

**DECLARATION OF CONDOMINIUM**  
**GOODWIN STREET CONDOMINIUM**

**THIS DECLARATION**, made and entered into this \_\_\_\_day of November, 2006, by Christopher Harkins, of Portsmouth, Rhode Island (hereinafter called the "Declarant").

**WHEREAS**, the Declarant is the owner in fee simple of certain land located in the City of Newport, County of Newport, State of Rhode Island, and more particularly described in Exhibit "A" attached hereto and made a part hereof, together with all improvements located thereon and appurtenances thereto; and

**WHEREAS**, the Declarant desires to establish the Property described in Exhibit" A" as a private residential condominium building pursuant to the Act, Title 34, Chapter 36.1 (hereinafter "The Act"), subject to the covenants, restrictions, uses, limitations, obligations, easements, equitable servitudes, charges and liens (hereinafter sometimes referred to as "Covenants and Restrictions") hereinafter set forth, each of which is for the benefit of the Property and the subsequent owners thereof;

**NOW, THEREFORE**, the Declarant hereby declares that all of the Property described in Exhibit "A" shall be, and hereby is, subject to the Act and shall be known as Goodwin Street Condominium; and said Property hereby is held, conveyed, divided or subdivided, leased, rented and occupied, improved and encumbered subject to the covenants and restrictions hereinafter set forth, all of which are declared and agreed to be for the benefit of the Property, and shall be deemed to run with and bind the Property, and shall inure to the benefit of and be enforced by the Declarant and by any person acquiring or owning an interest in said property and improvements, including, without limitations, a Mortgagee, as that term is hereinafter defined.

**ARTICLE I**  
**THE CONDOMINIUM UNITS, PROPERTY AND BUILDINGS**

1.1 Property Subject to Declaration. The real property which is, and shall be subject to

EXHIBIT A TO PUBLIC OFFERING STATEMENT

this Declaration is located in the City of Newport, County of Newport, State of Rhode Island, and is more particularly described in Exhibit "A" to this Declaration of Condominium, attached hereto.

1.2 Submission to Condominium Act. The Property is hereby submitted to and shall be subject to the Act. Plats and Plans of the Property, including diagrammatic floor plans of the Building identifying each Unit, consist of five (5) pages entitled "GOODWIN STREET CONDOMINIUM Newport Rhode Island Client/Owner Christopher Harkins, 1907 East Main Road, Portsmouth, Rhode Island Drawing Title: Condominium Documents #4 Goodwin Street Newport Rhode Island Drawing Number: L-2, Project Number 06078.0 Survey Index 14-035-0236" and are attached to this Declaration of Condominium as Exhibit "E".

1.3 The Buildings. The Condominium Project shall include one (1) two (2) unit building located on the real property described in Exhibit "A" hereto. Declarant shall have development rights only to re-construct said building into two (2) Condominiums Units. Upon completion of the two (2) units, each Unit Owner will have percentage interest as shown in Exhibit "C".

1.4 The Condominium Units. The general description and number of each Unit, including its dimensions, location and such other data as may be necessary or appropriate for its identification, are set forth in the Plats and Plans shown in Exhibit "E" to the Declaration of Condominium.

- (a) The Condominium Units as set forth in the Plats and Plans shall be formed by the following planes: (1) The Unit-side plane of the structural frame of the exterior walls of such Unit, the Unit to include the thickness of the surface material such as plaster or drywall; (2) The Unit-side plane of the interior walls and partitions of the Building which separate such Unit from adjoining Units or Common Elements, the Unit to include the thickness of the surface material such as plaster or drywall; (3) The Unitside plane of furring around utility shafts, and other Common Elements within or passing through such Unit, the Unit to include the thickness of the surface material such as plaster or drywall; (4) The Unit-side plane of ceilings, furring, and vapor barriers under and around (i) wood members and (ii) utility lines, ducts and cables, the Unit to include the thickness of the surface material such as plaster and drywall; (5) The Unit-side plane of the structural wood floor of such Unit, the Unit to include the thickness of the finish material such as carpet, ceramic or resilient tile or hardwood; (6)

EXHIBIT A TO PUBLIC OFFERING STATEMENT

The Unit-side plane of the sash of windows which are set in the exterior walls of such Unit, the exterior surface of the panes of such windows and the Unit-side surface of window sills, moldings, trim, jambs, and mullions for such windows and (7) The exterior plane of doors, and their sills and hardware, and the Unit side plane of the door frames in which such doors are set, the Unit to include the door itself, the hardware and all its trim.

- (b) Each Unit consists of all portions of the Building within the aforesaid boundary lines, except the air space displaced by (i) structural members and bearing partitions within or passing through such Unit which are deemed to be Common Elements; (ii) other Common Elements within such Unit including, without limitation, chutes, flues, ducts, wires, conduits and pipe runs which serve more than one Unit. There is included within a Unit (by way of illustration and not limitation): (1) the air space enclosed by such boundary lines, (2) all partitions which are wholly contained within such boundary lines including (but not limited to) all doors, door frames, hardware, electrical outlets and wiring, telephone outlets and conduits and other equipment and devices in such partitions serving only such Unit, (3) all fixtures located within such boundary lines and serving only such Unit, and their water and waste connections, (4) all items of kitchen equipment located within such boundary lines and serving only such Unit, and such equipments' water, waste and electrical connections, (5) heat pumps, exhaust fans and the grills, registers, ventilation ducts, and related fixtures, and screens and storm windows, which serve only such Unit, whether or not any of the foregoing is located in any portion of the Common Elements, (6) lighting devices (including, by way of illustration and not limitation, lamps and bulbs which are surface mounted on, recessed in or suspended from the ceilings, walls and partitions within or around the perimeter of such Units) serving only such Unit, whether or not such lighting devices are themselves located entirely within the boundary lines of such Unit, (7) outlets, wires, cables, conduits, circuits and related equipment transmitting electricity for lighting and power or transmitting electrical impulses and signals (including, but not limited to, impulses and signals for telephone, telegraph and television transmission, except to the extent otherwise specifically provided herein), which serve only such Unit and which are located entirely within the boundary lines of such Unit, (8) surface mounted and recessed medicine cabinets (including, by way of illustration and not limitation, all associated lighting fixtures and accessories), and (9) refrigerators, ranges, dishwashers and other appliances and the portions of their water, waste, electrical and exhaust connections serving only such Units.
- (c) A unit shall not include any load bearing members of walls and partitions located within the perimeter of such unit or any floor joists, sub-floors, 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 part of the Common Elements.

EXHIBIT A TO PUBLIC OFFERING STATEMENT

The designation of each Unit, the designation of the Building in which it is located, its percentage of undivided interest in the Common Elements within the property, and an identification of the Limited Common Elements if any, adjacent to, associated with or reserved for each Unit are set forth in Exhibit "B" and the Plats and/or Plans in Exhibit "E".

1.5. Relocation of Unit Boundaries, Subdivision and Conversion of Units. Relocation of

boundaries between Units will be permitted subject to compliance with the provisions therefore in the Act, 34-36.1-1.12 and subject to compliance with any conditions, restrictions or requirements imposed by the Executive Board. Subdivision of Units is prohibited. Conversion of Units to Common Elements or to uses other than residential by Unit Owners other than the Declarant is prohibited. The cost for preparation and recordation of any documents required for the relocation of boundaries between Units or conversion of Units by the Declarant shall be chargeable to the Unit involved in a Special Assessment.

1.6. Maintenance Responsibilities. Notwithstanding the ownership of the various portions

of the Limited Common Elements and the Units by virtue of the foregoing boundary descriptions, the Units and Limited Common Elements shall be maintained and repaired by each Unit Owner and the ~~Limited~~ Common Elements shall be maintained and repaired by the Association. Any item not specifically identified in Exhibit "D" shall be maintained and repaired by the Unit Owner if it is a part of the Unit and by the Association if it is not a part of the Unit.

All maintenance, replacement and/or repair required of a Unit Owner pursuant to the foregoing paragraph shall be done by the Unit Owner at the Unit Owner's expense, except as specifically provided in the following paragraph. Each Unit Owner shall promptly perform such maintenance, repair and replacement work within his Unit which the failure to or delay in such performance will affect any part of the Condominium Property. Once the Executive Board has made a reasonable determination that a Unit Owner has failed to perform any and all maintenance, repair and replacement work as described herein and has given reasonable notice of such determination to that particular Unit Owner, then the Executive Board may assess such Unit Owner for the cost of any

EXHIBIT A TO PUBLIC OFFERING STATEMENT

such maintenance, repair or replacement work.

All maintenance, replacement and/or repair to any part of the Common Elements and of the Limited Common Elements and the painting and decorating of the exterior side of exterior doors and frames and exterior window sashes shall be made by or at the direction of the Executive Board and shall be deemed a Common Expense, unless the Executive Board has made a reasonable determination that the same are necessitated by the negligence, misuse or neglect of a Unit Owner, in which event such expense shall be assessed to such Unit Owner.

1.7 Shares of Common Expenses and Common Profits. Each Unit Owner shall be entitled to a Percentage Interest in the Common Profits and shall be liable for his proportionate share of Common Expenses as outlined in Exhibit "C". If a Unit Owner fails to timely pay his proportionate share of the Common Expenses on the first (1<sup>st</sup>) day of every month, the Association shall have a lien upon such Unit in accordance with and as provided by the Act. Funds for the payment of expenses attributed to less than all Units shall be obtained by the assessment of Special Assessments against the Unit Owners to whom they are attributable. If a Unit Owner fails to timely pay its proportionate share of said expenses on the first, the Association shall have a lien upon such Unit in accordance with and as provided by the Act. In addition, such Unit Owners shall be obligated to pay interest at the maximum legal rate, or a lesser rate as set by the Executive Board, on such charges from the due date thereof to the date of payment, to all expenses, including attorneys' fees, incurred by the Executive Board in any proceeding brought to collect such unpaid assessment. Any Unit Owner that fails to timely pay his proportionate share of the Common Expenses under Budgeted Assessments or Special Assessments on the first (1<sup>st</sup>) day of every month shall also be obligated to pay to the Association a late fee of \$25.00 per month if it remains unpaid for fifteen (15) days. If any such delinquent assessment (including accelerated installments) is not paid within (30) days after written notice and demand is made, the Association or Executive Board shall be entitled to enforce the payment of said lien according to the laws of the State of Rhode Island.

1.8 Development Rights Reserved. In no event may any Unit Owner prohibit the construction of Units as described herein. The Declarant reserves no other development rights.

**ARTICLE II**  
**USE OF CONDOMINIUM UNITS**

2.1 Use of Units. The purposes for which the building and the Condominium Units and other facilities are intended to be used are as follows:

- (a) The individual Units shall be used only for residential purposes by no more than two (2) people per bedroom. No use may be made of any Unit except as a residence for the Unit Owner thereof or the Unit Owner's permitted lessees and the members of their immediate families and such ancillary uses as may be permitted by the Executive Board, with the exception of a sales office established by the Declarant. Declarant may use any Unit owned or leased by Declarant as a sales office for so long as Declarant owns Units in the condominium.
- (b) The Common Elements are intended to be used for the operation, support and maintenance of the Condominium Project and the comfort and convenience of the Unit Owners.
- (c) A Unit Owner may lease the Unit Owner's Unit in accordance with the provisions set forth in Article II.
- (d) As provided in the foregoing Paragraphs (a) and (c) of this Section 2.1, and notwithstanding provisions of Section 2.3, the Declarant hereof may, until all of said Units have been sold by the Declarant, (1) let or lease, without prior approval of the Executive Board, Units which have not been sold by the Declarant, and (2) use any Units owned or leased by the Declarant as models for display or for offices for the purposes of sale or leasing of Units, at no additional cost to Declarant. Declarant reserves the right to relocate the same from time to time within the Property; upon relocation or sale of a model or sales office the furnishings thereof may be removed. All Units shall be subject to Declarant's rights reserved pursuant to Section 34-36.1-2.05 of the Act and Article VI hereof.

2.2 Sale of Condominium Units. A Unit Owner may sell his Unit at any time without a right of first refusal to the Condominium Association.

2.3 Restrictions on the Use of Units. All Units, the common elements and the limited common elements of the Condominium, unless otherwise permitted in writing by the Executive Board of the Condominium Association, pursuant to provisions of the By-Laws thereof, shall be subject to the following restrictions:

EXHIBIT A TO PUBLIC OFFERING STATEMENT

- 2.3.1 no Unit shall be used for any purpose other than the purposes set forth in Section 2.1 hereof;
- 2.3.2 no business activities of any nature shall be conducted in any Unit without prior written approval of the Executive Board, excepting allowable home based businesses and the letting of rooms in compliance with the Zoning Ordinance of the City of Newport.
- 2.3.3 No household pets except one dog weighing less than thirty (30) pounds or ~~one~~ two cats may be kept by a Unit Owner without the prior written consent of the Executive Board and only so long as the behavior of the pet does not unreasonably disturb the quiet enjoyment of the occupants of any other Unit. All permitted pets must be confined or leashed by the owner of said pets, and each pet owner shall be responsible for cleaning up after his or her pet(s).
- 2.3.4 no alterations or changes to the exterior or structure of a unit shall be made or caused to be made a Unit Owner without prior written approval of the Executive Board. The Executive Board, in determining whether to give or withhold its consent, shall take into account the architectural, aesthetic and economic effects of any such proposed alteration or change in the overall condominium plan. If the Executive Board consents in writing to an alteration or change, then the Unit Owner or Owners of the Units to which such alteration or change is applicable shall be responsible for effecting, maintaining, and repairing such alteration or change, unless the Executive Board shall determine otherwise;
- 2.3.5 ~~no more than two (2) persons per bedroom may occupy any Unit and no more that four (4) unrelated person are to reside in one unit. For purposes of this occupancy limit, children under the age of two (2) years old shall not be counted in the computation. The bedrooms per Unit are listed in Exhibit "B"; and~~
- 2.3.6 all use and maintenance of such Units shall be conducted in a manner consistent with the comfort and convenience of the occupants of the other Units and in accordance with the provisions promulgated by the Executive Board from time to time.

Said restrictions shall be for the benefit of the Unit Owners of the Condominium Units and enforced by the Executive Board, or by an aggrieved Unit Owner, and shall remain in full force and effect until January 1, 2026 and thereafter will be automatically extended for successive periods of ten (10) years, unless by vote of the Executive Board and vote of the majority of the then Unit Owners of all the Condominium Units, as aforesaid, it is agreed to terminate said restrictions, in

EXHIBIT A TO PUBLIC OFFERING STATEMENT

whole or in part. No Unit Owner shall be liable for any breach of the provisions of this section except where the breach occurs during such Unit Owner's ownership thereof.

2.4 Restrictions on Leasing of Unit. No Unit Owner may rent or lease his Unit, or renew or extend the term of a lease, except on the following conditions:

- (a) All tenancies must be in writing and expressly subject to the provisions of this Declaration, the By-Laws and the Act, and the Rules and Regulations attached as Exhibit "G" To Public Offering Statement as the same may from time to time be amended;
- (b) Copies of all leases shall be submitted to the Executive Board for informational purposes;
- (c) Leases must conform to all rules, regulations and ordinances promulgated by the City of Newport
- (d) No lessee shall be provided with any customary hotel services;
- (e) ~~No unit may be leased or rented more than two (2) times in each calendar year;~~ Lease durations are governed by the City of Newport Zoning Regulations.
- (f) No more than two (2) persons per bedroom may occupy any unit which is rented;
- (g) No individual bedroom may be leased, let out for hire, or licensed on any basis or for any term. The number of bedrooms in each Unit is listed in Exhibit "B"; and
- (h) ~~No unit may be occupied by more than four (4) unrelated persons.~~

Even if a lease satisfies the foregoing provisions, the Executive Board may terminate such lease if, after the Executive Board notifies the lessee and the Unit Owner (Lessor) that the lessee has violated the terms of this Declaration (including By-Laws and the Rules and Regulations attached as Exhibit "G" To Public Offering Statement), the lessee continues or fails to correct such violation within a reasonable period of time. Any costs, including reasonable attorney's fees incurred by the Executive Board in connection with approving or terminating a lease shall constitute a Special Assessment against the Unit being leased.

**ARTICLE III**



**COMMON ELEMENTS AND LIMITED COMMON ELEMENTS**

All areas and facilities shown on the Plats and Plans which are not part of a Unit shall comprise the Common elements, and such Elements shall be designated as "Common Elements" and "Limited Common Elements", defined as follows:

3.1 Common Elements. Common Elements shall be comprised of all property which is not part of the Limited Common Elements and not a Part of the Units, as defined above, and shall include the following:

- (a) the foundation and structure of the building and the Units the structural floors (but not the finish flooring -hardwoods, carpet, tile, etc.);
- (b) basement areas not otherwise designated as Limited Common Area Storage Areas or Utility Areas;
- (c) exterior walls, and walls separating Units;
- (d) the roof, rafters and furring;
- (e) those portions of the plumbing, electrical, heating, mechanical and air conditioning systems located outside the boundaries of a Unit or which serve more than one Unit;
- (f) general driveways and parking areas other than the parking spaces, which are Limited Common Elements;
- (g) landscaped areas not in the Limited Common Elements;
- (h) halls and stairways within the building; and
- (i) the rooftop deck.

Such areas are identified on the Exhibit "E" – the Plats and Plans.

3.2 Common Elements Inside Units. The Executive Board and its designee shall have a right of access at reasonable times to each Unit to inspect all pipes, wires, ducts, cables, conduits, public utility lines, and other elements of the Common Elements located within any of the Units, to

EXHIBIT A TO PUBLIC OFFERING STATEMENT

remove violations therefrom, and to maintain, repair or replace such Common Elements located elsewhere in the Buildings.

3.3 Limited Common Elements. The Limited Common Elements shall be used only by the Owner of a Unit to which such Limited Common Element is appurtenant or associated or reserved by, and such Owner's successors and assigns. In addition to those portions of the Common Elements designated as Limited Common Elements by operation of Sections 34-36.1-2.02(2) or (4) of the Act, the following shall be designated as Limited Common Elements:

- (a) The entryways attached to the various Units, as shown on Exhibit "E" -the Plats and Plans, shall be for the private and exclusive use of said Units and shall be appurtenant thereto.
- (b) The decks, deck railings, balustrades, supports and the like, if any, attached to the various Units, as shown on Exhibit "E" - the Plats and Plans shall be for the private and exclusive use of the Unit by which they are accessed, and shall be appurtenant thereto.
- (c) The Furnace, Hot Water Tanks, Wires, Pipes pertaining to heating and hot water systems servicing specific units but located in common areas as shown on the plats and plans storage tanks water flues, piping, duct work and the like pertaining to the fireplaces in the various Units shall be limited common elements for said Units and the costs of maintenance, including cleaning and repairs and replacement of the same, shall be borne exclusively by the individual Unit Owners.
- (d) The walkways and driveways appurtenant, if any, allocated, or assigned to each Unit or to certain Units jointly, as shown on either Exhibit "E" - the Plats and Plans or on Exhibit B, shall be for the private use of the Unit Owners of such Unit or Units. The expense of minor repairs and maintenance shall be borne exclusively by the Unit Owners.
- (e) The aforesaid Limited Common Elements shall be kept in a neat, clean and uncluttered condition by the Unit owner to which such areas are appurtenant, and the expense of minor repairs and maintenance thereof shall be borne exclusively by the Unit Owners.

**ARTICLE IV**  
**PERCENTAGE INTERESTS**

4.1 Unit Owners Share of Ownership in the Common Elements and a Determination of

EXHIBIT A TO PUBLIC OFFERING STATEMENT

Unit Owner's Share of the Common Expenses and Common Profits. The undivided interest in the Common Elements appertaining to each of the two (2) units is a fractional interest as set forth in Exhibit "C" – Percentage Interest. The total of the undivided interest in all the Units equals one hundred percent.

4.2 Voting. Notwithstanding anything to the contrary contained in this Declaration, each Unit Owner shall be entitled to cast one (1) vote on any matter on which a Unit Owner is entitled to vote pursuant to this Declaration, the By-Laws and/or the Act. For purposes of this Section, the Declarant shall be deemed the Unit Owner as to any Unit that has not been sold by the Declarant.

**ARTICLE V**  
**PARTITIONS, ENCROACHMENTS AND EASEMENTS**

5.1 Covenant Against Partition. The Common Elements and Limited Common Elements shall remain undivided and appurtenant to the designated Unit. No Owner of any Unit or any other person shall bring any action for partition or division thereof, except as may be provided for in the Act.

5.2 Permissible Encroachments. If any encroachment of the Common Elements, Limited Common Elements or any Unit upon any portion of the other shall occur as a result of (a) settling of a Building; (b) alteration or repair to the Common Elements or Limited Common Elements made by or with the consent of the Executive Board; (c) repair or restoration of a Building or a Unit after damage by fire or any casualty; (d) condemnation; or (e) errors in the surveying and/or drafting of the Plats and Plans, a valid easement shall exist for such encroachment and for the repair and maintenance of the same so long as the affected Building stands.

5.3 Easements Granted. In addition to the easements created by Section 34-36.1-2.16 of the Act, the following easements are hereby granted.

5.3.1 Each Unit Owner and its agent shall have an easement in common with the other Unit Owners and their agents to use all pipes, wires, ducts, flues, cables, conduits, public utility lines and other Common Elements, located

**EXHIBIT A TO PUBLIC OFFERING STATEMENT**

in the Common Elements or located in any of the other Units and serving its Unit. Each Unit shall be subject to an Easement in favor of the Unit Owners of all other Units to use the pipes, wires, ducts, flues, cables, conduits, public utility lines and other Common Elements serving other Units and located in such Unit. The Association shall have the right of access to each Unit to inspect the same, to remove violations therefrom and to maintain, repair or replace the Common Elements contained therein or elsewhere in the Building; subject, however, to the provision that the work of installation or repair (other than work done by the Owner of a Unit within his own Unit) shall be performed by the Association or its agent.

5.3.2 Public Authorities and Utilities, their successors and assigns approved by the Executive Board and serving the Property are hereby granted the right, privilege and authority to lay, construct, renew, operate, maintain, replace and remove conduits, cables, pipes, wires, transformers, switching apparatus, gas mains and necessary gas facilities appurtenant thereto, or the distribution systems, storm and sanitary sewers, together with any and all necessary manholes, catch basins, connections, appliances and other structures and appurtenances as may be deemed necessary by the City of Newport or other appropriate public authority into, upon and through the Common Elements and Limited Common Elements and for the purpose of providing, maintaining, repairing or replacing utility service to the Property.

5.3.3 Any public body rendering police and fire services is granted an easement over, upon and through the Common Elements for the purpose of providing police and fire protection services and to enforce all applicable police and fire regulations.

5.4 Easement for Ingress and Egress through Common Elements. Each Unit Owner is hereby granted an easement in common with each other Unit Owner for ingress and egress through all Common Elements, subject to such reasonable Rules and Regulations attached as Exhibit "G" To Public Offering Statement and restrictions as may be imposed by the Association. Each Condominium Unit is hereby burdened with and subjected to an easement for ingress and egress through all Common Elements by persons lawfully using or entitled to the same.

**ARTICLE VI  
DECLARANT'S RIGHTS**

6.1 Declarant's Rights. Notwithstanding any other provisions contained herein or in

EXHIBIT A TO PUBLIC OFFERING STATEMENT

the By-Laws, the following provisions shall be deemed to be in full force and effect:

6.2 Reservations to Declarant to Construct, Market, Sell, Lease or Renovate Units. The Declarant for itself and its successors and assigns, its agents and representatives reserves the unrestricted right, without the consent of the Unit Owners or the Executive Board, to construct, renovate, sell, assign, mortgage or lease any of the Units which Declarant continues to own, and to maintain without charge a sales office in any unsold Unit, to post signs on the Property and to do all things necessary to the construction, renovation, marketing and sale of Units.

6.2.1 In addition to the foregoing, the Declarant reserves an easement in the Common Elements and the Limited Common Elements on the Property for the purpose of ingress and egress to the Property during construction, renovation and repair of structures and improvements thereon and for the installation of drainage and utility pipes, cables and conduits for the benefit of such structures and improvements, for so long as the Declarant owns any Unit in the Condominium.

6.3 Declarant Control and Termination of Declarant Control. Pursuant to Section 36.1-3.03(d) and (c) of the Act, Declarant its successors, assigns or designees shall have the right to appoint and remove any and all officers and members of the Executive Board until Sixty (60) days after conveyance of the first of the Units which may be created to Unit Owners other than the Declarant, at which time one of the Declarant appointed officers and members must resign and a substitute officer or member will be appointed by the new Unit Owner;

Declarant its successors, assigns or designees shall have the right to appoint and remove two of officers and members of the Executive Board until Sixty (60) days after conveyance of the second of the Units which may be created to Unit Owners other than the Declarant., at which time one of the two remaining Declarant appointed officers and members must resign and a substitute officer or member will be appointed by the new Unit Owner;

Declarant its successors, assigns or designees shall have the right to appoint and remove one of officers and members of the Executive Board until Sixty (60) days after conveyance of the third of the Units which may be created to Unit Owners other than the Declarant, at which

EXHIBIT A TO PUBLIC OFFERING STATEMENT

time the last of the remaining Declarant appointed officers and members must resign and a substitute officer or member will be appointed by the new Unit Owner.

6.4 Amendment to Declaration. This Declaration may be amended only in accordance with the Act. or by express provision of this Declaration.

6.5 Common Expenses and Assessments During Sale. Common Expenses shall not include any costs, expenses or liabilities incurred in the course of any construction by the Declarant; all of said costs shall be at the expense of the Declarant. The Declarant shall be responsible for all the assessments attributable to any unsold Units in the Condominium Project, for which a Certificate of Occupancy has been granted, except it shall not be responsible for any amounts which would be placed into a long term reserve fund.

6.6 Person to Receive Service. Michael W. Miller, Esq. of Miller Scott & Holbrook, 122 Touro Street, Newport, Rhode Island 02840 is hereby designated to receive notice of process in any action which may be brought against the Condominium or the Association until a successor or successors are from time to time designated by the Executive Board.

**ARTICLE VII**  
**THE ASSOCIATION**

7.1 The Association. The responsibility for the administration, maintenance, repair, replacement, improvement and operation of the Condominium Project established by this Declaration shall be exercised by the Association in accordance with the provisions of this Declaration, the By-Laws and the Act. Every person who is a record owner of a fee or undivided fee interest in any Unit on the Property shall be a member of the Association, and membership in the Association shall be appurtenant to and may not be separated from ownership of a Unit; provided, however, that no person who holds an interest in a Unit merely as Security for the performance of an obligation shall be deemed a member of the Association. No Unit shall have more than one vote appurtenant to or associated with it, irrespective of the number of record Unit Owners of such Unit. Each vote shall have a value attributable to it as set forth in Section 4.2 hereof.

EXHIBIT A TO PUBLIC OFFERING STATEMENT

7.2 Establishment of Budget. In accordance with Section 36.1-3.02 of the Act the Association shall adopt and amend the budget for revenues.

7.3 Collection of Assessments. The Association, through the Executive Board or its designated agent, has the authority to enforce collection of general and special assessments. Any past due assessment shall constitute a lien upon the corresponding Unit. Officers of the Association or its agents shall have the power to record such liens in the Records of Land Evidence in the City of Newport, Rhode Island. Any such lien is not affected by the sale or transfer of the Unit.

**ARTICLE VIII**  
**INSURANCE**

8.1 Insurance. The Association shall obtain and maintain, to the extent reasonably available, the following insurance, the premiums on which shall be Common Expenses:

- (a) Property insurance insuring against all risks of direct physical loss against fire with extended coverage in an amount equal to the full replacement value of all structures and improvements on the Property excluding a deduction for depreciation, insuring such structures and improvements, including the Units and the fixtures initially installed by the Declarant, and replacements of such fixtures, but not including decorations, furnishings, fixtures or personal property supplied by or installed by Unit Owners; said policies shall contain a standard mortgagee clause in favor of each mortgagee of a Unit which shall provide that the loss thereunder, if any, shall be payable to such mortgagee as its interest may appear, subject, however, to the Executive Board first applying all proceeds to repair or restore as provided in Section 8.2 hereof;
- (b) Workmen's Compensation Insurance to the extent necessary to comply with any applicable law;
- (c) Public Liability Insurance in such amounts and with such coverage as the Executive Board shall from time to time determine, but at least covering each member of the Executive Board, any manager or managing agent engaged by the Association, the Association and each Unit Owner; and
- (d) Such other insurance as the Executive Board shall determine. All insurance shall be no less than the minimum requirements of Section 34-36.1-3.13 of the Act.

EXHIBIT A TO PUBLIC OFFERING STATEMENT

8.2. Repair or Replacement of Insurance Proceeds are Insufficient. Notwithstanding the foregoing, if any portion of the Condominium for which insurance is required under the Act is damaged or destroyed and the insurance proceeds are insufficient to reconstruct such Buildings, then in accordance with the Act, the Unit Owners shall have the option of voting on whether repair or replacement will be undertaken. Declarant shall have no liability for any shortfall in insurance proceeds to repair or replace the building and/or improvements.

8.3 Unit Owner's Insurance. Unit Owners may carry, for their own benefit, public liability insurance and insurance insuring their flooring, carpeting, wall covering, fixtures, furniture, furnishings and other personal property provided that all such policies shall contain waivers of subrogation and further provided that the liability of the carriers issuing insurance obtained by the Executive Board shall not be affected or diminished by reason of any such additional insurance carried by any Unit Owner.

8.4 Provisions Required in Insurance Policies. All policies of physical damage insurance shall contain waivers of subrogation and waivers of any reduction or pro rata liability of the insurer as a result of any insurance carried by Unit Owners or of invalidity arising from any acts of the insured or any Unit Owners, and shall provide that such policies may be imposed by the Association, each unit owner and each mortgagee. Duplicate originals of all policies of physical damage insurance and of all shall be provided to the Association.

8.5 Executive Board to Determine Amount and Terms of Insurance. The Executive Board shall review annually the amount and terms of insurance obtained by it and shall undertake such action, including appraisals, as may be necessary to determine that such insurance conforms to the provisions of this Section. The Executive Board shall have exclusive authority to negotiate and adjust losses under all insurance policies obtained by it; provided, however, that any mortgagee of any Unit shall have the right to participate in negotiations, if any, relating to such losses.

With respect to any matters regarding insurance, the Executive Board may represent the



EXHIBIT A TO PUBLIC OFFERING STATEMENT

Unit Owners in any proceedings, negotiations, settlements, or agreements. From time to time, the Executive Board may determine that it is necessary to have each Unit Owner execute a document appointing the Association as his/her attorney-in-fact.

8.6 Restoration or Repair After Fire or Other Casualty. (a) In the event of damage to or destruction of any structure or improvement on the Property or a portion thereof as a result of fire or other casualty, the Executive Board shall arrange for the prompt repair and restoration of the affected structure or improvement including any Unit (but not including any decorations, furnishings, fixtures or personal property supplied or installed by the Unit Owners), and the Executive Board or its properly designated agent, shall have the power to collect and disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration. Any cost of such repair and restoration in excess of the insurance proceeds shall be deemed a Common Expense and assessed accordingly. Any insurance proceeds remaining after such repair or reconstruction shall be retained by the Association for future maintenance expense or, in the discretion of the Executive Board, disbursed to the Unit Owners in the same proportion as Common Expenses are assessed against the Unit Owners; (b) Any restoration or repair pursuant to this Section 8.6 shall be substantially in accordance with the original plans and specifications. If the estimated cost of reconstruction or repair is more than \$50,000.00 funds shall be disbursed in payment of such costs only upon approval of an architect qualified to practice in Rhode Island and retained by the Executive Board to supervise such work.

**ARTICLE IX**  
**EMINENT DOMAIN**

9.1 General. If all of any part of the Property is acquired by eminent domain, the award shall compensate the Unit Owner and mortgagees of any Unit (as their interests may appear) for his/her Unit and interests in the Common Elements whether or not any Common Elements are acquired. If any portion of the Common Elements is acquired by eminent domain, the portion attributable to the Common Elements taken must be paid to the Association. Any portion of an award attributable to the acquisition of a Limited Common Element must be equally divided among

EXHIBIT A TO PUBLIC OFFERING STATEMENT

the Unit Owners to which the Limited Common Element was allocated at the time of acquisition.

The Executive Board shall be designated to represent the Unit Owners in any proceedings, negotiations, settlements or agreements whenever Property has been or is being considered a taking by eminent domain. From time to time the Executive Board may determine that it is necessary to have each Unit Owner execute a document appointing the Association as his/her attorney-in-fact.

9.2 Units. If the aforementioned taking includes one or more Units, or any material part thereof, whether or not such taking includes any part of the Common Elements and/or the Limited Common Elements, then the award with respect to the Unit or Units so taken shall be disbursed directly to the Unit Owner and/or mortgagee of that unit (as their interest may appear) and the Association shall have no interest or claim upon the award except for the liens, if any, for Common Expenses in arrears or other Association liens. Alteration of interests in the Common Elements shall be done in accordance with Section 36.1-1.07 of the Act.

9.3 Common Elements and Limited Common Elements. If such taking is confined to Property on which improvements shall have been constructed and shall not materially affect any Unit, such improvements, or any part thereof, shall be repaired in accordance with plans therefore approved by the Association. The Association shall arrange for such repair and shall disburse the proceeds of such award as provided for in Article VIII hereof. If the taking is confined to Property on which no improvements have been constructed, or if the proceeds of the award exceed the costs of repair approved by the Association, then the proceeds of the award remaining after costs of repair, if any, shall be retained by the Association for future maintenance, expenses or, in the discretion of the Executive Board, disbursed to the Unit Owners in the same proportion as Common Expenses are assessed against the Unit Owners.

**ARTICLE X**

**MORTGAGEE'S RIGHTS, FHLMC/FNMA PROVISIONS**

EXHIBIT A TO PUBLIC OFFERING STATEMENT

10.1 FHLMC/FNMA Provisions. Notwithstanding anything in the Act, the Declaration, the By-Laws, or the Rules and Regulations attached as Exhibit “G” To Public Offering Statement attached as Exhibit “G” To Public Offering Statement, to the contrary the following provisions shall apply for the protection of the holders of the first mortgages (hereinafter "First Mortgagees") of record with respect to the Units and shall be enforceable by any First Mortgagee.

- (a) In the event that the Unit Owners shall amend the Declaration or By-Laws, to include therein any right of first refusal in connection with the sale of a Unit, such right of first refusal shall not impair the right of a First Mortgagee to: (i) foreclose or take title to a Unit pursuant to the remedies provided in its mortgage; or (ii) accept a deed (or assignment) in lieu of foreclosure in the event of default by a mortgagor; or (iii) sell or lease a Unit acquired by the First Mortgagee.
- (b) Any party who takes title to a Unit through foreclosure sale duly conducted by a First Mortgagee shall be exempt from any such right of first refusal adopted by the Unit Owners and incorporated in the Declaration, the By-Laws, or the Rules and Regulations attached as Exhibit “G” To Public Offering Statement;
- (c) Any First Mortgagee who obtains title to a Unit by foreclosure or pursuant to any other remedies provided in its mortgage or by law shall not be liable for more than six (6) months of such Unit's unpaid common expenses which accrued prior to the acquisition of title to such Unit by such First Mortgagee;
- (d) Except as provided by the Act, in case of condemnation or substantial loss to the Units and/or Common Elements of the Condominium, in addition to all other requirements of this Declaration or the By-Laws, the prior written consent of the First Mortgagees holding mortgages on Units entitled to at least 51% of the Common Elements and Unit Owners entitled to at least 67% of the Common Elements of the Condominium shall be required for the following: (i) the abandonment or termination of the condominium status or the Condominium, except for abandonment provided by the Act, in case of substantial loss to the Units and Common Elements; (ii) the partition or subdivision of any Unit or of the Common Elements; (iii) a change of the beneficial interest of any individual unit; (iv) to add or amend any material provisions of the Declaration or the By-Laws which establish, provide for, govern, or regulate any of the following:
  - (i) Voting;
  - (ii) Assessments, assessment liens or subordination of such liens;

EXHIBIT A TO PUBLIC OFFERING STATEMENT

- (iii) Reserves for maintenance, repair and replacement of the Common Elements;
  - (iv) Insurance or fidelity bonds;
  - (v) Rights to use of the Common Elements;
  - (vi) Responsibility for maintenance and repair of the several portions of the condominium project;
  - (vii) Expansion or contraction of the Condominium project, or the addition, annexation or withdrawal of property to or from the property;
  - (viii) Boundaries of any Unit;
  - (ix) The interests of the Common Elements;
  - (x) Leasing of Units;
  - (xi) Imposition of any right of first refusal or similar restriction on the right of a Unit estate owner to sell, transfer or otherwise convey his or her Unit estate;
  - (xii) Any provisions which are for the express benefit of mortgage holders, eligible mortgage holders or eligible insurers or guarantors of first mortgages on Units.
  - (xiii) Convertibility of Units into Common Elements or vice versa;
  - (xiv) Any decision by the Association to establish self management when professional management had been required previously by an eligible mortgage holder;
  - (xv) Restoration or repair of the Condominium (after a hazard damage or partial condemnation) in a manner other than that specified in the Documents.
- (e) When Unit Owners are considering termination of the legal status of the Condominium for reasons other than substantial destruction or condemnation of the property, prior written consent must be obtained by the First Mortgagees and Unit Owners representing at sixty-seven (67%) percent of the votes of the mortgaged units and the Unit Owners representing sixty-seven (67%) percent entitled to vote.

EXHIBIT A TO PUBLIC OFFERING STATEMENT

- (f) Any First Mortgagee that does not deliver or post to the Condominium Association a negative response within thirty (30) days of a written request by the Executive Board of Directors for approval of any immaterial addition or amendment pursuant to this Section shall be deemed to have consented to the addition or change set forth in such request. An affidavit by any Officer of the Executive Board making reference to this Section, when recorded with the Land Evidence Records for the City of Newport, Rhode Island, shall be conclusive as to the facts therein set forth as to all parties.
- (g) Consistent with the provisions of the Act, all taxes, assessments and charges which may become liens prior to a first mortgage under the laws of the State of Rhode Island shall relate only to the individual Units and not to the Condominium as a whole;
- (h) In no event shall any provision of this Declaration or the By-Laws give a Unit Owner or any other party priority over any rights of a First Mortgagee pursuant to its mortgage in the case of a distribution to such Unit Owner of insurance proceeds or condemnation awards for losses to or a taking of such Unit and/or the Common Elements;
- (i) A First Mortgagee, upon request made to the Association, shall be entitled to: (i) written notification from the 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 By-Laws of the Condominium Association which is not cured within sixty (60) days; (ii) inspect the books and records of the Association; (iii) receive an audited annual financial statement of the Association following the end of any fiscal year of the Association; (iv) receive timely written notification of meetings of the Association and be permitted to designate a representative to attend such meetings; (v) receive timely written notification from the Association of any damage by fire or other casualty to the Unit upon which the First Mortgagee holds a first mortgage or any proposed taking by condemnation or eminent domain of said unit or the Common Elements of the Condominium; (vi) receive timely written notification of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; (vii) receive timely notice of any proposed action which requires the consent of a specific percentage of the eligible mortgage holders, as specific in this Declaration, the By-Laws or the Rules and Regulations attached as Exhibit "G" To Public Offering Statement.

10.2 Intent to Comply. The Declarant intends that the provisions of this Declaration shall comply with the requirements of the Act, the Federal Home Loan Mortgage Corporation

EXHIBIT A TO PUBLIC OFFERING STATEMENT

(FHLMC) and Federal National Mortgage Association (FNMA) with respect to condominium loans, and, except as may otherwise specifically be provided in this Declaration, all questions with respect thereto shall be resolved consistent with that intention.

The provisions of this Article X may not be amended or rescinded without the written consent of all First Mortgagees, with the exception of those amendments necessary to keep the Declaration or By-Laws in compliance with the requirements of FNMA and FHLMC, which consent shall appear on the instrument of amendment as such instrument is duly recorded with the Land Evidence Records of said City of Newport.

In order to comply with the requirements of FHLMC and/or FNMA, the Declarant for itself and its successors and assigns, its agent and representatives, reserves the right to amend the Declaration and/or By-Laws, as required by the first mortgagee, without consent of any Unit Owner.

**ARTICLE XI**

11.1 Interpretation of Declaration: Construction and Enforcement. The provisions of this Declaration shall be liberally construed to achieve the purpose of creating a uniform plan for the construction and operation of a Condominium Project. Violation of any of the terms of this Declaration, including the By-Laws and the Rules and Regulations attached as Exhibit "G" To Public Offering Statement, shall be grounds for relief which relief may be sought by the Association, the Executive Board and any managing agent and any Unit Owner or Mortgagee. The relief may include, without limiting the same, an action for money damages, injunctive relief, foreclosure of a lien for payment of assessments and other relief provided for in this Declaration, or any combination thereof, and any other relief afforded by a court of competent jurisdiction.

In addition, each Owner or other person or entity violating the terms hereof shall be liable for all court costs and reasonable attorneys' fees incurred by the Association, Executive Board and Managing Agent, and any Owner relating to such violation. The failure or forbearance by any person to enforce any covenant or restriction contained herein shall in no event be deemed a waiver of the right to do so thereafter. There is hereby created and shall be a conclusive presumption that any violation or breach, or any attempted violation or breach of any of the within covenants or

EXHIBIT A TO PUBLIC OFFERING STATEMENT

restrictions, cannot be adequately remedied by action at law or exclusively by recovery of money damages.

11.2 Headings in this Declaration. The headings contained in this Declaration are for convenience only and are not a part of this Declaration and are not intended in any way to limit or enlarge the terms and provisions of this Declaration.

11.3 Severability. Invalidation of any one of the covenants or restrictions herein by judgment, decree or order shall in no way affect any other provisions hereof, each of which shall remain in full force and effect.

11.4 Gender. Whenever the context so requires reference herein to the neuter, masculine, or feminine pronouns shall be combined in the singular, plural, masculine, feminine, or neuter in accordance with the context of this document.

**ARTICLE XII**  
**AMENDMENTS**

12. General. This Declaration acknowledges the right of the Declarant, the Association, and certain Unit Owners to amend the Declaration under powers contained in the Act. Amendments to this Declaration must be approved by a vote or agreement of the Unit Owners in good standing to which at least 67% of the votes in the Association are allocated except as hereinafter provided:

- (a) No modification or amendment of this Declaration which would render it contrary or inconsistent with any requirements or the provisions of the Act shall be of any force or effect;
- (b) Until the Termination of Control Date, the Declaration may not be amended without the written consent of the Declarant;
- (c) The By-Laws and Regulations may be amended as provided in the By-Laws;
- (d) No amendment which impairs the security of any Mortgagee shall be of any force or effect unless the same has been assented to by the holder of such mortgage; and

EXHIBIT A TO PUBLIC OFFERING STATEMENT

- (e) No modification or amendment of this Declaration may impair the Declarant's Development Rights.

In the event an amendment is approved at a meeting of the Unit Owners, the Secretary shall prepare and execute a certified resolution of such vote. Any amendment shall become effective only when the written consent or the certified resolution, as the case may be, is recorded with the Land Evidence Records of the City of Newport by the Secretary or by some agent at the direction of the Secretary.

**ARTICLE XIII**  
**ARBITRATION**

13.1 General Rule - Any dispute or claim between Unit Owners or in the event that the Executive Board or Association is deadlocked on any matter herein shall be decided only by arbitration in the area in which the principal offices of the Association are located at the time, in accordance with the commercial arbitration rules then in effect of the American Arbitration Association, before a panel of three arbitrators, one of whom shall be selected by the Association, the second of whom shall be selected by the indemnified representative and the third of whom shall be selected by the other two (2) arbitrators. In the absence of the American Arbitration Association, or if for any reason arbitration under the arbitration rules of the American Arbitration Association cannot be initiated, or if one of the parties fails or refuses to select an arbitrator or if the arbitrators selected by the parties cannot agree on the selection of the third arbitrator within thirty (30) days after each have been notified of the selection of the other's arbitrator, the necessary arbitrator or arbitrators shall be selected by the presiding judge of the court of general jurisdiction in such area.

13.2 Alternative Dispute Resolution - Mediation and Binding Arbitration. In recognition of the high cost and delays of litigation in state and federal courts, all Parties (as hereinafter defined) to a Covered Claim (as hereinafter defined) shall be obligated to comply with the following procedures:



EXHIBIT A TO PUBLIC OFFERING STATEMENT

(a) Mediation. Upon notice given by any Party (whether before or after any arbitration or other legal proceedings are commenced), all Covered Parties shall submit to non-binding mediation before a single mediator selected pursuant to the applicable mediation rules of the American Arbitration Association ("AAA"). The mediation shall be held in Rhode Island, at a neutral location approved by the Parties or, if they are unable to agree within a reasonable time, as selected by the mediator. In such mediation, the Parties shall endeavor in good faith to mediate and settle such Covered Claim. The expenses of the mediation, including the fees of the mediator and the costs (if any) of the facility at which the mediation is held, shall be borne equally by the Parties. Each Party shall bear its own costs and attorney's fees incurred in attending and participating in the mediation.

(b) Arbitration. If the Parties are unable to resolve and settle all Covered Claims through mediation as provided above, then such Covered Claim shall be submitted to binding arbitration in accordance with the rules of AAA, before a panel of three (3) arbitrators, selected and appointed in accordance with the rules of AAA. The decision of a majority of the arbitrators shall be binding, final and conclusive, shall be unappealable (except as permitted by law) and may be entered as a final judgment in any court of competent jurisdiction, and shall be enforceable as such. All expenses of the arbitration, including the fees of the arbitrators, shall be borne equally by the Parties unless the arbitrators award or impose such costs in some other manner by unanimous agreement. The obligation to arbitrate Covered Claims shall be an absolute bar to the bringing of any action, suit or other proceeding in any state or federal court otherwise having jurisdiction thereof.

(c) Covered Claims. Claims subject to mediation and binding arbitration pursuant to this Declaration ("Covered Claims") shall include all claims, actions, causes of action, suits, counterclaims and disputes to which two (2) or more Parties are parties (whether or not persons or entities other than Parties are also parties), whether arising in contract, in tort, by statute or otherwise, and that arise directly or indirectly out of the following (unless the same constitute Excluded Claims):

(i) Any claim against the Declarant or any Affiliate of the Declarant by the Association (or any member thereof), by any one or more Unit Owners on behalf of themselves or on behalf of or in the right of the Association, the Executive Board (or any member thereof) and/or any other person claiming by, through or under the Association or any Unit Owner, arising directly or indirectly out of (A) any defect or alleged defect in the Units and/or Common Elements, (B) any breach or alleged breach of any statutory, express or implied warranty relating to the Common Elements,

EXHIBIT A TO PUBLIC OFFERING STATEMENT

Units and/or the Condominium generally, (C) any violation or alleged violation of law (including without limitation the Act) on the part of the Declarant, or any Affiliate of the Declarant, in any way related to or arising out of the creation, organization, development, construction and sale of the Condominium and/or the organization, operation or finances of the Association, or (D) any alleged breach by the Declarant of any of its obligations under this Declaration or the other Condominium Documents;

(ii) Any claim, directly or indirectly, arising out of any act or omission or alleged act or omission on the part of the Executive Board (or any member thereof) any committee of the Executive Board (or any member thereof), or any officer of the Association, including any claim arising out of any alleged violation of this Declaration or breach of duty, but excluding any claim for unemployment compensation, workers' compensation, employment benefits or other statutory benefits of any kind;

(iii) Any claim for indemnity and/or advancement of expenses by a current or former member of the Executive Board, current or former officer of the Association or other person claiming such entitlement pursuant to the terms of this Declaration, the Act or other applicable law, as a result of any action, suit or proceeding to which he is a party or threatened to be made a party, by reason of having acted or served as a member of the Executive Board, officer or agent of the Association, or in any other capacity, and any claim by a Unit Owner against the Association or the Executive Board (or any present or former member thereof), in either case arising out of or in any way related to the Condominium Documents or the Condominium; and

(iv) Except as provided below, any claim by the Association or the Executive Board against a Unit Owner, or a resident or tenant of a Unit, and any claim by one or more Unit Owners, tenants or residents of the Condominium against the Association, the Executive Board (or any member thereof), or any officer or agent of the Association, arising out of any violation or alleged violation of the Act or the Condominium documents, or any other matter related to the operation, management, maintenance, repair or replacement of the Association, Condominium, the Units or the Common Elements.

(v) Any suit or action by or on behalf of the Association or the Executive Board to collect Common Expense Assessments from a Unit Owner other than a Declarant, and/or interest, late charges, costs of collection and attorney's fees associated therewith, and any proceedings to foreclose or realize on the Association's lien for such Assessments;

EXHIBIT A TO PUBLIC OFFERING STATEMENT

(vi) Any equitable claim by the Association against a Unit Owner or any tenant or resident of the Condominium to restrain or abate a violation or continued violation of the Condominium Documents, to compel compliance with the Condominium Documents, or to abate any nuisance allegedly committed by such person, and to collect costs of suit and reasonable attorney's fees in connection therewith;

(vii) Any claim against the Association or the Executive Board, or any member or former member thereof, to the extent that the terms of any insurance policy maintained by the Association or the Executive Board that would otherwise cover all or a part of any liability on such claim would or may, in the judgment of the Executive Board, cause such coverage to be unavailable or limited by reason of the fact that such claim were required to be submitted to mediation or arbitration as provided hereby;

(d) Party(ies). A Party means, as the case may be, the Association, the Declarant, any Affiliate of the Declarant, any Unit Owner, the Executive Board (and each individual former and present member thereof), any committee of the Executive Board (and each individual former and present member thereof), and any Eligible Mortgagee.

(f) Affiliate. With respect to the Declarant, (i) any general partner or limited partner thereof, and their respective officers, directors, agents, managers, partners, members and shareholders, (ii) any company or entity directly or indirectly controlled by or under common control with, the Declarant or any person described in clause (i), and (ii) alone or in combination with one or more of the such persons, owns a controlling interest.

**ARTICLE XIV**  
**DEFINITIONS**

14. Definitions. As provided in Section 34-36.1-1.03 of the Act, terms not otherwise defined herein shall have the meaning specified in said Section of the Act. Unless the context shall plainly require otherwise, the following words when used in this Declaration, including the Exhibits hereto, shall have the following meanings:

14.1 "Act" shall mean Chapter 36.1 of Title 34 of the General Laws of Rhode Island, 1956, as amended, entitled the "Rhode Island Condominium Act", as the same may be amended from time to time.

EXHIBIT A TO PUBLIC OFFERING STATEMENT

14.2. "Allocated Interests" or "Percentage Interest" shall mean the undivided interest in the common elements, the common expense liability, and votes in the Association allocated to each Unit, as set forth in Exhibit "C" which is attached hereto and incorporated herein by reference.

14.3 "Annual Assessment" shall mean the assessment made by the Executive Board with respect to each Unit for the payment of Common Expenses, as described in the Bylaws and as defined in the Act.

14.4 Association" shall mean the Goodwin Street Condominium Association, a Rhode Island unincorporated association, the sole members of which are the Unit Owners acting as a group in accordance with the Declaration and the By-Laws.

14.5 "Building" shall mean the structure containing the Condominium Units now constructed on the Property.

14.6 "By-Laws" shall mean the By-Laws of the Association, which are attached to the Public Offering Statement as Exhibit "B", as the same may be amended from time to time.

14.7 "Common Elements" shall mean Common Elements, as defined in Article III hereof.

14.8 "Common Expenses" shall mean all expenditures by or financial liabilities of the Association and all costs, expenses, and other liabilities lawfully assessed against the Unit Owners: (a) in connection with the administration, management, maintenance, repair, and replacement of the Common Elements, and the Limited Common Elements and any allocation to reserves for repair or replacement of the Common Elements and the Limited Common Elements, (b) incurred by the Executive Board in connection with the exercise of its rights or the performance of its duties and obligations under this Declaration, the By-Laws and the Act, (c) determined by the Association to be Common Expenses, or (d) declared to be Common Expenses by the provisions of this Declaration or the By-Laws.

14.9 "Common Profits" shall mean the excess of all receipts of assessments and other payments to the Association, including insurance proceeds and condemnation awards after the deduction of all Common Expenses and amounts reserved for payment of Common Expenses.

14.10 "Community Rules" shall mean the Rules and Regulations attached as Exhibit "G" To Public Offering Statement attached as Exhibit "G" To Public Offering Statement set forth in Schedule "A" which may be attached to the By-Laws, as the same may be amended from time to time.

14.11 "Condominium" or "Condominium Project" shall mean the Property subject to the Declaration as set forth in Exhibit "A" hereto, which shall be known as "Goodwin Street Condominium".

EXHIBIT A TO PUBLIC OFFERING STATEMENT

14.12 "Declarant" shall mean the "Christopher Harkins".

14.13 "Declaration" shall mean this Declaration, together with all exhibits hereto, as the same may be amended from time to time.

14.14 "Development Rights" shall mean any right or combination of rights reserved by the Declarant in this Declaration or in the Exhibits or attachments hereto to (a) use one or more units as sales offices and model units or for other purposes in connection with the marketing of the Units, without charge or assessment. The Declarant intends to sell any units which may be used as models.

14.15 "Executive Board" shall mean those persons elected from time to time as members of the Executive Board of the Association pursuant to this Declaration, the ByLaws and/or the Act

14.16 "Limited Common Elements" shall mean that portion of the Common Elements, including all walkways, balconies, courtyards, patios, loading areas, parking spaces, mailboxes and other areas, if any, appurtenant to or associated with or reserved for the use by one or more particular Units, intended for the exclusive use of such units and shown on the Plats and/or Plans attached hereto.

14.17 "Mortgagee" shall mean the holder of any recorded first mortgage encumbering one or more units.

14.18 "Parking Space" shall mean a parking space, if any, shown on the Plats and Plans.

14.19 "Percentage Interest" shall mean the allocated interest of each Unit in the Common Elements, established pursuant to Article IV hereof.

14.20 "Plats and/or Plans" shall mean those Plats and/or Plans recorded simultaneously with this Declaration and as described in R.I.G.L. §34-36.1-2.09 and as set forth in Exhibit "E" hereof.

14.21 "Property" shall mean the land, together with all buildings and improvements now or hereafter located thereon, described in Exhibit "A" attached hereto, all easements, rights and appurtenances belonging or appurtenant thereto, and all articles of personal property intended for use in connection therewith.

14.22 "Record" shall mean to record in the Land Evidence Records of the City of Newport, Rhode Island.

14.23 "Rules and Regulations" shall mean those set forth in Exhibit "G" to the Public Offering Statement, as the same may be amended from time to time.

14.24 "Special Assessment" shall mean an assessment or a charge by the Association levied

EXHIBIT A TO PUBLIC OFFERING STATEMENT

against a particular Unit or particular Units, but not against all Units as a Common Expense, incurred or charged on account of the particular Unit(s) or the Unit Owner(s), and shall be collectible from that Unit or those particular Units as if it were a Common Expense.

14.25 "Survey" shall mean that Plan of Survey of the Property as recorded in the Records of Land Evidence of the City of Newport, Rhode Island and made a part of this Declaration in Exhibit "E", as the same may from time to time be amended.

14.26 "Termination of Control Date" shall mean the date when the Declarant's period of control of the Association terminates in accordance with the provisions of R.I.G.L. §34-36.1-3.03(d) more specially set forth in Article VI.

14.27 "Unit" shall mean a part of the Property intended for independent residential use, including, one or more rooms or spaces located in one or more floors (or part or parts of floors) in a Building, as defined in Article I hereof.

14.28 "Unit Owner" or "Owner" shall mean the Declarant and any person, group of persons, corporation, trust or other legal entity, or any combination thereof, which holds legal title to one or more Units and the common elements in the percentage specified in Exhibit "C" (attached hereto) within the Condominium Project; provided, however that any person or group of persons, corporation, trust or other legal entity or any combination thereof, which holds such interest solely as security for the performance of an obligation shall not be an Owner.

**IN WITNESS WHEREOF**, the Declarant, Christopher Harkins, has executed this Declaration on the day and year first written above.

\_\_\_\_\_  
Christopher Harkins

**STATE OF RHODE ISLAND  
COUNTY OF NEWPORT**

In Newport, in said County, on the \_\_\_\_\_ day of October, 2006 before me personally appeared Christopher Harkins, to me known and known by me to be the person executing the foregoing instrument, and he acknowledged said instrument, by him executed, to be his free act and deed.

**EXHIBIT A TO PUBLIC OFFERING STATEMENT**

---

Notary Public:  
My Commission Expires: