collection: Each Unit Owner's share shall be collected at the closing of the sale and paid into a segregated fund of the Association.
- C. Contribution from Declarant: No later than 120 days after the first conveyance of a Unit to a purchaser, the Declarant shall make the working capital fund contribution to the Association for all unsold Units.
- D. Reimbursement to Declarant: The Declarant shall be entitled to reimbursement of these contributions from subsequent purchasers of these Units as each Unit is sold.
- E. Prohibited Use of Working Capital Funds: The Declarant is prohibited from using working capital funds to defray any of its expenses, reserve contributions or construction costs to make up any budget deficits while it is in control of the owners' Association. Such funds may be used for certain prepaid items, initial equipment, supplies, organizational costs and other startup costs and for such other purposes as the Executive Board may determine. *(Note: This section was added by the Special Amendment - April 20, 1998.)*

9.4 PAYMENT OF ASSESSMENTS

All regular Assessments for Common Expenses shall be paid monthly by the Unit Owners.

Special Assessments and other charges to Unit Owners shall be paid as provided in this Declaration, or, if no specific provision is made, as determined by the Board of Directors.

ARTICLE X

COLLECTION OF ASSESSMENTS; LIENS

10.1 LIABILITY FOR ASSESSMENTS

- A. Unit Owners Liable: Each Unit Owner (except for a Mortgage Holder), regardless of how title is acquired, including by purchase at a judicial sale, shall be liable for all Assessments, Special Assessments or fees coming due while he is the Unit Owner.
- B. Liability Not Avoided by Waiver: The liability for Assessments, Special Assessments or fees may not be avoided by waiver of the use or enjoyment of any Common Elements, or by the abandonment of the Unit for which the Assessments or fee charges are made.

10.2 DEFAULT IN PAYMENT OF ASSESSMENTS

- A. Interest Charged: Assessments or fees, and installments thereof, not paid within fifteen (15) days from the date when they are due shall bear interest at the rate of eighteen (18) percent per annum from the due date until paid.
- B. Lien for Unpaid Expenses: The Association shall have a lien against each Unit for the amount of any unpaid Assessments and/or fees, together with interest and reasonable attorneys' fees and costs incurred by the Association incident to the collection of the Assessment and/or fees or enforcement of the lien.
- C. Effectiveness of Lien; Amount: The lien shall be effective from and after recording a claim of the lien in the Public Records of the City or Town in which the Condominium Property is situated, stating the description of the Unit, the name of the Unit Owner of record, the amount due, and the due dates .

A lien shall be in effect until all sums secured by the lien have been fully paid, or until barred by law.

The claim of lien shall include only Assessments and/or fees which are due when the claim is recorded.

A claim of lien shall be signed and acknowledged by an officer or agent of the Association.

- D. Satisfaction: Upon payment of all amounts due, the person making the payment is entitled to a certificate, in recordable form, acknowledging full satisfaction of all claims secured by the lien.

10.3 FORECLOSURE OF LIEN

- A. Action to Foreclose: The Association may bring an action in its name to foreclose the lien for unpaid Assessments and/or fees in the same manner as foreclosure of a mortgage on real property, and may also bring an action to recover a money judgment for the unpaid Assessments and/or fees without waiving any claim of lien.
- B. Notice of Intent: No foreclosure suit may be filed until at least thirty (30) days after the Association gives written notice to the Unit Owner or his Eligible Mortgage Holder of its intention to foreclose the lien to collect the unpaid Assessments and/or fees.
- C. Attorneys' Fees/Costs: If this notice is not given at least thirty (30) days before the foreclosure action is filed, and/or if the unpaid Assessments and/or fees, including those coming due after the claim of lien is recorded, are paid before the entry of a final judgment of foreclosure, the Association shall not recover attorneys' fees or costs.
- D. Delivery of Notice: The notice must be given by delivery of a copy of it to the Unit Owner in person or by certified mail, return receipt requested, addressed to the Unit Owner, and a copy to the Eligible Mortgage Holders on the Unit.

If, after diligent search and inquiry, the Association cannot find the Unit Owner or a mailing

address at which the Unit Owner will receive the notice, the court may proceed with the foreclosure action and may award attorneys' fees and costs as permitted by law.

- E. Contest of Lien: The notice requirements shall be deemed sufficient if the Unit Owner records a Notice of Contest of Lien as provided in the Act.

10.4 APPOINTMENT OF RECEIVER TO COLLECT RENTS

If the Unit Owner remains in possession of the Unit and the claim of lien is foreclosed, the court, in its discretion, may require the Unit Owner to pay a reasonable rental for the Unit. The Association is entitled to the appointment of a receiver to collect the rent during the period of foreclosure.

10.5 RIGHTS OF MORTGAGE HOLDERS: SALE, TRANSFER, FORECLOSURE

- A. Priority of Mortgagee's Lien: Liens for delinquent Assessments or other charges shall be subordinate to first mortgages recorded before the Assessment became due.

No action may be taken which would have the effect of changing the priority of a Mortgagee's lien over liens for Assessments.

- B. Effect of Transfer of Title: Liens for Common Expenses are not affected by a transfer of title to the Unit unless foreclosure of a first mortgage is involved.
- C. Title by Foreclosure; Liability for Assessments: Any person who obtains title to a Unit by foreclosure or pursuant to any other remedies provided in a mortgage or a By—Law will not be liable for such Unit's unpaid Common Expenses, dues or Assessments including, without limitation, Special Assessments, which accrued prior to the acquisition of title to such Unit by such person except for Common Expenses which have priority under the Act.

Foreclosure of a first mortgage extinguishes any lien for Assessments payable before the foreclosure sale; however, no subsequent purchaser is relieved from paying Assessments coming due after the acquisition of title.

- D. Personal Obligation of Unit Owner: Each Assessment against a Unit is the personal obligation of the Owner of that Unit at the time the Assessment became due. A successor Owner who takes title to a Unit with an outstanding lien for unpaid Assessments takes subject to the lien, but does not assume the personal obligation of the predecessor in title.

10.6 DECLARANT'S LIABILITY FOR ASSESSMENTS

(Note: This section is not included in this document as it is no longer applicable because control has been turned over from the Declarant to the unit owners. The original section was recorded in Book 238, Page 327, of the records of the Town of Narragansett and was subsequently amended by the Special Amendment - October 9, 1990 and the Special Amendment - April 20, 1998.)

10.7 CERTIFICATE OF UNPAID ASSESSMENTS

Any Unit Owner may require the Association to furnish him/her a Certificate showing the amount of

unpaid Assessments or fees against his/her Unit.

ARTICLE XI

PROFESSIONAL MANAGEMENT

11.1 AGREEMENT

No agreement for professional management of the Condominium any other contract with Declarant may exceed a term of one (1) year. Any such agreement shall provide for termination by either party, without cause and without penalty or payment of a termination fee, on thirty (30) days' or less written notice.

11.2 TERMINATION

When professional management has been previously required by any Eligible Mortgage Holder, any decision to terminate such management and to establish self-management of the Condominium shall require the prior consent of Unit Owners holding, in the aggregate, at least seventy-five percent (75%) of the undivided Percentage Interest, and approval of Eligible Mortgage Holders holding mortgages on Units which have at least fifty-one percent (51%) of the votes of Units subject to such mortgages.

11.3 FIDELITY BOND

Any managing agent for the Condominium shall obtain fidelity bond coverage having the following provisions and meeting the following requirements *(Note: This section was on the missing page 22 of the original filed Declaration document and was subsequently included in the Special Amendment - October 9, 1990.):*

- 1). It shall provide blanket coverage for any person or entity handling funds of the Association; *(Note: This section was on the missing page 22 of the original filed Declaration document and was subsequently included in the Special Amendment - October 9, 1990.)*
- 2). The Association shall be named as obligee; *(Note: This section was on the missing page 22 of the original filed Declaration document and was subsequently included in the Special Amendment - October 9, 1990.)*
- 3). The coverage shall be for the maximum amount of funds in the custody of the managing agent at any time while the bond is in force, or an amount equal to 3 months' assessments on all units, plus reserves, whichever is greater; *(Note: This section was on the missing page 22 of the original filed Declaration document and was subsequently included in the Special Amendment - October 9, 1990.)*
- 4). It shall provide for 10 days' written notice to the Association and to mortgagees in the event of cancellation or modification. *(Note: This section was on the missing page 22 of the original filed Declaration document and was subsequently included in the Special Amendment - October 9, 1990.)*

CHAPTER THREE: MAINTENANCE AND IMPROVEMENTS

ARTICLE XII

MAINTENANCE, REPAIR AND ALTERATION OF UNITS

12.1 ALTERATIONS

- A. Certain Alterations Prohibited: No Unit Owner shall do any work or make any alterations or changes with respect to his Unit which would *(Note: This section was on the missing page 22 of the original filed Declaration document and was subsequently included in the Special Amendment - October 9, 1990.)*:
- 1). jeopardize the soundness or safety of his Unit or any part of the Condominium Property; *(Note: This section was on the missing page 22 of the original filed Declaration document and was subsequently included in the Special Amendment - October 9, 1990.)*
 - 2). reduce the value of his Unit or any other part of the Condominium Property *(Note: This section was on the missing page 22 of the original filed Declaration document and was subsequently included in the Special Amendment - October 9, 1990.)*
 - 3). impair any easement or hereditament, without, in each case, first obtaining the unanimous written consent of all other Unit Owners; *(Note: This section was on the missing page 22 of the original filed Declaration document and was subsequently included in the Special Amendment - October 9, 1990.)* or
 - 4). jeopardize the security interest of a mortgagee; *(Note: This section was on the missing page 22 of the original filed Declaration document and was subsequently included in the Special Amendment - October 9, 1990.)*
 - 5). in any manner, provide additional bedrooms (no unit shall have more than two bedrooms). *(Note: This section was on the missing page 22 of the original filed Declaration document and was subsequently included in the Special Amendment - October 9, 1990.)*
- B. Submission to Board: In no event shall any work, alteration, or change be undertaken with respect to any Unit unless and until complete plans, specifications, list of material, completed estimates of cost of improvements for insurance purposes, and other matters relating to the proposed work shall have been submitted to and approved by the Board of Directors.
- The Board of Directors shall have the absolute right, in its sole discretion, to approve or disapprove such plans, specifications, materials and other matters. Such approval, if applicable, will not be withheld unreasonably.
- C. Compliance with Law, Ordinances; Indemnification: Any such work or improvements to a Unit undertaken with the approval of the Board of Directors shall be in full and complete compliance, in every respect, with all applicable laws, ordinances, building codes and any other applicable regulations.

All such work shall be done in a good and workmanlike manner, without damage or impairment to any of the Common Elements or other Units, and without disturbance of other Unit Owners' quiet enjoyment of their Units.

It shall be the responsibility of the Unit Owner undertaking such work to obtain all necessary permits.

The Unit Owner undertaking such work shall indemnify and hold the Association, the Board of Directors, all other Unit Owners and the Declarant harmless of and from any and all costs, damages, liabilities or other consequences arising out of the undertaking of the work.

Approval of the proposed work by the Board of Directors is not to be construed by the Unit Owner as an assurance that the submitted plans, specifications, materials list and other materials, or the proposed work itself, is in compliance with any laws, ordinances, codes or regulations applicable to said work.

- D. Painting and Decorating: Nothing contained in this Section shall be deemed to prohibit any Unit Owner from changing the color scheme on any painted interior surfaces of the Unit, or changing the color scheme on any painted interior surfaces of the Unit, or changing carpeting or floor covering in any Unit, so long as no portion of the Common Elements are affected.
- E. Insurance: Each Unit Owner shall have the responsibility of obtaining property insurance to cover any increase in value of his Unit caused by any work, change or alteration undertaken with respect to his Unit.

12.2 DECLARANT'S RIGHT TO ALTER

(Note: This section is not included in this document as it is no longer applicable because control has been turned over from the Declarant to the unit owners. The original section was recorded in Book 238, Page 329, of the records of the Town of Narragansett.)

12.3 MAINTENANCE AND REPAIR

- A. Obligation of Unit Owner: Subject to the provisions of this Section and of Article X of this Declaration, every Unit Owner shall maintain, repair and keep his Unit in sound condition.

Each Unit Owner shall repair and/or replace, if necessary, at his own expense, all portions of this Unit, including all fixtures, equipment and utility lines installed therein commencing at a point at which the utility lines, pipes, wires, conduits or systems enter the walls or floors of each Unit.

All such work shall be done in a workmanlike manner and without causing disturbance or damage to the Common Elements or to any other Units.

- B. Maintenance/Repair by Association: In the event that the Association maintains or repairs any Unit in accordance with the provisions of Section 9.2 of this Article, the cost of the maintenance or repair shall constitute a Special Assessment against the Unit.
- C. Maintenance/Repair Only to Units: No Unit Owner shall do any work, make any alterations or

change, or maintain, repair or replace any part of the Condominium Property except his Unit.

12.4 RIGHT OF ACCESS BY BOARD OF DIRECTORS

The Board of Directors and the officers, agents and employees of the Association designated for the purpose by the Board of Directors shall have the irrevocable right to have access to each Unit and any part of the Common Area from time to time during reasonable hours (or any time in the case of an emergency) as may be necessary for the maintenance, repair or replacement of any of the Common Area for making emergency repairs necessary to prevent damage to the Common Area or to any other Unit or Units.

ARTICLE XIII

MAINTENANCE, REPAIR AND REPLACEMENT OF COMMON ELEMENTS

13.1 MAINTENANCE, REPAIR AND REPLACEMENT

It shall be the responsibility of the Association to maintain, repair, and replace the Common Elements, including the Buildings, Improvements and Limited Common Elements, as it may be deemed desirable in the best interest of the Unit Owners, and as may be mandated by other provisions of this Declaration.

13.2 ALTERATION

The Association shall from time to time make such alterations to such of the Common Elements, including the Building and other Improvements, as it may deem advisable in the best interest of the Unit Owners.

The aggregate cost of such alterations shall not exceed five thousand dollars (\$5,000) in any calendar year unless approved by Unit Owners at a special meeting of the Association.

If the funds for the alterations are derived from proceeds of insurance with respect to the Condominium Property, the alterations shall be subject to the provisions of Articles XVII and XVIII.

13.3 MAINTENANCE SCHEDULE

Notwithstanding the general provision for maintenance set forth in this Declaration, specific maintenance responsibilities and the cost attributable thereto shall, to the extent set forth thereon, be determined pursuant to the Chart of Maintenance Responsibilities attached as Exhibit A hereto. *(Note: This section was added by the Special Amendment - April 20, 1998. The Exhibit will be referred to as Exhibit A to The Special Amendment, April 1998.)*

ARTICLE XIV

IMPROVEMENTS TO COMMON ELEMENTS

14.1 PROPOSAL REQUEST

If, and whenever, the Board of Directors shall propose to make any improvement to the Common Elements, or shall be requested in writing by the Unit Owners holding, in the aggregate, at least 25% of the undivided Percentage Interests, to make any such improvement, the Board of Directors shall submit to all Unit Owners a Form of Agreement (which may be in several counterparts).

14.2 AGREEMENT FOR IMPROVEMENTS

The form of Agreement shall specify the improvement or improvements proposed to be made, and shall state the estimated cost of the improvements.

The agreement shall also contain authorization for the Board of Directors to proceed to make the improvements upon approval of the agreement.

14.3 APPROVAL OF AGREEMENT

Upon the receipt by the Board of Directors, within 100 days of the submission of the agreement, of forms of the agreement signed by Unit Owners holding at least two thirds (2/3), in the aggregate, of the undivided Percentage Interests, the Board of Directors shall proceed to make the improvements in accordance with the terms of the agreement.

The cost of such improvements may be assessed against the Unit Owners in accordance with their respective Percentage Interests detailed in Exhibit A attached hereto. *(Note: This reference to "Exhibit A" in the original document was in error and should have referenced Exhibit B. Exhibit B was subsequently revised and replaced in its entirety with each phase adding additional completed units. Exhibit B is now referred to as Exhibit C to The Sixth Amendment and is attached to this document as such.)*

14.4 FAILURE TO APPROVE AGREEMENT

In the event the agreement is not approved as aforesaid, but has been assented to by Unit Owners holding, in the aggregate, at least 51% of the undivided Percentage Interests, the assenting Unit Owners may enter into an agreement whereby the proposed improvement may be made, and the cost thereof shall be assessed against the assenting Unit Owners, pro rata, according to each assenting Unit Owner's Percentage Interest as a percentage of the total Percentage Interests so assenting.

14.5 BOARD NOT OBLIGATED TO MAKE IMPROVEMENTS

Notwithstanding anything contained in the preceding paragraphs of this Section, the Board of Directors shall not in any event be obligated to proceed with any repair, rebuilding or restoration, or any improvement, unless it has received funds in advance in an amount equal to the Board's estimate of all costs thereof.

CHAPTER FOUR: RESTRICTIONS

ARTICLE XV

SALE OR LEASE OF UNITS

15.1 RIGHT OF FIRST REFUSAL

Section 15.1 is deleted (*Note: Amended by the Special Amendment - October 9, 1990.*)

15.2 LEASES

All leases or rental agreements for Units shall be in writing, and shall specifically provide that the rental and use of such Units and the Common Elements are subject to the terms of this Declaration, including the By-Laws and any rules and regulations which may from time to time be promulgated.

No Unit owner may rent or lease his Unit, or renew or extend the term of a lease except upon the following terms and conditions:

- a) All tenancies must be in writing.
- b) No Unit may be leased or rented more than two times in each calendar year nor for a period of less than six (6) months.
- c) The above provisions (a & b) may not be amended or modified in any manner without the prior written consent of the Zoning and Platting Board of Review of the Town of Narragansett.
- d) The above provisions (a, b, and c) shall be binding on the developer, his successors and assigns, and upon all owners of the individual units and said provisions may be enforced by the developer, his successors and assigns, the Homeowners Association, any of the owners of the individual units, or by the Building Inspector of the Town of Narragansett.

ARTICLE XVI

RESTRICTIONS ON USE OF UNITS

All Unit Owners, in addition to any other obligation, duty, right and limitation imposed upon them by this Declaration, the Articles of Incorporation, the By-Laws and the Condominium Act, shall be subject to and agreed to abide by the following restrictive covenants, which shall be applicable to all Unit Owners, their families, guests, invitees, tenants and lessees.

16.1 No Unit shall be used for any purpose other than as and for a single family residence or dwelling.

16.2 All Unit Owners shall keep and maintain the interior of their respective Units in good condition and repair, including the entire air conditioning system (compressor, ducts, vents, etc.) servicing the respective Owners' apartments, whether inside or outside Owners' apartments, and shall promptly pay

for all utilities which are separately metered to the Units.

- 16.3 No Unit Owner shall cause any signs of any nature whatsoever to be posted or affixed to any of the Common Elements, Limited Common Elements, or in his respective Unit if such sign may be seen from any portion of the Common Elements; except for name plates which shall be uniform in size and design, and approved by the Board of Directors.
- 16.4 Unit Owners shall be permitted to own or keep small dogs, cats and birds such as canaries or parakeets, and fish such as goldfish or tropical varieties, and no such dog, cat, bird or fish shall be raised for commercial purposes. All other pets must be approved by the Board of Directors. All Unit owners who intend to keep a dog must sign a Pet Agreement attached to the Rules and Regulations of the Association.
- 16.5 Unit Owners, their families, guests, invitees or lessees shall be liable to the Association for defacing, marring or otherwise causing damage to the Common Elements or Limited Common Elements where the repair of said damage is the obligation of the Association.
- 16.6 All Common Areas shall be kept free for their intended use by the Unit Owners in common and shall in no event be used as storage areas by the individual Unit Owners, either on a temporary or permanent basis.
- 16.7 No clothing, bedding or other similar items shall be dried or aired in any outdoor area within the Unit or any Limited Common Element if the same can be seen from the Common Areas.
- 16.8 All occupants of areas shall exercise extreme care about making noises and in the use of musical instruments, radios, televisions and amplifiers that may tend to disturb other occupants.
- 16.9 No occupants shall play upon, or suffer to be played upon, any musical instrument, or permit to be operated, a phonograph or radio loudspeaker in such occupant's Unit between the hours of 11:00 p.m. and the following 9:00 am. if the same may disturb or annoy other occupants of the Building, and in no event shall either vocal or instrumental music be practiced for more than two hours in any day or between the hours of 6:00 p.m. and the following 9:00 a.m., nor shall an occupant commit or permit any nuisance or immoral or illegal act in his Unit, or in the Common Elements.
- 16.10 No two bedroom Unit shall be permanently occupied by more than four individuals except as otherwise provided herein.
- 16.11 Unit Owners or Unit Owners' approved lessees shall be permitted to have visitor occupants of any age for up to three weeks during a six month period provided that at no time shall any two bedroom Unit be occupied by more than six individuals. The six month periods shall commence on the date of filing of this Declaration.
- 16.12 Unit Owners, their guests and invitees agree to use the Common Elements only in accordance with such reasonable rules and regulations as are promulgated from time to time by the Directors of the Association for the use thereof.
- 16.13 No trucks, including so-called "pickup" trucks, even if such vehicles bear passenger registration plates, or commercial vehicles (except the period of approved construction), campers, mobile homes, motor homes, boats, house trailers, boat trailers, or trailers of every other description shall be permitted to be parked or to be stored at any place on the Common Elements except as may be allowed by the Board of Directors. This prohibition of parking shall not apply to temporary parking of trucks and commercial vehicles such as for pick up, delivery and other commercial services and by Declarant for purposes he may deem appropriate.

Automobiles shall be parked only on the parking spaces established for such purpose. No repair of vehicles shall be made within the Condominium Property.

- 16.14 The guest parking spaces shown on Exhibit "A" shall be used for guest parking and such other uses as determined by the Directors and subject to such Rules and Regulations as may be promulgated individually by the Directors. *(Note: It is assumed that the exhibit referred to in this section is Exhibit A-1 wherein is depicted a drawing of Courtyard 1. The guest parking spaces referred to are the parking spaces abutting the fence on Fox Drive. This drawing is not included in this document but may be requested from the Property Manager. It was originally recorded as Book 238, Page 365 in the records of the Town of Narragansett.)*
- 16.15 The exterior of the Units and all other areas appurtenant to a Unit shall not be painted, decorated or modified by any Owner in any manner without prior consent to the Board of Directors, which consent may be withheld on purely aesthetic grounds within the sole discretion of the Directors. Any such alterations or improvements may only be permitted upon specific plans and specifications, standards and criteria established thereof, which when approved shall be subject for use by all Unit Owners.
- 16.16 No awnings, window guards, light reflective materials, hurricane or storm shutters, ventilators, fans shall be used in or about the Unit except as shall have been approved by the Board of Directors, which approval may be withheld on purely aesthetic grounds within the sole discretion of the Board of Directors. Glass and screening replacements must be of original color and quality.
- 16.17 All garbage and refuse from the Units shall be deposited with care in garbage containers intended for such purpose only at such times and in such manner as the Board will direct. All disposals shall be used in accordance with instructions given to the Owner by the Directors. Refuse, newspapers and bagged garbage shall be deposited only in areas provided for such purposes. Sorting of garbage, if same may be required by any proper municipal authority, shall be undertaken by the Unit Owners upon notice by the Board of Directors.
- 16.18 Water closets and other water apparatus in the Buildings shall not be used for any purposes other than those for which they were constructed. Any damage resulting from misuse of any water closets or other apparatus shall be paid for by the Owner in whose Unit it shall have been caused or originated.
- 16.19 The above and foregoing restrictive covenants shall only be amended in the manner as provided for the amendment of this Declaration. The Association shall have the right to make and amend reasonable Rules and Regulations respecting the use of the Property in the Condominium, as is provided for in its Articles of Incorporation.
- 16.20 In the event a Unit Owner is in violation of the terms and provisions in any of the restrictions, and after notification by the Board of Directors, continues to violate such regulations, then in the event it be necessary that the Directors bring a legal proceeding for the enforcement of and/or the abatement, as the case may be, of any provision of the respective covenants, then in such event the Unit Owner shall pay for the costs and expenses for such legal proceeding, including reasonable attorney's fees incurred by the Association, provided that the Association is successful in such litigation.

CHAPTER FIVE: INSURANCE, LOSSES, TAKING, LIQUIDATION

ARTICLE XVII

INSURANCE

17.1 HAZARD INSURANCE

- A. Insurance Required: The Board of Directors shall obtain and maintain, to the extent available, master policies of casualty and physical damage insurance, including fire end extended coverage, for the benefit and protection of the Board of Directors, the Unit Owners, and Mortgage Molders.
- B. Named Insured; Loss Payee: The named insured, and the loss payee, shall be the Association, or one or more of the members of the Board of Directors designated by the Board as Insurance Trustees, for the benefit of all of the Unit Owners of the Condominium and their respective mortgagees, as their interests may appear.

There shall also be a standard mortgage clause as to each Unit, naming the Unit's mortgagee, its successors and assigns.

The designation of loss payee shall be pursuant to such condominium casualty insurance endorsement form as may from time to time be customarily used in Rhode Island, and shall be subject to the rights of any mortgagees under their respective mortgages.

- C. Items Covered, Generally: The hazard insurance shall cover
 - 1). the Building(s), including the Units and all fixtures and equipment installed in any Unit prior to the date of recording a first mortgage on the Unit in connection with a sale of the Unit from the Declarant to a purchaser;
 - 2). other insurable Improvements which comprise the Common Elements, including, as may be appropriate, elevators, heating equipment and other service machinery, apparatus, equipment and installations contained in the Common Elements; and
 - 3). all portions and elements of the Units as are for insurance purposes normally deemed to constitute part of the Building(s) and customarily covered by such insurance.
- D. Coverages Not Required: The following items shall be excluded from coverage under the Condominium hazard insurance:
 - 1). the furniture, furnishings or other personal property of the Unit Owners, excepting fixtures and equipment referred to in subsection (C)(1) above; or
 - 2). improvement within a Unit made by the Owners thereof subsequent to the first sale of such Unit by the Declarant, as to which it shall be the separate responsibility of the Unit Owners to insure. Declarant recommends that Unit Owners procure such coverage.

- E. Amount and Type of Coverage: Such insurance shall be a standard “all risk” policy, and shall provide coverage for 100% of the full replacement cost of the insured property, as determined by the Board of Directors (who shall review such value at least as often as annually), and shall insure against loss or damage by fire and other hazards or risks as the Board from time to time, in its discretion, shall determine to be appropriate, including, but not limited to:
- 1). vandalism;
 - 2). malicious mischief; and
 - 3). windstorm and water damage.

17.2 SPECIAL ENDORSEMENTS: OTHER COVERAGES

- A. Flood Insurance: In the event that any part of the Condominium Property lies in a special flood hazard area, there shall be a master or blanket policy of flood insurance.

In the event that the Buildings are high-rise or vertical dwellings, there shall be a separate insurance policy for each Building that houses Units.

The coverage under the flood insurance shall be 100% of the full insurable value of the Building(s), including machinery and equipment, and 100% of the full insurable value of the Building(s), including machinery and equipment, and 100% of the insurable value of any contents owned by the Association, or the maximum coverage available under the National Flood Insurance Administration.

- B. Endorsements; Requirements: The Condominium insurance policy shall carry the following endorsements:
- 1). “Agreed Amount,” so called, if obtainable;
 - 2). “Inflation Guard,” so called, if obtainable;
 - 3). “Construction Code.” so called, if applicable, to cover any costs of altering undamaged portions of the Building(s) to comply with local building ordinances and codes;
 - 4). Recognition of any Insurance Trust Agreement enacted by the Association;
 - 5). A waiver of the right of subrogation against Unit Owners;
 - 6). A provision that coverage will not be affected by any acts or omissions of the Unit Owners which are not under the control of the Association;
 - 7). A provision that coverage shall be primary, regardless of other insurance obtained by the Association or Unit Owners; and
 - 8). Steam boiler and machinery coverage for Building(s), if any, which have steam boilers, in an amount which is the lesser of \$2,000,000.00, or the insurable value of Building(s) housing steam boilers or machinery.
- C. Notice: All policies shall provide for at least 10 days’ notice to the Association and/or the Insurance Trustee, and to mortgagees, of any cancellation of, or substantial change in, the policies.

17.3 ADDITIONAL REQUIREMENTS: ENDORSEMENTS

All policies of casualty or physical damage insurance shall provide:

- A. Non-Cancellation: Such policies may not be cancelled, terminated or substantially modified as to amount of coverage or risks covered.
- B. Election of Insurer: Notwithstanding any provisions thereof which give the insurer the right to elect to restore damage in lieu of making a cash settlement; such election may not be exercised without the approval of the Board of Directors and may not be exercised if in conflict with the terms of the Act, or of this Declaration or any of its Exhibits.
- C. Waiver of Subrogation: There shall be a waiver of subrogation as to any claims (except claims involving arson or fraud) against the Condominium, the Board of Directors, the Managing Agent or Manager, or their respective agents or employees, and the Unit Owners and their respective employees, agents and guests.
- D. Waiver of Defenses: There shall be waivers of the defense based upon the conduct of any insured.
- E. Primary Coverage: In substance and effect, the coverage of the insurance is primary, and that the insurer shall not be entitled to contribution as against any casualty insurance which may be purchased separately by Units Owners.

17.4 RECEIPT AND APPLICATION OF PROCEEDS

The Board of Directors or the members thereof hereunder designated as Insurance Trustee or Trustees, as aforesaid, shall collect and receive all casualty loss insurance proceeds and shall hold, use, apply and disburse the same in accordance with applicable provisions of this Declaration and of the Act.

With respect to losses which affect portions or elements covered by such insurance of a Unit, or of more than one Unit to substantially the same or to different extents, the proceeds relating thereto shall be used, applied and disbursed by the Board of Directors in a fair and equitable manner.

17.5 LIABILITY INSURANCE

- A. Types of Coverage: The Board of Directors shall also obtain and maintain, to the extent available, master policies of insurance with respect to all Common Elements, public ways and areas under the control of the Association, including any commercial spaces owned by the Association, even if leased to others, for the benefit of the Association, the Board of Directors and all of the Unit Owners of the Condominium for:
 - 1). comprehensive general public liability of at least \$1,000,000.00 per occurrence, including personal injury and property damage arising from the operation, maintenance or use of the Common Elements, or for liability related in any way to any employment contracts of the Association, which shall also cover any claims of any Unit Owner;
 - 2). Workmen's Compensation, employer's and other general liability insurance with respect to any manager, agent or employee of the Condominium Association, but excluding any independent agent or manager who shall furnish to the Board of Directors a Certificate of insurance if such

liability is otherwise insured against, it being agreed that the Board of Directors may waive such requirement in any particular instance, at their discretion; and

- 3). such other risks as the Board of Directors in its discretion deem it advisable or appropriate to insure.

B. Provisions: The liability insurance policy shall provide for:

- 1). Severability of interest, or an endorsement precluding denial of a Unit Owner's claim because of negligence of the Association or of other Unit Owners; and
- 2). 10 days' written notice to the Board of Directors and to mortgagees in the event of cancellation or substantial modification of the insurance.

C. Other Requirements: Subject to the foregoing requirements, all insurance shall be in such amount and such forms as the Board of Directors shall, in its discretion, deem appropriate as set forth in Section 17.3 above with respect to noncancellation, waiver of defenses based on conduct of any insured, and noncontribution.

D. Fidelity Bonds: In addition to all other insurance described herein, the Association shall obtain fidelity bond coverage having the following provisions and meeting the following requirements:

- 1). It shall provide blanket coverage for any person or entity handling funds of the Association;
- 2). The Association shall be named as obligee;
- 3). The coverage shall be for the maximum amount of funds in the custody of the Association at any time while the bond is in force, or an amount equal to 3 months' assessments on all units, plus reserves, whichever is greater;
- 4). It shall provide for 10 days' written notice to the Association and to mortgagees in the event of cancellation or modification.

17.6 INSURANCE EXPENSE

The cost of all such insurance obtained and maintained by the Board of Directors pursuant to provisions of this Article shall be a Common Expense.

ARTICLE XVIII

DESTRUCTION; EMINENT DOMAIN; CONDEMNATION

18.1 REBUILDING. RESTORATION AFTER CASUALTY LOSS

- A. Determination of Board of Directors: Notice: In the event of any casualty loss, to the insured property, the Board of Directors shall determine in its reasonable discretion whether or not the insurance proceeds collected or collectible in relation to such loss are sufficient to repair or reconstruct the Condominium Property to its condition and value existing immediately prior to the casualty. The Board shall notify all Unit Owners of such determination.

- B. Proceeds Sufficient: If such proceeds are so sufficient, the Board of Directors shall proceed with the necessary repairs, rebuilding or restoration as provided in Section 1-3.13 of the Act.
- C. Proceeds Not Sufficient; Substantial Loss: If such proceeds as so determined are not sufficient, or in any event, if three-fourths (3/4) or more of any Building containing Units is destroyed or substantially damaged, the Board of Directors shall forthwith submit to all Unit Owners (*Note: Amended by the Special Amendment - October 9, 1990*):
 - 1). a form of agreement (which may be in several counterparts) whereby the Unit Owners authorize the Board of Directors to proceed with the necessary repair, rebuilding or restoration, and agree to pay-their proportionate share of the costs thereof in excess of insurance proceeds, and
 - 2). a copy of the provisions of Section 1-3.13 of the Act.
- D. Actions of Board: In the event that the form of agreement has been approved by signature of at least eighty percent (80%) of the affected Unit Owners within 100 days of such destruction or damage, the Board of Directors shall thereafter proceed with the restoration in accordance with and subject to the rights of the mortgagees on individual Units, and take such further action as they may in their discretion deem advisable. (Amended by Special Amendment, recorded October 9, 1990)

If the form of agreement has not been approved, then the Board of Directors shall implement the provisions of said Section 1-3.13 of the Act.

18.2 TAKING, GENERALLY

In the event that all, or any part, of the Condominium Property shall be taken by any authority having the power of condemnation or eminent domain, each Unit Owner and mortgage holder shall be entitled to notice thereof and to participate in the proceedings incident thereto unless otherwise prohibited by law.

The award made for any taking shall be payable to the Association, as trustees, for the benefit of the Unit Owners and all mortgagees of any Unit, as their interest may appear.

Unless otherwise provided by law at the time of the taking, the award shall be disbursed by the Association as provided in this Article.

18.3 TAKING OF COMMON ELEMENTS

- A. Taking Not Including Improvements: If the taking is confined to the Condominium Property on which no Improvements are constructed, and does not materially affect any Unit, the improvements or any part of the Improvements, the remaining land included in the Common Area shall be replaced with the approval of the Unit Owners (by a vote of not less than seventy—five percent (75%) of the Unit Owners entitled to vote), within ninety (90) days of such taking in accordance with the plans there for approved by the Association.
- B. Replacement; Approval: The Association shall arrange for the replacement and shall disburse the proceeds of the award in the manner described for disbursing insurance proceeds in Section 17.4 of this Declaration; subject, however, to the right hereby reserved to the Unit Owners and to be exercised by a similar vote thereof to provide for the disbursement by the Association of the

remaining proceeds held by it (after payment of all costs incident to such replacement) to the Unit Owners or any one or more of them in amounts disproportionate to their percentage of undivided interest in the Common Area as established herein, which disproportionate amounts shall correspond with the disproportionate damages sustained by the Unit Owners or any one or more of them as may be determined by a majority of the total vote thereof.

- C. Failure of Approval: If such replacement shall not have received said approval of the Unit Owners as provided in this Section, or if the taking is confined to the Common Area on which no improvements shall, have been constructed, then the Association shall disburse the proceeds of the award in the manner hereinabove provided for the disbursement of the remaining proceeds of an award after payment of all costs incident to replacement of improvements taken, including the right reserved to the Unit Owners to provide for disbursement in disproportionate amounts.

18.4 TAKING OF UNITS

If the taking includes one or more Units, or any part or parts thereof, whether or not there is included in the taking any part of the Common Elements, then the award shall be disbursed and all related matters, including without limitation, alteration of the percentages of undivided interest of the Unit Owners in the Common Area in such Condominium Project, shall be determined pursuant to and in accordance with the consent of all Unit Owners in such Condominium Project (or such lesser number of owners as may then be prescribed by the Act for the purpose of altering the percentages of undivided interest of the Unit Owners in the Common Area) expressed in a duly recorded amendment to this Declaration.

In the event that such an amendment shall not be recorded within one hundred (100) days after such taking, then such taking shall be deemed to be and shall be treated as damage or destruction which shall not be repaired or reconstructed as provided in Sections 14.6 and 18.1

18.5 RIGHTS OF MORTGAGEES

- A. Restoration According to Declaration and Plans: Any restoration or repair of the Condominium, after a partial condemnation or damage due to an insurable hazard shall be performed substantially in accordance with this Declaration of Condominium and the original plans and specifications, unless other action is approved by Eligible Mortgage Holders holding mortgages on Units which have at least fifty-one percent (51%) of the votes of Units subject to such mortgages.
- B. Reallocation of Percentage Interests: Except as otherwise provided in this Declaration, no reallocation of Percentage Interests resulting from a partial condemnation or partial destruction of the Condominium may be effected without the prior approval of Eligible Mortgage Holders holding mortgages on all remaining Units, whether the Units are existing in whole or in part, and which have at least fifty-one percent (51%) of the votes of such remaining units subject to such mortgages.
- C. Use of Proceeds: No hazard insurance proceeds for losses to, or awards for any condemnation of, any property of the Condominium (whether to Units or to Common Elements) shall be used for other than the repair, replacement or reconstruction of such property of the Condominium, except as may be provided by statute in case of a taking of or substantial loss to the Units and/or Common Elements of the Condominium.
- D. Distribution; Priority: In no case shall any provision of this Declaration or the By-Laws give a Unit

Owner or any other party priority over any rights of any Mortgagee of the Unit pursuant to its mortgage in the case of a distribution to such Unit Owner of insurance proceeds or condemnation awards for losses to or a taking of such Unit and/or the Common Elements of the Condominium.

18.6 ASSOCIATION AS REPRESENTATIVE

In all matters involving condemnation, destruction or liquidation of the Condominium Property, the Association shall represent the Unit Owners in any proceedings, negotiations, settlements or agreements.

For this purpose, each Unit Owner, by acceptance of a Unit Deed, is deemed to have appointed the Board of Directors or the Insurance Trustee, as the case may be, as attorney in fact.

All proceeds recovered on account of any condemnation, destruction or liquidation shall be payable to the Association, or to the Insurance Trustee, as the case may be, for the benefit of the Unit Owners and mortgagees.

ARTICLE XIX

TERMINATION OF CONDOMINIUM

19.1 APPROVAL: AGREEMENT

- A. Approval at Meeting: The submission of the Condominium Property to the Act shall not be revoked or terminated, and the Property shall not be removed from the Act unless all of the Unit Owners and the Holders of all mortgages and/or other liens affecting the Property approve the termination at a meeting specially called for the purpose of considering termination
- B. Written Agreement: The approval for termination must be evidenced by a Termination Agreement, so-called, which must be executed and acknowledged, by all persons and/or entities having the right of approval of the termination, in the same manner as a deed.
- C. Recording: The agreement must specify a date after which it will be void unless it has been recorded. The agreement must be recorded in the town in which the Condominium Property is situated, and is effective only upon recording.

19.2 APPROVAL OF MORTGAGEES

Any election to terminate the legal status of the Condominium after substantial destruction or a substantial taking in condemnation of the condominium property must be approved in writing by Eligible Mortgage Holders holding mortgages on units which have fifty—one percent (51%) of the votes of units subject to such mortgages, or which have sixty-seven percent (67%) of such votes, in the case of termination of the Condominium for any other reason.

19.3 OPTION TO PURCHASE

Section 19.3 is deleted (*Note: Amended by the Special Amendment - October 9, 1990.*)

19.4 RIGHTS GOVERNED BY ACT

Upon termination, ownership of the former Condominium Property, and the rights of the former Unit Owners, shall be determined in a manner provided in Section 2.18 of the Act.

CHAPTER SIX: DECLARANT RIGHTS

(Note: The contents of this entire chapter are not included because they are no longer applicable as the Association is now under the exclusive control of the unit owners. See original document, recorded as Book 238, Pages 358-352 of the records of the Town of Narragansett, for the original contents.)

CHAPTER SEVEN: AMENDMENTS, MORTGAGEES AND OTHER MATTERS

ARTICLE XXII

AMENDMENT OF DECLARATION

22.1 INSTRUMENT OF AMENDMENT: METHOD

Except as elsewhere provided, this Declaration may be amended by an instrument in writing meeting all of the requirements stated below.

- A. Unit Owners: The instrument must be signed by one or more Unit Owners entitled, in the aggregate, to at least seventy-five percent (75%) of the undivided Percentage Interest in the Common Elements.
- B. Directors: The instrument must be signed and acknowledged by a majority of the Board of Directors of the Association.
- C. Recording: The instrument must be duly recorded with the Land Records of the City or Town Clerk of the town in which the Condominium Property is located.

22.2 LIMITATIONS OF AMENDMENTS

- A. Time for Recording: The date on which any instrument of amendment is first signed by a Unit Owner shall be indicated thereon as the date thereof, and no such instrument shall be of force or effect unless the same has been recorded within six (6) months after such date.
- B. Alteration of Dimensions: No instrument of amendment which alters the dimensions of any Unit shall be of any force or effect unless the same has been signed by the Owner(s) of the Unit(s) so altered.
- C. Security of First Mortgage: No instrument of amendment affecting any Unit in any manner which impairs the security of a Mortgage Holder shall be of any force or effect unless the same has been assented to by the affected Mortgage Holder.
- D. Percentage Interests: No instrument of amendment, excepting therefrom amendments made by the Declarant, adding additional phases and/or Units to the Condominium development which alters the

undivided Percentage Interest appurtenant to any Unit Estate shall be of any force of effect unless the same has been signed by all Unit Owners and the instrument is recorded as an Amended Declaration of Condominium.

- E. **Contrary to Law:** No instrument of amendment which alters this Declaration of Condominium in any manner which would render it contrary to or inconsistent with any requirements or provisions of the Act, or of any other applicable law, shall be of any force or effect.
- F. **Declarant Rights:** No instrument of amendment which purports to affect any rights reserved to or granted to the Declarant shall be of any force or effect before the Declarant has conveyed all interests owned by it in the Condominium, or unless the Declarant has executed the instrument of amendment.

22.3 AMENDMENTS AFFECTING MORTGAGEES

- A. **Material Amendments:** No instrument of amendment of a material nature affecting, establishing, providing for, governing or regulating any of the below-listed items in this Section shall be of any force or effect unless the amendment has been assented to by fifty-one percent (51%) of the Eligible Mortgage Holders who have requested notice of the proposal of any such amendment.
- B. **Matters Deemed Material:** The following items are deemed material for purposes of this Section:
 - 1). voting;
 - 2). assessments, assessment liens or subordination of such liens;
 - 3). reserves for maintenance, repair and replacement of the common areas (or Units, if applicable);
 - 4). insurance or fidelity bonds;
 - 5). rights to use common areas;
 - 6). responsibility for maintenance and repair of the several portions of the Condominium;
 - 7). expansion or contraction of the Condominium or the addition, annexation or withdrawal of property to or from the project;
 - 8). boundaries of any Unit;
 - 9). the interests in the Common Elements;
 - 10). convertibility of Units to common areas or of common areas into Units;
 - 11). imposition of any right of first refusal or similar restriction on the right of a Unit Owner to sell, transfer or otherwise convey his or her Unit;
 - 12). establishment of self-management when professional management has previously been required by an Eligible Mortgage Holder;
 - 13). restoration or repair after hazard damage in any manner other than specified in this Declaration or any of its Exhibits;
 - 14). any provisions which are for the express benefit of Mortgage Holders, Eligible Mortgage Holders or eligible insurers or guarantor of first mortgages on Units;

15). Any provision relating to renting and/or leasing of Units. *(Note: Added by the Special Amendment - October 9, 1990.)*

- C. Disqualification of Mortgages for Sale: No instrument of amendment which disqualifies mortgages of Units in the Condominium for sale to the Federal Home Loan Mortgage Corporation (FHLMC) of the Federal National Mortgage Association (FNMA), or any successor agency thereof, shall be of any force or effect.
- D. Mortgagees' Consent: In any instance where the consent or assent of any Eligible Mortgage Holder is required for any act pursuant to this Declaration of Condominium or the By-Laws hereto, and a request has been made for such consent, any Eligible Mortgage Holder that does not mail or deliver a negative response to the Board of Directors of the Association within thirty (30) days of a written request shall be deemed to have consented to the addition or change set forth in such request.

An affidavit by the Board of Directors making reference to this Declaration of Condominium, and stating that no such response was received, shall be conclusive as to the facts therein set forth as to all parties, and may be relied upon as evidence of compliance with any provisions herein and in the By-Laws relating to mortgagees' consent.

22.4 SPECIAL AMENDMENTS

- A. Rights Reserved to Declarant: Notwithstanding anything contained in this Declaration to the contrary, the Declarant reserves the right and power to record a special amendment ("Special Amendment") to this Declaration or to any of its Exhibits, at any time or from time to time, dealing with the items listed in the next subsection. *(Note: This section is no longer applicable because control has been turned over from the Declarant to the unit owners.)*
- B. Items Subject to Special Amendment: The following items may be the subject of a Special Amendment recorded by the Declarant;
- 1). to comply with the requirements of the Federal National Mortgage Association (FNMA), the Government National Mortgage Association (GNMA), the Federal Home Loan Mortgage Corporation (FHLMC), the Department of Housing and Urban Development (HUD), the Federal Housing Administration (FHA), or any other public or quasi-public or private entity which performs (or which may in the future perform) functions similar to those currently performed by such entities;
 - 2). to induce any of such agencies or entities to make, purchase, sell, insure or guarantee first mortgages on Units;
 - 3). to bring this Declaration or its Exhibits into compliance with the Act; or
 - 4). to correct clerical or typographical errors in this Declaration or any of its Exhibits, or in any supplemental amendment.
- C. Declarant's Power to Vote for Special Amendments: In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to vote in favor of making or consenting to any such Special Amendment on behalf of each Unit Owner of the Condominium. Each deed, mortgage or other evidence of obligation, or other instrument affecting a Unit and the

acceptance and/or recording of the instrument, shall be deemed to be a grant and acknowledgement of, and a consent to the reservation of, the power in the Declarant to vote in favor of, make, execute and record Special Amendments.

The right of the Declarant shall remain in full force and effect until the Declarant no longer holds or controls title to any units of the Condominium. *(Note: This section is no longer applicable because control has been turned over from the Declarant to the unit owners.)*

ARTICLE XXIII

FNMA/FHLMC COMPLIANCE

In order to comply with the requirements of the Federal National Mortgage Association (FNMA) and the Federal Home Loan Mortgage Corporation (FHLMC), notwithstanding anything to the contrary contained in this Declaration or the By-Laws recorded herewith, Declarant and all subsequent Unit Owners hereby agree as follows:

23.1 NOTICES

- A. Matters Subject to Notice: Any Mortgagee, upon request to the Association, will be entitled to written notice of:
- 1). any default by its borrower who is an Owner of a Unit with respect to any obligation of such borrower under the Declaration or By-Laws which is not cured within sixty (60) days;
 - 2). all meetings of the Association, with permission to designate a representative to attend all such meetings;
 - 3). any material damage by fire or other casualty to the Unit or Common Elements upon which the Mortgagee holds a mortgage, or of any proposed taking by condemnation or eminent domain of said Unit or the Common Elements of the Condominium;
 - 4). any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; and
 - 5). any proposed action which would require the consent of a specified percentage of Eligible Mortgage Holders.
- B. Request for Notice: Each Mortgage Holder desiring notice of the above matters shall make written request to the Association, giving the Mortgage Holder's name and address, and the Unit number or address of the mortgaged Unit.

23.2 FINANCIAL STATEMENTS

Every Eligible Mortgage Holder shall be entitled to receive an audited financial statement of the Association within 90 days following the end of each fiscal year, prepared at the expense of the Eligible Mortgage Holder.

23.3 INSPECTION OF BOOKS AND RECORDS

The Board of Directors shall make available to Mortgage Holders current copies of the Declaration of Condominium, the Articles of Incorporation of the Association, the By-Laws and Rules and Regulations, and the books, records and financial statements of the Association.

“Available” means available for inspection upon request during normal business hours or under other reasonable circumstances.

23.4 INTENT TO COMPLY

- A. Intent of Declaration: It is intended that the provisions of this Declaration relating to protection of Mortgage Holders, and to consent of Mortgage Holders, shall, comply with the requirements of FHLMC and FNMA with respect thereto.
- B. Construction of Provisions: All matters treated in this Declaration shall be resolved in a manner consistent with the above—stated intention.

All provisions of this Declaration and its Exhibit shall be construed so as to qualify any record first mortgage on a Unit for sale to FHLMC and FNMA.

ARTICLE XXIV

MISCELLANEOUS PROVISIONS

24.1 COVENANTS RUNNING WITH THE LAND

All provisions of this Declaration and Exhibits attached hereto, and any Amendments thereto, shall be construed as covenants running with the land, and of every part thereof and therein, including, but not limited to, every Unit, and the appurtenances thereto, and every Unit Owner, and claimant of a Unit or any interest therein, and his heirs, executors, administrators, successors and assigns, as the case may be, shall be bound by all of the provisions of this Declaration and Exhibits attached hereto and any Amendments thereto.

24.2 FIRST MORTGAGES

If an Eligible Mortgage Holder by some circumstance fails to be the holder of a first mortgage but it is evident that its mortgage was intended, to be a first mortgage, it shall nevertheless, for the purpose of this Declaration and Exhibits attached hereto, be deemed to be a first mortgage.

24.3 PARTITION

No Unit Owner shall bring, or have any right to bring, any action for partition or division of the Condominium Property.

24.4 SEVERABILITY

If any provision of this Declaration, or of any Exhibit attached hereto, or of the Condominium Act, is held invalid by a court of competent jurisdiction, the validity of the remainder of this Declaration and Exhibits

attached hereto shall not be affected thereby.

24.5 TITLES

Article numbers, paragraph titles and captions contained throughout this Declaration are intended only as a matter of convenience and for reference and in no way define, limit or affect this Declaration.

24.6 NOTICES

Whenever notices are required to be sent hereunder, the same shall be sent to the Unit Owners by Certified Mail, at their Unit address in the Condominium and to the Association by Certified Mail, to the Secretary of the Association at his or her residence address. Any of the above shall have the right to change the place of notice to him or it, by written notice, in accordance with the terms and provisions of this paragraph.

24.7 ENFORCEMENT

The Association, or any aggrieved Unit Owner, shall have a right of action against any Unit Owner who fails to comply, with any provisions of this Declaration or its Exhibits, or any authorized decisions of the Association or Board of Directors.

Unit Owners shall have similar rights of action against the Association or Board of Directors.

In the event that either the Declarant or the Board of Directors intends to invoke summary abatement to enforce any provisions of this Declaration, no items of construction may be altered or demolished before the institution of judicial proceedings.

24.8 AMENDMENTS

Neither this Declaration, nor the Articles of Incorporation or the By-Laws of the Association, shall be amended if such amendment would adversely affect the rights and interests of an Eligible Mortgage Holder, unless such amendment shall have been consented to in writing by such Eligible Mortgage Holder.

24.9 CONFLICTS

If any provision of this Declaration of Condominium shall be invalid or conflict with the Act, or shall conflict with any other provision of this Declaration or any of its Exhibits, then the following rules of construction shall be used:

- A. Conflict with Act: In the event of a conflict between the Declaration of Condominium and the Act, the provisions of the Act shall control.
- B. Invalidity: The invalidity of any provision of this Declaration or any Exhibit shall not impair or affect the validity or enforcement of any other provisions of this Declaration or any of its Exhibits, and such remaining provisions shall continue in full force and effect as if the invalid provision had not been included.
- C. Special Provisions: In the event of a conflict between any provision of this Declaration, including its Exhibits, any other provision of this Declaration or of any Exhibit which refers to specific rights or privileges accorded to Mortgage Holders, then the provisions benefiting Mortgage Holders shall

control.

IN WITNESS WHEREOF, CLARKE FARM ASSOCIATES, L.P., has caused this DECLARATION OF CONDOMINIUM to be executed on the 11th day of August, 1989.

CLARKE FARM ASSOCIATES, L.P.

By Wildfield Properties, Inc.
its General Partner

By _____
Its Secretary
hereunto duly authorized

EXHIBITS

Exhibit A-1 Legal Description of Land

Exhibit A-1 is not included in this document but copies of these pages can be obtained on request from the Property Manager. The original Exhibit A-1 is recorded as Book 238, pages 361-364 of the Narragansett Town Records.

Exhibit A-2 Graphic Description of the Units

Floor plans of individual units are depicted in the original Exhibit A-2 of the Declaration recorded as Book 238, Pages 366-374 of the Narragansett Town Records. These pages are not included in this document but copies of these pages can be obtained on request from the Property Manager. The text description of the Unit Boundaries that was included in Exhibit A-2 can be found in Section 4.2 of the this document..

Exhibit A-3 Description of Withdrawable Land

The Declarant's rights to contract the Condominium by withdrawing land for further construction have expired so Exhibit A-3 is no longer applicable. The original Exhibit A-3 is recorded as Book 238, Pages 375-378 of the Narragansett Town Records.

Exhibit B Schedule of Undivided Percentage Interest in the Common Elements Attributable to Each Unit

Exhibit B has been superseded and updated by [Exhibit C to The Sixth Amendment](#), a corrected copy of which is included in this document. The original Exhibit B is recorded as Book 238, Page 379 of the Narragansett Town Records.

Exhibit C Original Articles of Incorporation

The Original Articles of Incorporation are no longer applicable as The Clarke Farm Condominium Association is now operated as an unincorporated condominium association in the State of Rhode Island. An amendment to reflect the Association's status was recorded by the Town Clerk of Narragansett on Sept. 26, 2013, Book 830, Page 998 and the language of the amendment has either been incorporated into the text of this document or has been noted. The Original Articles of Incorporation were filed with the State of Rhode Island on May 1, 1989, and are recorded as Book 238, Pages 380-388 of the Narragansett Town Records.

Exhibit D By-Laws of Clarke Farm Condominiums

The By-Laws of Clarke Farm Condominiums (As Amended and Annotated) is a separate document that can be obtained by request to the Property Manager. The original Exhibit D is recorded as Book 238, Pages 394-418 of the Narragansett Town Records.

Exhibit E Rules and Regulations of Clarke Farm Condominiums

The Rules and Regulations of Clarke Farm Condominiums have been substantially revised since their original publication and are maintained as a separate document that can be obtained by request to the Property Manager. The original Exhibit E is recorded as Book 238, Pages 419-434 of the Narragansett Town Records.

The following chart outlines the maintenance responsibilities of the Association and the Unit Owners.

I ITEMS	II GENERAL COMMON ELEMENTS UNDER ASSOCIATION RESPONSIBILITY	III LIMITED COMMON ELEMENTS UNDER ASSOCIATION RESPONSIBILITY	IV UNIT COMPONENTS UNDER ASSOCIATION RESPONSIBILITY	V CERTAIN OTHER COMPONENTS UNDER UNIT OWNER'S RESPONSIBILITY WITHOUT RESPECT TO OWNERSHIP OF THE COMPONENT
Plumbing & related systems & Components.	All Maintenance, repair & replacement of portions of plumbing serving more than one Unit. Water damage to Common Elements or except as provided in Column V.	If any, same as in Column II	Only to the extent that a malfunction originates outside the Unit in which the malfunction occurs or may occur.	All portions within a Unit including fixtures & appliances attached thereto. Water damage to a Unit, when the primary source of such problem is through the negligence of the occupants of that Unit.
Electrical & related systems & components thereof excluding appliances, fixtures & lights, serving only one Unit.	All, in all regards.	All, in all regards.		All, in all regards, for items serving only one Unit.
Heating & Cooling systems and water heaters including components of any of the foregoing.	None	None	None	Maintenance, repairs and replacement to be at Unit Owner's expense
Parking Spaces	All, in all regards	All, in all regards		
Storage Cubicles (if any)	N/A	N/A	N/A	N/A

I ITEMS	II GENERAL COMMON ELEMENTS UNDER ASSOCIATION RESPONSIBILITY	III LIMITED COMMON ELEMENTS UNDER ASSOCIATION RESPONSIBILITY	IV UNIT COMPONENTS UNDER ASSOCIATION RESPONSIBILITY	V CERTAIN OTHER COMPONENTS UNDER UNIT OWNER'S RESPONSIBILITY WITHOUT RESPECT TO OWNERSHIP OF THE COMPONENT
Refuse Collection System	None	None	None	It is the responsibility of Unit Owners to properly secure refuse in plastic bags or other containers approved by the Association and place same in designated trash containers
Doors	All, in all regards which do not serve a Unit	All surfaces exposed to exterior or patio & porches, including door panel, buck, trim and sill		Interior of door panel, interior trim, hardware set including lock and door chime assembly and hinges and closure on all doors leading from Units
Patios, porches & railings		In all regards except routine cleaning.		Routine cleaning of functional patios & porches (as defined in the Declaration).
Grounds, including all paved areas & other improvements thereon lying outside the main walls of the building	All, in all regards			
Building exterior roof, exterior vertical walls, foundations	All, in all regards, except as provided in Column V			Perimeter walls of the Unit on interior side of studding or lath supporting such walls.
Windows & Screens	None			All, in all regards which serve the Unit including cleaning and replacements. Replacements to be of same color, grade and style.

General Notes

This chart and the titles and Headings used herein are not intended to describe or encompass all maintenance functions nor to delineate all respective responsibilities between the Unit Owners, severally, and the association. The placement of responsibility under any specific column does not always accurately reflect the precise character and nature of ownership.

Column I: Items. Items appearing in this column are illustrative and not exhaustive.

Column II: General Common Elements Under Association Responsibility. Responsibility for determining and providing for the maintenance, repair and replacements requirements of the General common Elements and determining the costs thereof shall be primarily the responsibility of the Executive Board and such designees to which it may delegate certain such responsibilities.

Column III: Limited Common Elements Under Association Responsibility. Responsibility for determining the maintenance, repair and replacement requirements of the Limited Common Elements shall be a shared responsibility between the Executive Board and the Unit Owner of a Unit to which a specific Limited Common Element is exclusively appurtenant; provided, however, that the Executive Board shall have the final responsibility for determining the need for and accomplishing such maintenance, repair and replacement activities.

Column IV: Unit Components Under Association Responsibility. The Items in this column are legally and by definition a part of a unit but are attached or directly connected to or associated with the General Common Elements and Common Expense items in such a way that a clear distinction between Unit Owner and Association responsibility cannot be made. Moreover, such Items frequently involve matters of concern relative to the general health, safety and welfare of all of the occupants of the building. Thus, certain costs which appear to benefit a single Unit Owner but which affect other Unit Owners are declared a Common Expense, especially when the correct functioning of an activity or element is integral to or supportive of the legally defined Common Elements and Common Expenses.

Column V: Certain Other Components under Unit Owner's Responsibility Without Respect to Ownership of the Component. The items in this column are not intended to be exclusive and all-encompassing and do not affect responsibilities expressly provided for otherwise.

Exhibit C to The Sixth Amendment Floor Space of Each Unit and Percentage of Allocated Interest in the Common Elements

Note: The following table shows the current percentage of allocated interest in the Common Elements which is also used in the formula for calculating monthly and special assessments. This exhibit has been edited to reflect the correct floor space for Type D units and the correct allocated interest percentage for all units.

Court Yard No.	Unit No.	Phase	Type	Floor Space	Allocated Interest	Residential Address
I	1	1	A	1,682	0.0234	1 Fox Drive
	2	1	A	1,682	0.0234	3 Fox Drive
	3	1	B	1,780	0.0248	5 Fox Drive
	4	1	E	1,457	0.0203	7 Fox Drive
	5	1	E	1,457	0.0203	9 Fox Drive
	6	1	B	1,780	0.0248	11 Fox Drive
	7	1	A	1,682	0.0234	15 Fox Drive
	8	1	A	1,682	0.0234	17 Fox Drive
II	1	3	A	1,682	0.0234	2 Fox Drive
	2	3	C	1,650	0.0230	4 Fox Drive
	3	3	C	1,650	0.0230	6 Fox Drive
	4	3	A	1,682	0.0234	8 Fox Drive
	5	3	B	1,780	0.0248	10 Fox Drive
	6	3	B	1,780	0.0248	12 Fox Drive
	7	3	A	1,682	0.0234	14 Fox Drive
	8	3	C	1,650	0.0230	16 Fox Drive
	9	3	C	1,650	0.0230	18 Fox Drive
	10	3	A	1,682	0.0234	20 Fox Drive
III	1	4	B	1,780	0.0248	22 Fox Drive
	2	4	B	1,780	0.0248	24 Fox Drive
	3	4	A	1,682	0.0234	26 Fox Drive
	4	4	D	1,821	0.0254	28 Fox Drive
	5	4	D	1,821	0.0254	30 Fox Drive
	6	4	D	1,821	0.0254	32 Fox Drive
	7	4	D	1,821	0.0254	34 Fox Drive
	8	4	A	1,682	0.0234	36 Fox Drive
IV	1	5	A	1,682	0.0234	38 Fox Drive
	2	5	D	1,821	0.0254	40 Fox Drive
	3	5	D	1,821	0.0254	42 Fox Drive
	4	5	D	1,821	0.0254	44 Fox Drive
	5	5	D	1,821	0.0254	46 Fox Drive
	6	5	A	1,682	0.0234	48 Fox Drive
V	1	2	A	1,682	0.0234	57 Fox Drive
	2	2	C	1,650	0.0230	55 Fox Drive
	3	2	C	1,650	0.0230	53 Fox Drive
	4	2	A	1,682	0.0234	51 Fox Drive
	5	2	B	1,780	0.0248	49 Fox Drive
	6	2	B	1,780	0.0248	47 Fox Drive
	7	2	A	1,682	0.0234	45 Fox Drive
	8	2	C	1,650	0.0230	43 Fox Drive
	9	2	C	1,650	0.0230	41 Fox Drive
	10	2	A	1,682	0.0234	39 Fox Drive
Total	42 units			71,834	1.0000	

APPENDICES

APPENDIX A – LIST OF AMENDMENTS

The following is a list of Amendments to the original Declaration

Special Amendment - October 9, 1990

This amendment made a number of changes to the original document, all of which have been incorporated into the text of the Declaration of Condominium (As Amended and Annotated). The Special Amendment also recorded pages 12 and 22 of the original Declaration which were erroneously not recorded as part of the original Declaration. These pages have also been incorporated into text of the Declaration of Condominium (As Amended and Annotated). This amendment document was recorded by the Town Clerk of Narragansett on October 9, 1990, Book 253, Page 155-159

Agreement and Second Amendment - January 21, 1998

This amendment transferred control of the Condominium to a substitute Declarant and developer, CCF Realty, LLC, in order to complete the remaining four phases of 36 units in the development. The original Declarant and developer had declared bankruptcy after completion of the first phase of eight units. The amendment was recorded by the Town Clerk of Narragansett on January 22, 1998, Book 373, Page 810-828

Special Amendment - April 20, 1998

This amendment made a number of changes to the original document, all of which have been incorporated into the text of the Declaration of Condominium (As Amended and Annotated). Of particular importance is the addition of the Maintenance Schedule which was added as Section 13.3 of this document and is included in the Exhibits Section as Exhibit A to the Special Amendment, April 1998. The amendment also includes the proposed form of amendment to convert withdrawable land for the purpose of expanding the Condominium. The amendment document was recorded by the Town Clerk of Narragansett on April 24, 1998, Book 378, Page 324-333)

Third Amendment

This amendment is the exercise of the Declarant's option and right to expand the Condominium by converting withdrawable land by building Courtyard V with the addition of ten units.

Fourth Amendment

This amendment is the exercise of the Declarant's option and right to expand the Condominium by converting withdrawable land by building Courtyard II with the addition of ten units.

Fifth Amendment

This amendment is the exercise of the Declarant's option and right to expand the Condominium by converting withdrawable land by building Courtyard III with the addition of eight units.

Sixth Amendment

This amendment is the exercise of the Declarant's option and right to expand the Condominium by converting

withdrawable land by building Courtyard IV with the addition of six units to bring the total units to the current number of 42. Exhibit C of this amendment is titled "FLOOR SPACE OF EACH UNIT AND PERCENTAGE OF ALLOCATED INTEREST IN THE COMMON ELEMENTS" which percentages are used in the formula to calculate monthly and special assessment amounts for each unit. A corrected copy of this exhibit is now included as Exhibit C to The Sixth Amendment.

Amendment to Declaration and By-Laws - September 26, 2013

The following is the text of the Amendment. The text of the amendment (and/or notations) has been incorporated into the text of the Declaration of Condominium (As Amended and Annotated). The original document was recorded by the Town Clerk of Narragansett on Sept. 26, 2013, Book 830, Page 998.

AMENDMENT TO DECLARATION AND BYLAWS
CLARKE FARM CONDOMINIUM ASSOCIATION

September 7, 2013

The Clarke Farm Condominium Association hereby amends pertinent provisions of the Declaration and Bylaws as follows.

By amending Article VII, Section 7.1 of the Declaration, "The organization of Unit Owners which shall operate and manage the Common Elements of the Condominium, and otherwise manage and regulate the affairs of the Condominium, shall be the CLARKE FARM CONDOMINIUMS ASSOCIATION, INC., a Rhode Island non-profit corporation which has been duly organized and registered." to read:

"The organization of Unit Owners which shall operate and manage the Common Elements of the Condominium and otherwise manage and regulate the affairs of the Condominium, shall be the CLARKE FARM CONDOMINIUMS ASSOCIATION."

By amending Article I of the Bylaws, "The CLARKE FARM CONDOMINIUM ASSOCIATION, INC. shall be referred to as the "Association." (There are also references in the Bylaws to the "Articles" which are the Articles of Incorporation which indicate that the "Association" is to be operated as a corporation.) to read:

"The CLARKE FARM CONDOMINIUMS ASSOCIATION shall be referred to as the "Association."

I hereby execute the aforesaid Amendments and certify that the issues as set forth in the Amendments were discussed, voted upon, and approved by owners of units to which 71 percent (71%) of the votes of the Association are allocated.

Michael Vigliotti, President
Clarke Farm Condominium Association
Board of Directors

Date 9/25/13