

**DECLARATION OF CONDOMINIUM**

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**WEST DAVISVILLE SMALL BUSINESS CENTER CONDOMINIUM**

THIS DECLARATION, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2005, by COMPASS CIRCLE, LLC, a Rhode Island limited liability company, with offices located at 115 Airport Street, North Kingstown, RI 02852, (hereinafter called the "Declarant").

WHEREAS, the Declarant is the owner in fee simple of certain land located in the Town of North Kingstown, County of Washington, 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 all articles of personal property intended for use in connection therewith (the "Property"); and

WHEREAS, the Declarant desires to establish the Property as a condominium project pursuant to the Rhode Island Condominium Act of 1982. R.I.G.L. 34-36.1 et. Seq. (the "Act"), subject to the covenants, restrictions, uses, limitations, obligations, easements, equitable servitudes, charges, and liens 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 shall be, and hereby is, subject to the Rhode Island Condominium Act and shall be known as WEST DAVISVILLE SMALL BUSINESS CENTER CONDOMINIUM; and said Property hereby is held, conveyed, divided or subdivided, leased, rented and occupied, improved, and encumbered 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, 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 enforceable by the Declarant and by any person acquiring or owning an interest in said property and improvements, including, without limitations, any Mortgagee, as that term is hereinafter defined.

**ARTICLE I**

**Definitions.** Unless the context shall plainly require otherwise, the following words when used in this Declaration, including the Exhibits hereto, shall have the following meanings:

1.1 "Act" means 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.

1.2 "Allocated Interests" means 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.

1.3 "Annual Assessment" means the assessment made by the Board of Directors with respect to each Unit for the payment of Common Expenses, as described in the By-Laws and as defined in the Act.

1.4 "Association" means the Association, a Rhode Island unincorporated association, the sole members of which are the Unit Owners acting as a group in accordance with the Declaration.

1.5 "Board of Directors" means those persons elected from time to time as members of the Executive Board of the Association pursuant to the By-Laws and as defined in the Act, and their successors in office.

1.6 "Building" means any structure containing one or more Units, now or hereafter constructed on the Property.

1.7 "By-Laws" means the By-Laws of the Association, as the same may be amended from time to time.

1.8 "Common Elements" means both General Common Elements and Limited Common Elements, as defined in Article III hereof.

1.9 "Common Expenses" means 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, (b) incurred by the Board of Directors in connection with the exercise of its rights or the performance of its duties and obligations hereunder, (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.

1.10 "Common Profits" means 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.

1.11 "Condominium" or "Condominium Project" mean the Property subject to the Declaration as set forth in Exhibit "A" hereto, which shall be known as the "WEST DAVISVILLE SMALL BUSINESS CENTER CONDOMINIUM".

1.12 "Declarant" means Compass Circle, LLC.

1.13 "Declaration" means this Declaration, together with all exhibits hereto, as the same may be amended from time to time.

1.14 "Development Rights" means any right or combination of rights reserved by the Declarant in this Declaration or in the Exhibits or attachments hereto to (a) add real estate to the Condominium; (b) create Units, Common Elements, or Limited Common Elements within the Condominium; (c) subdivide Units or convert Units into Common Elements; or (d) withdraw real estate from the Condominium.

1.15 "Mortgagee" means the holder of any recorded first mortgage encumbering one or more units.

1.16 "Parking Space" means a parking space shown on the Survey.

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

1.18 "Plats and/or Plans" means those Plats and/or Plans recorded simultaneously with this Declaration and as described in R.I.G.L. 34-36.1-2.09.

1.19 "Property" means the land, together with all buildings and improvements 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.

1.20 "Record" means to record in the Condominium Records of the Town of North Kingstown, Rhode Island.

1.21 "Rules and Regulations" means the Rules and Regulations set forth in Schedule "A" which may be attached to the By-Laws, as the same may be amended from time to time.

1.22 "Special Assessment" means an assessment, expenses, cost, or liability of the Association or a charge by the Association levied 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.

1.23 "Survey" means that certain Site Plan records simultaneously with this Declaration.

1.24 "Unit" means an enclosed space, consisting of one or more rooms occupying all or part of one or more floors in the building; provided, always, that any such Unit has a direct exit to a thoroughfare, or to a Common Element leading to a thoroughfare. The lower boundary of any such Unit is the upper surface of the concrete, asphalt or gravel floor thereof. The upper boundary of any such Unit is the lower surface or the plane of the roof joists of the unfinished ceiling, or the exterior surface of a skylight or glass panels, where applicable. The lateral or perimetrical boundaries of any such Unit are vertical planes which coincide with the unexposed, unfinished interior surfaces of the perimeter walls thereof, including the exterior surface of windows, glass panels, walls or doors, except the boundary of a unit adjoining another unit by a common wall shall be the interior surface of the center line of said common wall. In addition to the area contained in each Unit as hereinabove described, electrical and mechanical equipment and/or appurtenances located within any Unit or adjacent thereto and/or designated to serve only that Unit, such as appliances, air-conditioners, condensers, heaters, outlets, electrical receptacles and outlets, pipes, tubes, fixtures, doors, windows, and all non-structural interior dividing walls and partitions (including space occupied by such walls and partitions), and the like, shall be considered a part of and included in the Unit. Without limiting the foregoing, the electrical panel box and all wiring therefrom into a Unit and the condenser for the air-conditioner, if any, and all wiring therefrom into a Unit, and the water heaters for all Units, whether located in the basement or in the Unit, and the wiring (but not the plumbing) therefrom into a Unit, shall be considered a part of such Unit, the cost of repair and maintenance being that of the Unit Owner. Excluded from a Unit are all bearing walls (other than the finished surfaces thereof), main frame roof trusses, floor joists and sub-floors.

1.25 "Unit Owner" or "Owner" means the Declarant and any person, group of persons, corporation, trust, or other legal entity, or any combination thereof, which holds legal title to a Unit 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.

## ARTICLE II

### DESCRIPTION OF CONDOMINIUM PROPERTY

2.1 Property Subject to Declaration. The real property which is, and shall be, subject to this Declaration is located in the Town of North Kingstown, County of Washington, State of Rhode Island, and is more particularly described in Exhibit "A", attached hereto.

2.2 The Buildings. Subject to Declarant's Development Rights, as set forth in Article X, the Condominium Project shall include three buildings located on the real property described in Exhibit "A" hereto, which are essentially steel frame buildings with a concrete foundation, and are located on the real property, as set forth in the Plats and Plans.

2.3 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 Survey and the Plats and Plans. The Declarant intends to construct the condominium buildings in three phases as more fully set forth in Article X of this Declaration.

2.4 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 for commercial purposes only, and all uses not specifically permitted by this Article shall be prohibited, and shall not be permitted without specific prior written approval of the Board of Directors first having been received. Each Unit shall be used and occupied only for the following uses: industrial business, electrical business, plumbing business, woodworking shops, machine shops, sheet metal fabricators, general contractors, business offices, printing and publishing establishments; storage, processing and assembly of goods, retail sale of goods used in conjunction with contractor's business.

(b) The common areas and facilities 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) As provided in the foregoing Paragraph (a) of this Section 2.4, and notwithstanding provisions of the following Section 2.5, the Declarant hereof may, until all of said Units have been sold by the Declarant, (1) let or lease, without prior approval of

the Board of Directors, Units which have not been sold by the Declarant, and (2) use any Units owned by the Declarant as models for display or for offices for the purposes of sale or leasing of Units.

(d) Unit Owners are strongly advised to make appropriate inquiries of the North Kingstown Building Official, because that office has determined that a Certificate of Occupancy must be issued for each proposed Condominium Unit use, pursuant to the Building Official's determination of applicable requirements of state and local building and fire safety codes. Declarant advises that a change of Unit use, whether by transfer of ownership, lease, or change in existing approved use, will require approval by the North Kingstown Building Official. To the extent the Building Official approves a Unit use and imposes certain conditions or requirements applicable to the use, then any and all work, costs and expenses required to satisfy these conditions and requirements will be the sole responsibility of the individual Condominium Unit owner and not the Declarant or the Condominium Association.

(e) Unit Owners are advised that the Property is subject to Protective Controls set forth in a Declaration of Restrictions, originally made by the Rhode Island Port Authority and Economic Development Corporation, and currently administered by the Quonset Development Corporation ("QDC"), dated November 12, 1982, which require that all structures erected or altered on the Property must be in conformance with a plan approved by QDC and in compliance with all performance standards adopted by QDC.

## 2.5 Restrictions on Unit Use.

Said Units and the common areas and facilities of the Condominium shall be subject to the restrictions that, unless otherwise permitted by instrument in writing duly executed by the Board of Directors of the Condominium Association, pursuant to provisions of the By-Laws thereof, hereinafter referred to, (a) no such Unit shall be used for any purpose other than the purposes set forth in Section 2.4 hereof; (b) no automotive repair or body work of any kind is permitted; (c) no activity using fiberglass is permitted; (d) no business requiring outdoor storage is permitted; (e) no business or activity that would endanger the safety of other Units or Owners or occupants of any Unit, as determined in the sole discretion of the Board of Directors is permitted; (f) no materials, machinery, equipment, unregistered motor vehicles, trailers, boats or the like shall be stored or parked on the Property outside of any Unit for more than twenty-four (24) hours; (g) the architectural and structural integrity of the buildings and the Units shall be preserved without modification, and to that end, without limiting the generality hereof, no awning, screen, antenna, sign, banner, or other device, and no exterior change, addition, structure, projection, decoration, or other feature shall be erected or placed upon, or

attached to any such Unit or any part thereof; no addition to or change or replacement of any exterior light or other exterior hardware shall be made, and no painting, attaching of decalcomania, or other decoration shall be done on any exterior part of the surface of any Unit nor on the interior or exterior surface of any window or door, unless done in strict conformance with a common plan approved by the Board of Directors applicable to all Units and except that one unlighted sign, not larger than two (2) square feet, in conformance with Design Guidelines adopted by the Board of Directors applicable to all Units, may be placed on the front exterior of a Unit. The exterior or the portion visible from the outside of all window shades, curtains, draperies, or other window treatment shall be of a white, off white or beige color compatible with the color of the exterior painting and trim of the condominium buildings; (h) no Unit shall be structurally modified, altered or changed, nor shall any common area or surface be penetrated in any manner; (i) all maintenance and use by Unit Owners of all facilities shall be done so as to preserve the appearance and character of the same and of the grounds and building without modifications; (j) 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 with respect thereto, from time to time promulgated by the Board of Directors; (k) no toxic, flammable or highly hazardous substances shall be kept anywhere on the Condominium premises; (l) no Unit shall be used occupied or kept in any manner which in any way increases the fire insurance premiums of the Association, or results in a violation, deficiency or requirements under the Rhode Island Fire Safety Code fire safety, unless otherwise permitted by instrument in writing duly executed by the Board of Directors of the Condominium Association; (m) no Unit shall be used occupied or kept in any manner which causes specialized fire protection requirements, which activities include but are not limited to use of hazardous materials and chemicals, flammable and combustible liquids, liquefied petroleum gases, liquefied natural gases, fireworks, model rocketry, heating appliances, spray application of flammable and combustible liquids, welding, use of torches, dust explosion prevention, industrial ovens and furnaces, mechanical refrigeration, combustible fibers and airport refueling operations, unless otherwise permitted by instrument in writing duly executed by the Board of Directors of the Condominium Association.

Any costs, including reasonable attorneys' fees, incurred by the Board of Directors in connection with approving uses not otherwise herein permitted, or in correcting or preventing violations of the aforesaid restrictions and prohibitions, shall constitute a Special Assessment against the Unit whose owner, lessee or occupant has caused or permitted such violation.

Said restrictions shall be for the benefit of the owners of all the Condominium Units and the Board of Directors of the West Davisville Small Business Center Condominium, as the persons in charge of the common areas and facilities, and shall be

enforceable solely by said Board of Directors, except in a proper case by an aggrieved Unit Owner, and shall remain in full force and effect until December 31, 2027, and thereafter shall automatically extended for successive periods of ten (10) years, unless by vote of the Board of Directors and vote of at least sixty-seven (67%) percent of the then unit owners of all the Condominium Units, as aforesaid, it is agreed to terminate said restrictions, in whole or in part. No Unit Owner shall be liable for any breach of the provisions of this section except as such occur during such Unit Owner's ownership thereof.

2.6 Leases. 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 shall be subject to the provisions of the Declaration, related Exhibits, and the Rules and Regulations of the Condominium Association, as promulgated from time to time;
- (b) all tenancies shall comply with all ordinances, regulations and statutes promulgated by the Town of North Kingstown, the State of Rhode Island and any governmental authority;
- (c) no tenant shall use, occupy or keep a Unit in any manner which in any way increases the fire insurance premiums of the Association, or results in a violation, deficiency or requirements under the Rhode Island Fire Safety Code fire safety , unless otherwise permitted by instrument in writing duly executed by the Board of Directors of the Condominium Association;
- (d) no tenant shall use, occupy or keep a Unit in any manner which causes specialized fire protection requirements, which activities include but are not limited to use of hazardous materials and chemicals, flammable and combustible liquids, liquefied petroleum gases, liquefied natural gases, fireworks, model rocketry, heating appliances, spray application of flammable and combustible liquids, welding, use of torches, dust explosion prevention, industrial ovens and furnaces, mechanical refrigeration, combustible fibers and airport refueling operations, unless otherwise permitted by instrument in writing duly executed by the Board of Directors of the Condominium Association.
- (e) Copies of all unit leases shall be provided to the Board of Directors along with specific data listing the Unit Owner or other responsible person to be notified in the event of an emergency or improper use of the unit;
- (f) All leases shall include a clause allowing the Board of Directors to terminate such tenancy, and the Board of Directors may terminate such



tenancy, if after the Board of Directors notifies such tenant and the Unit Owner (Lessor) that the tenant has violated the terms of this Declaration (including the By-Laws, all exhibits, and Rules and Regulations), and the tenant continues or fails to correct such violation within ten (10) days. Any costs, including reasonable attorneys' fees, incurred by the Board of Directors in connection with approving or terminating a lease shall constitute a Special Assessment against the Unit being leased.

### ARTICLE III

#### COMMON ELEMENTS

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

3.1 Limited Common Element. 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 Limited Common Elements shall be those portions of the Property identified and designated as such in the Plats and Plans or in this section. Those portions of Limited Common Elements serving only the Unit above, below or adjacent to such Limited Common Element, as the case may be, are Limited Common Elements allocated only to the Unit, which they serve. The following shall be designated as Limited Common Elements:

- (a) The parking spaces designated with the designation of a Unit number, as shown on the Plats and Plans, shall be for the private and exclusive use of such Unit; and the parking spaces not so designated shall be subject to the sole discretion of the Board of Directors, and may be assigned by the Board of Directors, in their sole discretion, to the exclusive use of an Owner in return for fair and reasonable consideration, provided that each Unit shall be assigned two parking spaces without charge.

3.2 General Common Elements. The General Common Elements shall be comprised of all of the Common Elements which are not part of the Limited Common Elements, and shall include the following:

- (a) The land described in Exhibit "A" on which the improvements stand;
- (b) The foundations, bearing walls, perimeter walls, columns, girders, beams, supports, joists, concrete, gravel or asphalt floors, the roofs of the buildings, including roof trusses and purlins, driveways, parking areas (other than parking spaces);
- (c) The common office, bathroom, mechanical room, the compartments or installations of central services, such as power, lights, gas, hot and cold water, central heating and the like including, but in no way limited to, all pipes, ducts, flues, chutes, conduits, cables, wires, and other utility lines, including those water, gas, sewer and other utilities located in the utility and access easement, all of which shall be repaired and maintained by the Association as a common element expense, except as may be included in and for the exclusive use of a Unit;
- (d) The foundation area of the structure;
- (e) The Retention Pond; and
- (f) All other elements of the Condominium Project rationally of common use or necessary to its existence, upkeep and safety.

#### ARTICLE IV

##### ALLOCATED INTERESTS

4.1 Allocated Interest in Common Elements, Common Expenses, and Common Profits. The Allocated Interests of the Condominium were determined on the basis of square footage (as determined by the Unit Boundaries) of each Unit, and are set forth in Exhibit "C".

4.2 Voting. The Owner or Owners of each Unit shall be entitled to cast the number of votes per Unit as specified in the By-Laws on any matter on which an Owner is entitled to vote pursuant to this Declaration or the By-Laws.

4.3 Common Expense. The liability of each Unit for the Common Expenses shall be based upon the initial Allocated Interests applicable to each Unit.

4.4 Arbitration of Disputes. All unresolved disputes between the Unit Owners shall be resolved by arbitration conducted at a location within the State of Rhode Island, or such other place as the Unit Owners shall agree, in accordance with the rules then prevailing of the American Arbitration Association. The arbitrator(s)' decision shall be final, conclusive and binding upon the Unit Owners. No court action or litigation shall be commenced unless and until all involved owners have made a good faith effort to resolve the dispute by arbitration.

## ARTICLE V

### PARTITION, EASEMENTS, TITLE MATTERS.

5.1 Covenant Against Partition. The Common Elements, both General and Limited, 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 Encroachments. If any portion of the Common Elements now encroaches upon any Unit, or if any Unit now encroaches upon any other Unit or upon any portion of the Common Elements, as a result of the construction or repair of a Building, made by or with the consent of the Association, or if any such encroachments shall occur hereafter as a result of settlement or shifting of a Building, a valid easement for the encroachment and for the maintenance of the same, so long as the Building stands, shall exist. In the event the Building, any Unit, any adjoining Unit, or any adjoining Common Element, shall be partially or totally destroyed as a result of fire or other casualty, or a result of condemnation or eminent domain proceedings, and then reconstructed, with the consent of the Association, then any minor encroachment of parts with the Common Elements upon any Unit, or of any Unit upon any Unit, or upon any portion of the Common Elements, due to such reconstruction, shall be permitted, and valid easements for such encroachments and the maintenance thereof shall exist for so long as the Building shall stand.

5.3 Easements. Each Unit Owner shall have an easement in common with the other Owners to use all pipes, wires, ducts, flues, cables, conduits, public utility lines, and other Common Elements, located in the Common Elements or located in any of the other Units and serving his Unit. Each Unit shall be subject to an easement in favor of the Owners of all other Units to use the pipes, wires, ducts, flues, cables, conduits, public utility lines, and other Common Elements serving other Units and located in such Unit.

The Association shall have the right of access upon reasonable notice to the other Unit Owner (except in the case of an emergency) the other Unit Owner and/or 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.

5.4 Additional Easements. (a) The Declarant shall have the right to maintain a sales offices, management offices and models on the Property, of a size a location as the Declarant deems appropriate.

(b) Declarant reserves for as long as the Declarant is entitled to exercise any Development Rights, an easement to go upon any and all of the Property for purposes of construction, reconstruction, maintenance, repair, renovation, replacement, correction or creation of the Units and Common Elements.

5.5 Reservation of Easement Rights. The Declarant reserves the right to, at any time, and from time to time, grant to any third party any license or easement in, on over or through the Property, which license is determined by the Declarant, in its judgment, to be necessary for the development, use, enjoyment or improvement of the Property.

5.6 Title Matters. In addition to those easements described herein, title to the Property is subject to any additional restrictions and title exceptions set fort or referred to on Exhibit "D" attached hereto.

## ARTICLE VI

### EHLMC/FNMA PROVISIONS

6.1 EHLMC/FNMA Provisions. Notwithstanding anything in the Declaration, the By-Laws of the Condominium Association, or the Rules and Regulations promulgated pursuant thereto 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, By-Laws or the Rules and Regulations 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;

(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 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 statute and by Article X hereof in connection with the exercise of Declarant's Development Rights, in case of condemnation or substantial loss to the Units and/or Common Elements of the Condominium, in addition to any requirement of the Declaration or the By-Laws, unless sixty-seven (67%) percent of the First Mortgagees (based upon one vote for each first mortgage owned) have given their prior written approval, the Unit Owner and the Condominium Association shall not be entitled to:

- (i) by any act or omission, seek to abandon or terminate the Condominium (except as provided by statute); or
- (ii) change the pro rata interest or obligations of any individual Unit for the purpose of:
  - (a) levying assessments or charges, or allocating distributions of hazard insurance proceeds or condemnation awards; or
  - (b) determining the pro rata share of ownership of each Unit in the Common Areas and Facilities;
- (iii) partition or subdivide any Unit;

- (iv) by any act or omission, seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Areas and Facilities of the Condominium, provided that the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Areas and Facilities shall not be deemed an action for which prior consent of the First Mortgagees shall be required pursuant to this clause; or
- (v) use hazard insurance proceeds on account of losses to either the Units or the Common Areas and Facilities of the Condominium for other than the repair, replacement, or reconstruction thereof.

(e) 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;

(f) 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 Areas and Facilities;

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

- (i) 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 By-Laws of the Condominium Association which is not cured within sixty (60) days;
- (ii) inspect the books and records of the Condominium Association at all times;
- (iii) receive an annual financial statement of the Condominium Association within ninety (90) days following the end of any fiscal year of the Condominium Association;

- (iv) receive timely written notification of all meetings of the Condominium Association and be permitted to designate a representative to attend all such meetings;
- (v) receive timely written notification from the Condominium 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 Areas and Facilities 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 Condominium Association;
- (vii) receive timely notice of any proposed action which requires the consent of a specified percentage of the eligible mortgage holders, as specified in this Declaration, the By-Laws or the Rules and Regulations;

(h) No agreement for professional management of the Condominium or any other contract with the Declarant may exceed a term of three (3) years; and any such agreement shall provide for termination by either party without cause and without payment of a termination fee on thirty (30) days or less written notice, provided, however, that any such management agreement may not be terminated without the prior written consent of Unit Owners entitled to at least sixty-seven (67%) percent of the Common Areas and Facilities of the Condominium.

(i) Except as provided by statute and by Article X hereof in connection with the exercise of Declarant's Development Rights, in addition to all other requirements of this Declaration or the By-Laws, the prior written consent of First Mortgagees holding mortgages on the Units shall be required for the following:

- (i) the abandonment of the condominium status or the Condominium, except for abandonment provided by statute, in case of substantial loss to the Units and Common Areas and Facilities;
- (ii) the partition or subdivision of any Unit or of the Common Areas and Facilities;

- (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:
  - (a) Voting;
  - (b) Assessments, assessment liens, or subordination of such liens;
  - (c) Reserves for maintenance, repair, and replacement of the Common Areas;
  - (d) Insurance or fidelity bonds;
  - (e) Expansion or contraction of the project, or the addition, annexation or withdrawal of property or from the property;
  - (f) Boundaries of any Unit;
  - (g) The interests of the Common Areas;
  - (h) 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;
  - (i) Any provisions which are for the express benefit of mortgage holders, eligible mortgage holders, or eligible insurers or guarantors of first mortgages on Units.

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 Board of Directors for approval of any 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 the Secretary of the Condominium Association making reference to this Section, when recorded at the Condominium Records of the Town of North Kingstown, Rhode Island, shall be conclusive as to the facts therein set forth as to all parties.

The Declarant intends that the provisions of this Declaration shall



comply with the requirements of the Federal Home Loan Mortgage Corporation and Federal National Mortgage Association 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 VI 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 Condominium Records of said Town of North Kingstown.

#### ARTICLE VII

7.1 **Management.** (a) The management of the condominium shall be conducted by the Board of Directors of the West Davisville Small Business Center Condominium. The Association and its Board of Directors shall have all powers and authority, and shall manage and operate the condominium in accordance with the provisions set forth in Section 34-36.1-3.02 and any other relevant provisions of the Rhode Island Condominium Act. The Board of Directors shall consist of five (5) members, although the Declarant reserves the right to appoint fewer than five (5) such members to the initial Board of Directors. The members of the initial Board of Directors shall be appointed, removed and replaced from time to time by the Declarant with the necessity of obtaining resignations. The Declarant appointed members of the Board of Directors shall be replaced by Unit Owners in accordance with the provisions of this section 7.1 (b), (c) and (d).

(b) Until the 60<sup>th</sup> day after conveyance of 100% of the total of the Condominium Units in Phase I, as hereinafter defined, the Declarant shall have the right to appoint and remove all of the members of the Board of Directors.

(c) Not later than the 60<sup>th</sup> day after conveyance of 100% of the total of the Condominium Units of Phase I, as hereinafter defined, one (1) member of the Board of Directors shall be elected by the Unit Owners other than the Declarant.

(d) Not later than the 60<sup>th</sup> day after conveyance of 100% of the total of the Condominium Units of the phase completed after Phase I, be it Phase II or Phase III, as hereinafter defined, two (2) members of the Board of Directors shall be elected by the Unit Owners other than the Declarant.

(e) Not later than the earlier of (i) twenty (20) years after the recording of this

Declaration; or (ii) the 60<sup>th</sup> day after conveyance of 100% of the aggregate total of the Condominium Units which may be created in the aggregate under this Declaration, members of the Board of Directors appointed by the Declarant shall resign and the Unit Owners including the Declarant to the extent a Unit is owned by the Declarant, shall elect new members of the Board of Directors.

7.2 Professional Manager. The Board of Directors shall have the right to employ a professional manager, who may oversee the daily operation of the Condominium.

## ARTICLE VIII

8.1 Construction and Enforcement. The provisions hereof shall be liberally construed to achieve the purpose of creating a uniform plan for the operation of a Condominium Project. Violation of any of the terms of this Declaration, including the By-Laws and the Rules and Regulations, shall be grounds for relief which may include, without limiting the same, an action to recover any sums due for money damages, injunctive relief, foreclosure of the lien for payment of all assessments, and other relief provided for in this Declaration, or any combination thereof, and any other relief afforded by a court of competent jurisdiction, all of which relief may be sought by the Association, the Board of Directors, and Managing Agent, and any Owner or Mortgagee.

In addition, each Owner or other person violating the terms hereof shall be liable for all court costs and reasonable attorneys' fees incurred by the Association, Board of Directors, Managing Agent, and any Owner relating to such violation. The failure or forbearance by any person to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

There shall be, and there is hereby created and declared to be, a conclusive presumption that any violation or breach, or any attempted violation or breach of any of the within covenants or restrictions, cannot be adequately remedied by action at law or exclusively by recovery or damages and that the appropriate remedy is injunctive relief.

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

## ARTICLE IX

9.1 Amendment. After recordation, this Declaration may be amended by the written consent of the Declarant, in order to exercise Development Rights and phasing provisions set forth in Article X of this Declaration, and thereafter, may be amended only

by the written consent of at least sixty-seven percent (67%) of the unit Owners of the West Davisville Small Business Center Condominium, provided:

(a) The By-Laws and Regulations may be amended as provided in the By-Laws;

(b) No amendment shall change the Percentage Interest, common expense liability, voting strength, boundaries, or permitted use of any Unit without the approval of all Unit Owners and Mortgagees in writing or by vote (in person or by proxy) at a meeting called in accordance with the By-Laws.

(c) 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;

(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.

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 by the Secretary or by some agent at the direction of the Secretary.

9.2 Captions. The captions 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.

## ARTICLE X DEVELOPMENT RIGHTS AND PHASING

10.1 Development Rights. The Condominium is scheduled to be constructed, completed and sold in three phases, and the Declarant reserves the right to amend and to modify Phase I, Phase II, and Phase III, including the right to reallocate the construction schedule and the time for the completion of any phase, also including the right to amend the Declaration to allow additional construction phases. The exercise of the Declarant's development rights shall be in accordance with the procedures set forth in the Declaration of West Davisville Small Business Center Condominium.

10.2 Reservation of Rights. In addition to all other applicable rights herein

reserved, the Declarant reserves to itself and for the benefit of its successors and assigns, pursuant to Sections 34-36.1-1.03(11) and 34-36.1-2.05(a)(8) of the Act the right to add real estate to the Condominium, to create Units, Common Elements or Limited Common Elements within the Condominium, and to subdivide Units. The Declarant also reserves to itself and for the benefit of its successors and assigns, pursuant to Sections 34-36.1-1.03(23) and 34-36.1-2.05(a)(8) of the Act, the right to complete all improvements shown on the Plats and Plans, to exercise the Development Rights set forth in this Declaration from time to time and in phases, to appoint and remove any member of the Board of Directors during any period of Declarant control of the Association and any and all other Development Rights and Special Declarant Rights as are now allowed or in the future may be allowed by the Act. The real estate subject to the Development Rights and Special Declarant Rights is the Property describe in Exhibit A attached hereto.

10.3 Exercise of Rights. The exercise of the Development Rights and/or Special Declarant Rights reserved or referenced herein shall be in accordance with and governed by the provisions of the Act including without limitation Section 34-36.1-2.10. Development Rights and Special Declarant Rights must be exercised within twenty (20) years from the date this Declaration was recorded, or such earlier time as the right to do so expires pursuant to the terms hereof or the Act, as applicable, or is terminated in a recorded instrument duly authorized and signed by the Declarant.

10.4 Phasing. (a) West Davisville Small Business Center Condominium will be comprised of three (3) buildings containing an anticipated total of thirty seven (36) commercial Units to be built in three phases, but may contain up to fifty three (53) Units. Phase I shall consist of the first building containing sixteen (16) commercial Units. Phase II, which need not be built, shall consist of the second building containing an anticipated sixteen (16) commercial Units, but not more than twenty five (25) Units, as the Declarant may determine. Phase III, which need not be built, shall consist of the third building containing an anticipated four (4) commercial Units, but not more than twelve (12) Units, as the Declarant may determine. The Declarant has reserved the right to reallocate and reschedule Phases I, II and III into one or more additional construction phases, as the Declarant shall determine.

(b) At any time prior to the termination of Development Rights and Special Declarant Rights as herein provided, the Declarant shall have the right, without the consent of any unit owner or the Condominium Association, to amend this Declaration for the purpose of implementing Phase II and Phase III and any additional phases as determined by the Declarant, as aforesaid, and to add such additional units, in such phase or phases as shall be designated by the Declarant in the amended Declaration. By the recording of the Amended Declaration such additional phase or

phases shall be implemented, and such additional property shall constitute part of this condominium and shall be subject to all of the terms and conditions of this Declaration.

(c) From and after the recording of this Declaration pertaining to Phase I, the unit owners' undivided allocated interest in the common areas and facilities shall be the ownership percentages as set forth in column 1 (Phase I) of Exhibit "C". From and after the recording of an Amended Declaration, pertaining to Phase II, as aforesaid, the unit owners' undivided allocated interest in the common areas and facilities shall be the percentages as set forth in column 2, (Phase II), of Exhibit C. From and after the recording of an Amended Declaration, pertaining to Phase III, as aforesaid, the unit owners' undivided allocated interest in the common areas and facilities shall be the percentages as set forth in column 3, (Phase III), of Exhibit C. From and after the recording of an Amended Declaration pertaining to any subsequent construction phases, as determined by the Declarant, the unit owner's undivided allocated interest in the common areas and facilities shall be in the ownership percentages as set forth in an amended Exhibit "C", to be recorded therewith. The Declarant hereby expressly reserves all rights to make such use of the common areas and facilities of the entire condominium property as may be reasonably necessary or convenient to complete all construction phases of the condominium project.

(d) Each unit owner or mortgagee of a unit within the condominium, by acceptance of a deed or mortgage of a condominium unit, shall thereby have consented to an Amendment to this Declaration by the Declarant, the sole purpose of which shall be to establish and implement Phase II, Phase III or any subsequent designated construction phases of the condominium, pursuant to the provisions of this article; and there shall be no requirement or necessity of the declarant securing any further consent or execution of any further documents by such unit owner or mortgagee in connection with such amendment.

## **ARTICLE XI ARBITRATION**

**11.1 Arbitration of Disputes.** All unresolved disputes between and among the Unit Owners, except in cases relating to the enforcement by the Board of Directors of a lien against a Unit for a delinquent assessment, or for injunctive relief for violation of the covenants of this Declaration, shall be resolved by arbitration conducted at a location within the State of Rhode Island, or such other place as the Unit Owners shall agree, in accordance with the rules then prevailing of the American Arbitration Association. The arbitrator(s)' decision shall be final, conclusive and binding upon the Unit Owners. No court action or litigation shall

**be commenced unless and until all involved owners have made a good faith effort to resolve the dispute by arbitration.**

IN WITNESS WHEREOF, the Declarant has executed these presents on the day and year first above written.

COMPASS CIRCLE, LLC

By \_\_\_\_\_

STATE OF RHODE ISLAND  
COUNTY OF NEWPORT

In Newport, in said County, on this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 2005, before me personally appeared the above-named \_\_\_\_\_, to me known and known by me to be the President of COMPASS CIRCLE, LLC and he acknowledged the same, by him so executed, to be his free act and deed as said President of said COMPASS CIRCLE, LLC, and his free act and deed individually as well.

\_\_\_\_\_  
Notary Public

EXHIBIT "A"

**AP 180 LOT 37  
COMPASS CIRCLE  
"4.3 ACRE ± PARCEL"  
WEST DAVISVILLE**

That certain lot or parcel of land located on a portion of the former Davisville Naval Construction Battalion Center, in the Town of North Kingstown, County of Washington, State of Rhode Island, in the Quonset Business Park, West Davisville area, northwesterly of Compass Circle and designated as Plat 180 Lot 37 4.3 acres more or less parcel on a plan entitled "Development Plan West Davisville Industrial Park Quonset Davisville Port and Commerce Park North Kingstown, Rhode Island, prepared for Town of North Kingstown, Scale 1" = 200', Sheet No. 1 of 1 Sheets, Drawing No. 25728", prepared by Gaofalo and Associates, Inc., dated December 7, 2000, latest revision May 14, 2004 and signed by the Town of North Kingstown on May 24, 2004, a copy of which plan has been recorded in the Records of Land Evidence of North Kingstown, Rhode Island, on April 25, 2005, recorded plat #1814. Said parcel being further described as follows:

Beginning at a granite bound in the northerly line of Compass Circle, said point being the southeasterly corner of the herein described parcel of land and the southwest corner of land now or formerly of the Rhode Island Economic Development Corporation identified as Lot 36 on Assessor's Map 180;

Thence running westerly along the northerly line of said Compass Circle for a distance of thirty-five and 05/100 (35.05') feet to a point of curvature;

Thence running generally westerly and northwesterly along the northerly line of said Compass Circle along a curve to the right having a radius of twenty-five and 00/100 (25.00') feet, a central angle of seventy-five degrees, thirty-one minutes and eighteen seconds (75°-31'-18"), for a distance of thirty-two and 95/100 (32.95') feet to a point of reverse curvature;

Thence running generally northwesterly, westerly and southwest along the northerly line of said Compass Circle along a curve to the left having a radius of fifty-five and 00/100 (55.00') feet, a central angle of one hundred eleven degrees, twenty-seven minutes and fifty-nine seconds (111°-27'-59"), for a distance of one hundred seven and 00/100 (107.00') feet to a granite bound;

Thence turning an interior angle to the chord of the curve described in the last course

of two hundred five degrees, forty-five minutes and forty-seven seconds ( $205^{\circ}-45'-47''$ ) and running southwesterly, bounded southeasterly by land now or formerly of West Davisville Realty Company, LLC, for a distance of five hundred nine and  $27/100$  ( $509.27'$ ) feet to a drill hole, said point being the southwesterly corner of the herein described parcel of land and the northwesterly corner of said West Davisville Realty Company, LLC land;

Thence turning an interior angle of forty-five degrees, forty-seven minutes and thirty-six seconds ( $45^{\circ}-47'-36''$ ) and running northeasterly, bounded northwesterly by land now or formerly of National Railroad Corporation, for a distance of one hundred fifty and  $34/100$  ( $150.34'$ ) feet to a iron rod;

Thence turning an interior angle of one hundred eighty degrees, no minutes and no seconds ( $180^{\circ}-00'-00''$ ) and continuing running northeasterly, bounded northwesterly by said National Railroad Corporation land, for a distance of five hundred twenty-six and  $33/100$  ( $526.33'$ ) feet to a drill hole, said point being the northwesterly corner of the herein described parcel of land;

Thence turning an interior angle of ninety-nine degrees, twenty-eight minutes and thirty-five seconds ( $99^{\circ}-28'-35''$ ) and running easterly, bounded northerly by Rhode Island Historical Cemetery No. 10, for a distance of one hundred ten and  $97/100$  ( $110.97'$ ) feet to drill hole, said point being the southeasterly corner of said Rhode Island Historical Cemetery No. 10;

Thence turning an interior angle of two hundred sixty-eight degrees, fifty minutes and forty-eight seconds ( $268^{\circ}-50'-48''$ ) and running northerly, bounded westerly by said Rhode Island Historical Cemetery No. 10, for a distance of sixty-seven and  $12/100$  ( $67.12'$ ) feet to a point, said point being the northeasterly corner of the herein described parcel of land and the northeasterly corner of said Rhode Island Historical Cemetery No. 10;

Thence turning an interior angle of forty degrees, forty-three minutes and twenty-five seconds ( $40^{\circ}-43'-25''$ ) and running southeasterly, bounded northeasterly by said land now or formerly of the Rhode Island Economic Development Corporation identified as Lot 36 on Assessor's Map 180, for a distance of five hundred forty-two and  $48/100$  ( $542.48'$ ) feet to the granite bound at the point and place of beginning.

The first mentioned course and the last mentioned course form an interior angle of seventy-nine degrees, eleven minutes and seven seconds ( $79^{\circ}-11'-07''$ ) by their intersection.



The herein described parcel contains 4.278 acres, more or less.

WEST DAVISVILLE SMALL BUSINESS CENTER CONDOMINIUM

EXHIBIT "B"

Unit Designation and Description

GENERAL CHARACTERISTICS

Phase I, Units 1-16 are commercial units containing approximately 1200 square feet, plus a loft area containing approximately 384 square feet.

EXHIBIT "C"

ALLOCATED INTERESTS

<u>Unit #</u>	<u>Percentage of</u> <u>Allocated Interest</u> (Phase I)	<u>Percent of</u> <u>Allocated Interest</u> (Phase II) (Subject to Change)	<u>Percentage of</u> <u>Allocated Interest</u> (Phase III) (Subject to Change)
1	6.25	3.125	2.527
2	6.25	3.125	2.527
3	6.25	3.125	2.527
4	6.25	3.125	2.527
5	6.25	3.125	2.527
6	6.25	3.125	2.527
7	6.25	3.125	2.527
8	6.25	3.125	2.527
9	6.25	3.125	2.527
10	6.25	3.125	2.527
11	6.25	3.125	2.527
12	6.25	3.125	2.527
13	6.25	3.125	2.527
14	6.25	3.125	2.527
15	6.25	3.125	2.527
16	<u>6.25</u>	3.125	2.527

TOTAL-----100.00

EXHIBIT "D"  
TITLE MATTERS

1. Real Estate Taxes not yet due and payable.
2. Terms and conditions of the Condominium Documents and such matters as are shown on the Plats and Plans
3. Reservation of Rhode Island Economic Development Corporation, for itself and its successors and assigns to use all existing pipes, poles, conduits, wires, cables, ducts and all appurtenant structures and systems and equipment and easements and rights-of-way necessary to provide water, gas, electricity, steam, telephone, street lighting, fire alarms, sewage collection, storm drainage and any other existing utility services to the Quonset/Davisville Port & Commerce Park f/k/a Quonset/Davisville Industrial Park or to other lands owned by the Rhode Island Economic Development Corporation, the United States of America and others (excepting only those serving the Property exclusively) together with the right to enter upon the Property to use, maintain, repair, renew, replace, reconstruct and remove the same, provided that (i) Rhode Island Economic Development Corporation provides written notice prior to the exercise of such right, (ii) the exercise of such right does not unreasonably disrupt operations on the Property, and (iii) the Property is promptly restored to as good a condition as existed prior to the exercise of such right. Reference is hereby made to that certain Quonset-Davisville Access and Services Agreement (the "Access and Services Agreement") by and between the United States of America and the Grantor, dated September 11, 1980, and recorded on September 12, 1980 in the Records of Land Evidence, North Kingstown, Rhode Island, in Book 348 at Page 289, as affected by Modification No.1 dated September 17, 1996 and recorded April 17, 1997 in said Records of Land Evidence in Book 1033 at Page 41, as affected by Release of Easement of the United States of America dated October 31, 2000 and recorded December 19, 2000 in said Records of Land Evidence in Book 1290 at Page 237, this conveyance being subject to the rights of the parties as therein expressed.
4. RESERVING, ALSO, to the Rhode Island Economic Development Corporation, its successors and assigns, the perpetual rights and easements appurtenant to all land in Quonset/Davisville Port &

Commerce Park f/k/a Quonset/Davisville Industrial Park currently used as a public street or highway to use for all purposes for which a public street or highway is used, together with the right to assign the rights herein reserved to any state or municipal government, provided, however, that the Rhode Island Economic Development Corporation shall have the right to abandon or suspend all or part of the right to use any such street or way by recording a declaration specifying which rights are to be abandoned or suspended in the Records of Land Evidence, North Kingstown, Rhode Island, and thereupon such rights and easements shall be terminated or suspended as specified therein, and all rights of others, public or private, to exercise such abandoned or suspended rights and easements shall cease, subject, however, to the provisions of the Access and Services Agreement; provided further, the Rhode Island Economic Development Corporation shall not exercise such right in any manner which prevents Grantee from using any street or way abutting or connecting to the Property to access a public street. In the case of rights and easements which are only suspended in the manner set forth above, the Rhode Island Economic Development Corporation shall have the right to reactivate and revive such rights by declaration recorded in the Records of Land Evidence, North Kingstown, Rhode Island.

5. THIS CONVEYANCE IS MADE SUBJECT TO the following, which shall be deemed to be servitudes and covenants running with the land, and by the acceptance and recording of this deed, Grantee, for itself, its successors and assigns, accepts and covenants to perform and conform to the same insofar as they may apply to the Property:

- a) U.S. Deeds: Those covenants and restrictions contained in those certain deeds from the United States of America to the Grantor dated, respectively, November 20, 1978, and September 11, 1980, and recorded on September 12, 1980 in the Records of Land Evidence, North Kingstown, Rhode Island, respectively, in Book 317 at Page 65 and in Book 348 at Page 243, which appertain to and run with the Property.

- b) Protective Controls: That Declaration of Restrictions, by the Grantor, dated November 12, 1982, and recorded on November 22, 1982 in the Records of Land Evidence, North Kingstown, Rhode Island, in Book 380 at Page 211, as amended or modified, and, without limiting the generality of the foregoing,

the Quonset Point/Davisville Development Restrictions referred to therein, a copy of which has been delivered to the Grantee. Said Declaration of Restrictions are sometimes herein referred to as the "Protective Controls".

c) Quonset Access and Services Agreement: That certain Quonset Access and Services Agreement dated November 20, 1978 and recorded in the Records of Land Evidence, North Kingstown, Rhode Island on November 28, 1978 in Book 317 at Page 97.

6. Reservations, restrictions, covenants, rights, provisions and conditions as set forth in deed to Rhode Island Economic Development Corporation, a governmental agency and instrumentality of the State of Rhode Island, by Quitclaim Deed of the United States of America, acting through the Secretary of the Navy, dated April 8, 1999 and recorded with the Land Evidence Records of the Town of North Kingstown on May 11, 1999 at 11:12 AM. in Book 1181 at page 154.
7. Reservations, restrictions, covenants, rights, provisions and conditions as set forth in deed to the Rhode Island Port Authority and Economic Development Corporation dated November 20, 1978 and recorded November 28, 1978 at 1:02 P.M. in Book 317 at page 65.
8. Terms and provisions of the Quonset Access and Services Agreement between the United States of America and the Rhode Island Port Authority and Economic Development Corporation dated November 20, 1978 and recorded November 28, 1978 at 1:04 P.M. in Book 317 at page 97.
9. Reservations, restrictions, covenants, rights, provisions and conditions as set forth in deed to the Rhode Island Port Authority and Economic Development Corporation dated September 11, 1980 and recorded September 12, 1980 at 1:15 P.M. in Book 348 at page 243.
10. Terms and provisions of the Quonset-Davisville Access and Services Agreement between the United States of America and the Rhode Island Port Authority and Economic Development Corporation dated September 11, 1980 and recorded September 12, 1980 at 1:16 P.M. in Book 348 at page 289, as modified by Modification No. 1 to Quonset-

Davisville Access and Services Agreement dated September 17, 1996 and recorded April 17, 1997 at 11:47 A.M. in Book 1033 at page 41, as affected by Release of Easement of the United States of America dated October 31, 2000 and recorded December 19, 2000 at 12:31 P.M. in Book 1290 at page 237.

11. Terms and Provisions of Quonset-Davisville Lot Recording Agreement by and between the Town of North Kingstown and Rhode Island Economic Development Corporation dated November 9, 2000 and recorded in Book 1285 at page 274.
12. Reservation set forth in deed to the United States of America dated November 3, 1942 and recorded in Book 71 at page 626.
13. Grant of Easement from the Rhode Island Port Authority and Economic Development Corporation to B. B. & S. Realty Corp. dated January 29, 1990 and recorded January 31, 1990 at 9:13 AM in Book 642 at page 142.
14. Terms and provisions of Agreement between the Town of North Kingstown and the Rhode Island Port Authority and Economic Development Corporation as set forth in Book 343 at page 66.
15. Pilot Agreement between the Rhode Island Economic Development Corporation and the Town of North Kingstown dated as of July 1, 1996 and recorded August 4, 1997 at 10:40 A.M. in Book 1051 at page 297.
16. Pilot Agreement between the Rhode Island Economic Development Corporation and the Town of North Kingstown dated as of December 14, 2004 and recorded January 19, 2005 at 10:40 AM in Book 1954 at page 327.
17. Municipal Relations Agreement between the Rhode Island Economic Development Corporation and the Town of North Kingstown dated as of July 1, 1996 and recorded August 4, 1997 at 10:41 A. M. in Book 1051 at page 302.
18. Declaration of Restrictions by the Rhode Island Port Authority and Economic Development Corporation dated November 12, 1982 and recorded November 22, 1982 at 10:18 A.M. in Book 380 at page 211.

19. Easements with respect to the Electrical Facilities at Quonset Point, namely: a) 33 K.V. Overhead Easement dated November 4, 1986 and recorded in Book 500 at page 16; b) 33 K.V. Loop Easement dated November 4, 1986 and recorded in Book 500 at page 21; c) Power Line Easement dated November 4, 1986 and recorded in Book 500 at page 26; d) Underground System Easement dated November 4, 1986 and recorded in Book 500 at page 33; and, e) Utility Corridor Easement dated November 4, 1986 and recorded in Book 500 at page 42, all as affected by Terms of Bill of Sale dated November 4, 1986 and recorded in Book 500 at page 60 and Letter of Agreement dated November 4, 1986 and recorded in Book 500 at page 70.
20. Covenants, conditions, reservations and restrictions contained in Deed of Water Lines and Easements from the United States of America to the Rhode Island Port Authority and Economic Development Corporation dated June 23, 1983 and recorded June 30, 1983 at 9:09 A.M. in Book 391 at page 252, as corrected by Corrective Deed dated July 29, 1983 and recorded August 17, 1983 at 9:06 AM. in Book 395 at page 194.
21. Covenants, conditions, reservations and restrictions contained in Sewer System Grant from the United States of America to the Rhode Island Port Authority and Economic Development Corporation dated June 23, 1983 and recorded June 30, 1983 at 9:11 A.M. in Book 391 at page 282, as modified by Deed Amendment dated January 15, 1985 and recorded February 11, 1985 at 10:31 A.M. in Book 434 at page 321.
22. Terms and provisions of Negotiated Fire Protection Service Contract between the United States of America and the Town of North Kingstown dated April 27, 1982 and recorded June 15, 1983 at 11:26 A.M. in Book 390 at page 191, as amended by Amendment of Solicitation/Modification of Contract dated July 1, 1982 and recorded June 15, 1983 at 11:27 A.M. in Book 390 at page 222.
23. Grant of Easement from the United States of America to Narragansett Electric Company dated November 30, 1989 and recorded December 7, 1989 at 9:54 A.M. in Book 636 at page 327.
24. Grant of Easement from the United States of America to Narragansett Electric Company dated August 27, 1990 and recorded October 1, 1990 at 1:15 P.M. in Book 666 at page 240.



25. Terms and provisions of Construction & Maintenance Agreement Municipal Highway Federal Funds by and between the State of Rhode Island and Providence Plantations and the Town of North Kingstown dated March 15, 2001 and recorded in Book 1311 at page 3.
26. Rights of others in and to the cemetery adjoining premises.
27. Any right, title and interest of others including but not limited to, title and ownership held or asserted by the State of Rhode Island in and to any portions of the land which consist of filled land.

## BY-LAWS

of the

### WEST DAVISVILLE SMALL BUSINESS CENTER CONDOMINIUM ASSOCIATION

#### General Provisions

1.1 Application. The provisions of these By-Laws are applicable to the Condominium and to the use and occupancy thereof. All present and future owners of any freehold or leasehold interest, all occupants or users of the premises, and the agents and servants of any of them are subject to the provisions of the Declaration, the By-Laws, and the applicable laws of the State of Rhode Island. The acceptance of a deed or the entering into of a lease or the act of occupancy of a Unit shall conclusively establish the acceptance and ratification of these By-Laws, the Rules and Regulations, and the provisions of the Declaration, as they may be amended from time to time, by the person so acquiring, leasing, or occupying a Unit, and shall constitute and evidence an agreement by such person to comply with the same.

1.2 Definitions. Unless it is plainly evident from the context that a different meaning is intended, all terms used herein shall have the same meaning as they are defined to have in the Declaration.

## ARTICLE II

### Association

2.1 Constitution. There is hereby constituted the Association, which shall be comprised of every Unit Owner within the Condominium. The Association shall be an unincorporated body.

2.2 Powers. The Association shall have all of the powers and may do all the things and acts necessary for and related to the administration of the affairs of the Condominium, not inconsistent with the laws of the State of Rhode Island, including, but not limited to, the following:

(a) To transact its business and to exercise its powers in any state, territory, district, or possession of the United States;

(b) To make contracts and guarantees, incur liabilities and borrow

money, sell, mortgage, lease, pledge, exchange, convey, transfer, and otherwise dispose of any part of its property and assets;

(c) To acquire by purchase or in any other manner to take, receive, own, hold, use, employ, improve, and otherwise deal with any property, real or personal, or any interest therein;

(d) To invest its funds and to lend money in any manner appropriate to enable it to carry on the operations or to fulfill the purposes set forth in the Declaration and these By-Laws, and to take and hold real and personal property as security for the payment of funds so invested or loaned.

2.3 Voting. Voting at all meetings of the Association, in person or by proxy, shall be on a Unit basis, and a Unit Owner shall be entitled to cast the number of votes for each Unit equal to the Allocated Interest for each Unit. In the case of multiple ownership of a Unit, the Owners thereof shall notify the Association in writing which of such Owners shall exercise the right to vote. No lessee, lien holder, mortgagee, pledgee, or contract purchasers shall have any voting rights with respect to the affairs of the Condominium, except as expressly provided herein or except as the proxy of a Unit Owner. An Owner shall be deemed to be in "good standing" and "entitled to vote" at any annual meeting or at any special meeting of the Association if, and only if, he shall have fully paid all assessments made or levied against him and his Unit by the Board of Directors, as hereinafter provided, together with all interest, costs, attorneys' fees, penalties, and other expenses, if any, properly chargeable to him and against his Unit, at least three (3) days prior to the date fixed for such annual or special meeting. No vote shall be associated with any Unit if such Unit is owned by the Association and the Association shall not be deemed an Owner in good standing. Unless otherwise provided by the Declaration or the Act, all votes shall be adopted by the vote of a majority of the Owners.

2.4 Majority of Owners. As used in these By-Laws, "majority of owners" means Unit Owners representing at least fifty one (51%) percent of the votes held by the Owners in good standing, and "two-thirds (2/3) of the Owners" means sixty-seven (67%) percent of the Unit Owners in good standing. Any and all disputes shall be resolved in accordance with the provisions set forth in Article 4.3 of the Declaration.

2.5 Quorum. Except as otherwise provided in these By-Laws, the presence in person or by proxy of a "majority of owners", i.e., at least fifty one (51%) percent of the allocated interests, as defined in Section 2.4 above, shall constitute a quorum.

2.6 Proxies. At all meetings of the Association, votes may be cast in person

or by proxy. Proxies must be filed in writing with the Secretary before the appointed time of each meeting, and shall be revocable at any time by written notice to the Secretary by the Owner or Owners so designating; and all such proxies shall be valid only for a maximum period of one hundred eighty (180) days following the date of issuance, unless granted to a mortgagee or lessee.

2.7 Mailing Address of Association. The mailing address of the Association shall be 115 Airport Street, North Kingstown, Rhode Island 02852, or such other address as may be designated from time to time by notices, in writing, to all Unit Owners.

### ARTICLE III Administration

#### 3.1 Association

(a) Association Responsibilities. The Association shall be responsible for the overall policy and administration of the Condominium; but, except as otherwise provided in these By-Laws or by statute, shall act by and through its elected Board of Directors. The Association shall have the responsibility of electing the Board of Directors, seeing that the Board of Directors maintains a current roster of names and addresses of each Unit Owner, prepares an annual budget, establishes monthly assessments, and arranges for the management of the Condominium by professionals or otherwise. Except as otherwise provided, decisions and resolutions of the Association shall require approval by a majority of Owners.

(b) Place of Meeting. Meetings of the Association shall be held at the principal office of the Condominium, or at such other suitable place convenient to the Association as may be designated by the Board of Directors.

(c) Annual Meetings. The first annual meeting of the Association shall be held on a date as determined by the Declarant. Thereafter, the annual meetings of the Association shall be held on May 15th of each succeeding year; and if such date shall be a legal holiday, then such meeting shall be held on the next succeeding business day. At such meetings there shall be elected, by ballot of the Unit Owners, Directors in accordance with the requirements of Section 3.2 of these By-Laws, and the Owners may also transact such other business of the Association as may properly come before them.

(d) Special Meetings. It shall be the duty of the President to call a special meeting of the Association when directed to do so by a duly adopted resolution of the Board of Directors or upon presentment to the President or Secretary of a petition signed by the Owners holding sixty-seven (67%) percent of the votes requesting such a meeting.

The notice of any special meeting shall state the time and place of such meeting and the purposes thereof. No business shall be transacted at a special meeting, except as stated in the notice.

(e) Notice of Meeting. It shall be the duty of the Secretary of the Association to mail a notice of each annual or special meeting, stating the purpose thereof as well as the time and place where it is to be held, to each Owner of record, at least fifteen (15) days but not more than thirty (30) days prior to such meeting. The mailing or delivery of a notice in the manner provided in this Section shall be considered notice served. Any unit owner may waive notice of meeting requirement by signing a written waiver.

(f) Adjourned Meetings. If any meeting of Owners cannot be organized because a quorum has not attended, the Owners who are present, either in person or by proxy, may adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called, without notice other than announcement at the adjourned meeting, until a quorum shall be present or represented. At such meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting originally called.

(g) Order of Business. The order of business at all meetings of the Association shall be as follows: (1) roll call, (2) proof of notice of meeting or waiver of notice, (3) reading of minutes of preceding meeting, (4) reports of officers, (5) report of committees, (6) election of Directors, if applicable, (7) unfinished business, and (8) new business, including, but not limited to, presentation of the annual budget and financial report of the Association.

(h) Validity of Contracts. No contract or other transaction between the Association and any other legal entity, and no act of the Association, shall in any way be affected or invalidated by virtue of the fact that any of the Officers or Directors are pecuniarily or otherwise interested in, or are directors or officers of, such other legal entity.

### 3.2 Board of Directors.

(a) Number and Qualification. The affairs of the Association shall be governed by a Board of Directors composed of five (5) persons. All Directors shall be either, appointed by the Declarant, Unit Owners or their spouses, or any person designated as a representative by a corporation, partnership, or other entity which is a Unit Owner.

(b) Election and Term of Office. Except for the initial Board of Directors, which shall be appointed by the Declarant, as set forth in the Declaration, the Directors shall be elected at each annual meeting of the Association. The term of office shall be fixed for three (3) years, provided that the terms of the Directors elected at the first annual meeting of the Association may be individually or collectively shorter or longer than three (3) years, as may be established by the vote of the Owners, provided that such terms may not expire later than the fourth (4th) annual meeting of the Association. Each Director shall hold office until disqualified or until his successor shall have been elected by the Association.

(c) Vacancies. Vacancies in the Board of Directors caused by disqualification or any reason other than removal of a Director by a vote of the Association shall be filled by vote of the majority of the remaining Directors, even though they may constitute less than a quorum of said Board; and each person so elected shall be a Director until a successor is elected at the next annual meeting of the Association.

(d) Powers and Duties. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not by law or by these By-Laws directed to be exercised and done by the Association, and may delegate in writing such of its powers and duties as it, in its sole discretion, may choose to a Managing Agent or other persons, and such powers and duties shall include, but not be limited to, the following:

1. Provide for the operation, care, upkeep, maintenance, and surveillance of the Common Elements and services of the Condominium including the allocation and re-allocation of parking spaces and additional storage areas, and setting fees therefor;

2. Preparation, approval and adoption of an annual budget in which there shall be established the contribution of each Owner to the Common Expenses;

3. Making assessments against the Owners, subject to the Owners' right to reject said budget, as set forth in Article VI, Paragraph 6.2, of these By-Laws, based upon the annual budget, to defray the costs and expenses of the Condominium, and establishing the period of installment payment of such assessments;

4. Collection of the Annual Assessment from the Unit Owners, including collection by legal means, if necessary;

5. Designation, hiring, dismissal, and control of the personnel necessary for the maintenance, operation, and good working order of the Condominium and the Common Elements;

6. Adoption and amendment of Rules and Regulations covering the details of the operation and use of the Property, subject to the right of the Owners to overrule the Board of Directors;

7. Opening of bank accounts on behalf of the Condominium and designation of signatories required therefor;

8. Obtaining of insurance for the Property, including the Units pursuant to the provisions of these By-Laws;

9. Making of alterations, repairs, additions, and improvements to, and the restoration of, the Property, in accordance with the other provisions of these By-Laws;

10. Enforcing by legal means the provisions of Declaration, these By-Laws, and the Rules and Regulations, and bringing proceedings which it may be necessary to institute on behalf of the Owners;

11. Paying the costs of all authorized services rendered to the Condominium and not chargeable to the Owners of individual Units;

12. Keeping books with detailed accounts, in chronological order, of the receipts and expenditures affecting the Property and the administration of the Condominium, specifying the maintenance and repair expenses of the Common Elements and any other expenses incurred. The said books and vouchers accrediting the entries thereupon shall be available for examination by the Unit Owners, their duly authorized agents or attorneys, during general business hours on working days at the times and in the manner that shall be set and announced by the Board of Directors for the general knowledge of the Owners. All books and records shall be kept in accordance with good and accepted accounting practices; and, at the request of Unit Owners representing at least sixty-seven percent (67%) of the votes held by Owners in good standing, the same may be audited at least once a year by a certified public accountant employed by the Board of Directors who shall not be a resident of the Condominium. The cost of such audit shall be a Common Expense.

13. To do such other things and acts, not inconsistent with the laws of the State of Rhode Island or with the Declaration, which it may be authorized to do by a resolution of the Association.

(e) Annual Meeting. The annual meeting of the Board of Directors shall be held immediately following, or jointly with, the annual meeting of the Association, and

no notice shall be necessary to the newly elected Directors in order to legally constitute such meeting, providing a majority of the whole Board shall be present.

(f) Special Meetings. Special meetings of the Board of Directors may be called by the President or by any two (2) Directors on three (3) business days' notice to each Director. Such notice shall be given personally or by mail, e-mail, telephone, or telegraph, and such notice shall state the time, place (as hereinabove provided) and the purposes of the meeting. The Board of Directors may also act without a meeting by instrument signed by all of the Directors, or by a telephone poll or e-mail, if there is unanimous agreement regarding the action to be taken.

(g) Waiver of Notice. Before or at any meeting of the Board of Directors, any Director may, in writing, waive notice of such meeting, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall be a waiver of notice by him of the time and place thereof. If all the Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

(h) Board of Directors' Quorum. At all meetings of the Board of Directors at least two (2) of the Directors must be present, in person or by written proxy.

(i) Fidelity Bonds. The Board of Directors may require that all officers and employees of the Association handling or responsible for funds furnish adequate fidelity bonds. The premiums on such bonds shall be a Common Expense.

(j) Compensation. No member of the Board of Directors shall receive any compensation from the Condominium for acting as such.

(k) Managing Agent. The Board of Directors may employ for the Condominium a professional managing agent at a compensation established by the Board of Directors, to perform such duties and services as the Board of Directors shall authorize, including, but not limited to, the duties listed in Paragraph D of this Section 3.2. The Declarant or an affiliate of the Declarant may be employed as managing agent provided that any management contract which provides for the Declarant or its affiliate to be manager and which is approved by the initial Board of Directors appointed by the Declarant may be terminated by the Board of Directors elected at the first annual meeting of the Association upon ninety (90) days' written notice to the managing agent.



## ARTICLE IV

### Officers

4.1 Designation. The principal officers of the Association shall be the President, Vice President, Secretary, and a Treasurer, all of which shall be elected by the Board of Directors. One or more director/s or Unit Owner/s may serve and fulfill the duties and responsibilities of any or all of the officers of the Association. The Directors may appoint assistants and such other officers as, in their judgment, may be necessary. The President and Vice President shall be members of the Board of Directors; and all other officers may be, but are not required to be, members of the Board of Directors.

4.2 Election of Officers. The officers shall be elected annually by the Board of Directors at the organizational meeting of each new Board and shall hold office at the pleasure of the Board. Any vacancy in an office shall be filled by the Board of Directors at any of its regular or special meetings.

4.3 Removal of Officers. Upon an affirmative vote of a majority of the members of the Board of Directors, any officer may be removed, either with or without cause; and his successor may be elected at any regular meeting of the Board of Directors, or at any special meeting called for that purpose.

4.4 President. The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and the Board of Directors. He shall have all of the general powers and duties which are usually vested in the office of President of an organization, including, but not limited to, the power to appoint committees from among the Owners, from time to time, as he may, in his discretion, decide to be appropriate to assist in the conduct of the affairs of the Association.

4.5 Vice President. The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board of Directors shall appoint a member of the Board to do so on an interim basis. The Vice President shall also perform such other duties as shall, from time to time, be assigned to him by the Board of Directors.

4.6 Secretary. The Secretary shall keep the minutes of all meetings of the Board of Directors and the minutes of all meetings of the Association; he shall have charge of such books and papers as the Board of Directors may direct; and he shall count

votes at all meetings of the Association and the Board of Directors; and, in general, perform all the duties incident to the office of Secretary.

4.7 Treasurer. The Treasurer shall have the responsibility for the Association's funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. He shall be responsible for the deposit of all monies and other valuable effects in the name, and to the credit of, the Association, in such depositories as may, from time to time, be designated by the Board of Directors. The Board may arrange for an external annual audit of the fiscal records of the Association.

4.8 Agreements, Contracts, etc. All agreements, deeds, contracts, leases, and other instruments of the Condominium shall be executed by the President or Vice President or Secretary or Treasurer, or such other person or persons as the Board of Directors may designate.

4.9 Compensation of Officers. No officer shall receive any compensation from the Condominium for acting as such.

ARTICLE V  
Liability and Indemnification of  
Officers and Board of Directors

The officers and members of the Board of Directors shall not be liable to the Unit Owners for any mistake of judgment, negligence, or otherwise, except for their own individual willful misconduct or bad faith. The Unit Owners shall indemnify and hold harmless each of the officers and the directors from and against all contractual liability to others arising out of contracts made by the officers and the Board of Directors on behalf of the Unit Owners unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or of these By-Laws. It is intended that the officers and the members of the Board of Directors shall have no personal liability with respect to any contract made by them on behalf of the Unit Owners. It is also intended that the liability of any Unit Owner arising out of any contract made by the officers or the Board of Directors or out of the aforesaid indemnity in favor of the officers and the members of the Board of Directors shall be limited to such proportion of the total liability thereunder as his Allocated Interest bears to the Allocated Interest of all the Unit Owners. Every agreement made by the officers and the Board of Directors or by the Managing Agent on behalf of the Unit Owners shall, if obtainable, provide that the officers and the members of the Board of Directors, or the Managing Agent, as the case may be, are acting only as agents for the Unit Owners and shall have no personal liability thereunder (except

as Unit Owners), and that each Unit Owner's liability thereunder shall be limited to such proportion of the total liability thereunder as his Allocated Interest bears to the Allocated Interests of all Unit Owners. The Unit Owners shall indemnify any person who was or is party or is threatened to be made party to any threatened, pending or completed action, suit or proceeding by reason of the fact that he is or was director or officer, against expenses (including attorneys' fees), fines, and amounts paid in settlement incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in the best interest of the Unit Owners.

Neither the Association nor the Board of Directors shall be liable for any failure to obtain or provide services to or for any Unit, or for injury or damage to person or property caused by the elements or by the Owner of any Unit, or by any other person, or resulting from electricity, water, snow, or ice which may leak or flow from the Common Elements, or from any wire, pipe, drain, conduit, appliance, or equipment. The Association and the Board of Directors shall not be liable to the Owner of any Unit for loss or damage, by theft or otherwise, of articles which may be stored upon any of the Common Elements. No diminution or abatement of Common Expense Assessments, as herein elsewhere provided, shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Common Elements, or to any Unit, or from any action taken by the Association or Board of Directors to comply with any law, ordinance or with the order or directive of any municipal or other governmental authority.

## ARTICLE VI

### Budget, Charges and Assessments

6.1 Charges and Assessments. The Association, acting by and through its Board of Directors, shall manage, operate and maintain the Condominium, and, for the benefit of the Units and the Owners thereof, shall enforce the provisions hereof, and shall pay out of the Common Expense Fund herein elsewhere provided for the following:

(a) The cost of all common expenses, including common utilities, common fire, extended coverage and liability insurance on the condominium, management services and expenses, professional services and expenses;

(b) The cost of any and all other materials, supplies, labor, services, maintenance, repairs, taxes, assessments, or the like, which the Association is required to secure or pay for by law, or otherwise, or which, in the discretion of the Board of Directors, shall be necessary or proper for the operation of the Common Elements; provided, however, that if any of the aforementioned are provided or paid for the benefit of a particular Unit or Units, the cost thereof shall be specially assessed to the Owner or

Owners thereof in the manner provided for in subsection (g) of this Section 6.1.

(c) The cost to maintain or repair any Unit in the event that the Association, Board of Directors, Manager, or Managing Agent repairs or maintains any Unit in accordance with the provisions of Section 8.2 hereof, provided that such cost shall be assessed as a Special Assessment against the Unit so maintained or repaired.

(d) Any amount necessary to discharge any lien or encumbrance levied against the Condominium, or any portion thereof, which may, in the opinion of the Board of Directors, constitute a lien against any of the Common Elements rather than the interests of the Owner of any individual Unit.

## 6.2 Preparation and Approval of Budget.

(a) Preparation. Each year, on or before May 15th, the Board of Directors shall prepare, approve and adopt a budget for the Condominium containing an estimate of the total amount which it considers necessary and required during the ensuing fiscal year for the administration, operation, maintenance, repair, and improvement of the Condominium and the rendering to the Unit Owners of all related services as provided in Section 1 of this Article.

(b) Notice of Proposed Budget. Within thirty (30) days after the adoption of any proposed budget for the Condominium, the Board of Directors shall provide a summary of the budget to all the Unit Owners, and to set a date for a meeting of the Unit Owners to consider ratification of the budget not less than fourteen (14) nor more than thirty (30) days after mailing of the summary. Unless at that meeting a majority interest of all the Unit Owners reject the budget, the budget is ratified, whether or not a quorum is present. In the event that the proposed budget is rejected, the periodic budget last ratified by the Unit Owners shall be continued until such time as the Unit Owners ratify a subsequent budget adopted by the Board of Directors. The procedures set forth in this paragraph may be waived by the written waiver of the unit owners.

(c) Failure to Adopt Budget. The failure or delay of the Board of Directors to prepare or of the Association to adopt the annual budget for any fiscal year shall not constitute a waiver or release in any manner of a Unit Owner's obligation to pay his allocable share of the Common Expenses as herein provided, whenever the same shall be determined; and, in the absence of any annual budget or adjusted budget, each Unit Owner shall continue to pay the monthly charge at the then existing monthly rate established for the previous fiscal period until such new annual or adjusted budget shall have been mailed or delivered; and, thereafter, all subsequent monthly payments shall be as provided by such new annual or adjusted budget.

(d) Initial Budget. Notwithstanding any provision in these By-Laws to the contrary, the budget, as defined in this Section, for the period from the date of commencement of the Condominium and ending on December 31<sup>st</sup> thereafter, shall be the budget prepared by the Declarant for the Condominium; and assessments shall be levied against the Unit Owners during said period as hereinafter provided, based upon said budget.

(e) Increase in the Annual Assessment. The Board of Directors may increase or decrease the Annual Assessment at any time during the year in which it is payable, provided that the Board of Directors shall not increase the Annual Assessment, as provided herein, by more than ten (10%) percent, without first receiving approval of a majority in interest of all the Unit Owners at a meeting of the Condominium Association.

6.3 Assessment and Payment of Common Shares. The Board of Directors shall assess each Unit its allocated share of the Common Expenses, based upon the budget adopted as aforesaid. Each such assessment shall be a lien against the Unit to which it applies, and all Unit Owners shall be obligated to pay the Common Expenses so assessed by the Board of Directors in twelve (12) equal monthly installments on the first (1st) day of each month, beginning with the first day of the first month of the fiscal year for which the budget applies, or at such other time or times as the Board of Directors shall determine. Any amount accumulated in excess of the amount required for the actual expenses and reserves shall, in the discretion of the Board of Directors, either be returned to the Unit Owners as Common Profit or applied to the reduction of the next monthly installment or installments due from the Unit Owners under the current fiscal year's budget until exhausted.

6.4 Reserves. Subject to the provisions of Section 6.2 hereof, the Board of Directors, in its discretion, may build up and maintain reasonable reserves for working capital, operations, contingencies, and replacements. All funds accumulated for reserves shall be kept in a separate bank or investment account, or segregated from the general operating funds, and if the Board of Directors deems it advisable, funds accumulated for each type of reserve shall be kept in a separate bank or investment account, identified by reference to the specific category of reserve. Extraordinary expenditures not originally included in the annual budget, which may become necessary during the year, shall be paid for first from such reserves. Except where an emergency requires an expenditure to prevent or minimize loss from further damage to or deterioration of the Common Elements, reserves accumulated for one purpose may not be expended for any other purpose unless approved by the Association.

6.5 Special Assessments. In addition to the regular assessments authorized

by these By-Laws, and in addition to the special assessments provided for in Sections 6.1, 7.7, 8.2, 8.4 and 8.5 hereof, or elsewhere in these By-Laws, the Association may levy in any assessment year a special assessment or assessments against one or more Units, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of construction or reconstruction, unexpected repair or replacement of a described capital improvement located upon the Condominium, including the necessary fixtures and personal property related thereto, or for such other purpose as the Board of Directors may consider appropriate, provided that except as provided in Sections 6.1, 7.7, 8.2, and 8.4, with respect to an assessment covering all the Units, two-thirds (2/3) of the Unit Owners must assent to such assessment in writing or at a duly called meeting of the Association, the notice of which shall have set forth the purpose of the meeting, and provided that with respect to any assessment covering less than all the Units, the Owners owning two-thirds (2/3) of the Allocated Interests appurtenant to the Units being assessed must assent to such assessment in writing.

6.6 Acceleration of Installments. Upon default in the payment of any one or more installments of any assessment levied pursuant to the Declaration and/or these By-Laws, the entire balance of said assessment may be accelerated at the option of the Board of Directors and be declared due and payable in full.

6.7 Default in Payment of Assessments. Upon default in the payment of any assessment, the amount due and payable shall become a lien on the Unit owned by the defaulting Unit Owner, and the delinquent Unit Owner shall be obligated to pay interest at the maximum legal rate on such charges from the due date thereof to the date of payment, together with all expenses, including attorneys' fees, incurred by the Board of Directors in any proceeding brought to collect such unpaid assessment, and if any such delinquent assessment (including accelerated installments) is not paid within thirty (30) days after written notice and demand is made, the Association or Board of Directors shall be entitled to enforce the payment of said lien according to the laws of the State of Rhode Island.

The Board of Directors may post a list of Unit Owners who are delinquent in the payment of any assessment or other fees, which may be due, including any installment thereof, which becomes delinquent, in any prominent location within the Condominium.

6.8 Priority of Lien. Upon the recording by the Board of Directors or the manager of a notice for a delinquent assessment, such lien shall have preference over any other assessments, mortgages, liens, judgments, or charges of whatever nature, except real estate taxes and special assessment liens on the Unit, and any mortgage on such Unit recorded prior to recording such lien.

## ARTICLE VII

### Insurance

7.1 Insurance Coverage. The Board of Directors shall obtain and maintain, to the extent reasonably available, the following insurance coverage:

(a) Casualty or physical damage insurance with a deductible not to exceed One Thousand (\$1,000.00) Dollars and in an amount equal to the full replacement value (i.e., 100% of "replacement cost") of the Condominium Project, including each Unit, but excluding any personal property owned by a Unit Owner or any additional improvements made by a Unit Owner within his Unit, with an "agreed amount" endorsement and a "Condominium replacement cost" endorsement without deduction or allowance for depreciation (said amount to be redetermined annually by the Board of Directors with the assistance of the insurance agency or insurance company affording such coverage), such coverage to afford protection against at least the following:

1. Loss for damage by fire or other hazards covered by the standard extended coverage endorsement, together with coverage for Common Expenses with respect to Units during any period of repair or reconstruction;

2. Such other risks as shall customarily be covered with respect to projects similar in construction, location and use, including, but not limited to, vandalism, flood damage, malicious mischief, windstorm, water damage, machinery explosion or damage, and such other insurance as the Board of Directors may, from time to time determine; and

(b) Public liability insurance with a "Severability of Interest" endorsement in such amounts and in such forms as may be considered appropriate by the Board of Directors, including, but not limited to, water damage, legal liability, liability for property of others, and any and all other liability incident to the ownership and/or use of the Condominium, or any portions thereof; and

(c) Workmen's Compensation insurance to the extent necessary to comply with any applicable law; and

(d) Such other policies of insurance, including insurance for other risks of similar or dissimilar nature, as are or shall hereafter be required by law or which may be considered appropriate by the Board of Directors.

7.2 Insurance Limitations. Any insurance obtained pursuant to the requirements hereof shall be subject to the following provisions to the extent available:

(a) All policies shall be written with a company or companies licensed to do business in the jurisdiction where the Condominium is located, with a rating equal or comparable to a rating of "A" or better in Best's Insurance Guide;

(b) Exclusive authority to negotiate losses under said policies shall be vested in the Board of Directors or its authorized representative, including any trustee with which the Association may enter into any Insurance Trust Agreement, or any successor trustee, each of which shall be herein elsewhere referred to as the "Insurance Trustee"; provided, however, that no loss under any insurance policy shall be compromised or settled, either by the Board of Directors or the Insurance Trustee, without the prior written consent of the mortgagee holding the first mortgage on the Unit for which such claim has been made;

(c) The insurer shall not be entitled to contribute against casualty insurance which may be obtained by a Unit Owner in accordance with Section 7.3 hereof;

(d) All policies shall provide that such policies may not be cancelled or substantially modified without at least thirty (30) days' prior written notice to any and all insureds named thereon, including any and all mortgagees of the Units;

(e) All policies of casualty insurance shall provide that, notwithstanding any provisions thereof which give the carrier the right to elect to restore damage in lieu of making a cash settlement, such option shall not be exercisable without the prior written approval of the Board of Directors (or any other Insurance Trustee);

(f) All policies shall contain a waiver of subrogation by the insurer as to any and all claims against the Condominium, the Board of Directors, the Owners, and/or their respective agents, employees and invitees, and of any defense based upon co-insurance or invalidity arising from the acts of the insured;

(g) All policies shall contain the standard mortgagee clause, except that any loss or losses payable to named mortgagees shall be payable in the manner hereinafter set forth in this Article. Such mortgagee clause shall provide for notice in writing to the mortgagee of any loss paid as aforesaid.

7.3 Individual Insurance Policies. Each Owner (and the holder the mortgage thereon) may obtain additional insurance (including a "Condominium Unit Owner's Endorsement" for improvements and betterments to the Unit made or acquired at the



expense of the Owner) at his own expense. Such insurance shall be written by the same carrier as that purchased by the Board of Directors pursuant to this Article, or shall provide that it shall be without contribution as against the same. Such insurance shall contain the same waiver of subrogation provisions as that set forth in Section 7.2(f) of this Article. The Declarant recommends that each Owner obtain, in addition to the insurance hereinabove provided to be obtained by the Board of Directors, an insurance policy, to insure against loss or damage to personal property used or incidental to the occupancy of his Unit, additional living expense, plate glass damage, vandalism or malicious mischief, theft, personal liability, and the like. Such policy should include a "Condominium Unit Owner's Endorsement" covering losses to improvements and betterments to the Unit made or acquired at the expense of the Owner.

7.4 Endorsement, etc. The Board of Directors, at the request of any Owner or at the request of the mortgagee of any such Unit, shall promptly obtain and forward to such Owner or mortgagee (a) an endorsement to any of the policies aforementioned in this Article showing the interest of such Owner or mortgagee as it may appear; and (b) certificates of insurance relating to any of such policies; and (c) copies of such policies, duly certified by the insurer or its duly authorized agent; and (d) proof of payment of premium for any such policy or policies; and the Board of Directors may, at its discretion, make a nominal charge for furnishing such information, except for the initial request for such information.

7.5 Insurance Trustee. All insurance policies purchased by the Board of Directors shall be for the benefit of the Association and the Owners and mortgagees of the Units, as their respective interests may appear, and shall provide that all proceeds covering property losses shall be paid to the Insurance Trustee, or if there is no Insurance Trustee, to the Board of Directors. Such Insurance Trustee shall be any bank with trust powers or any other qualified subsidiary of a bank or savings and loan association, as may be designated by the Board of Directors. The Insurance Trustee shall not be liable for payment of premiums nor for the renewal or the sufficiency of policies, nor for the failure to collect any insurance proceeds. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and hold the same in trust for the purposes herein elsewhere provided.

7.6 Distribution of Insurance Proceeds. Proceeds of insurance policies received by the Insurance Trustee or the Board of Directors shall be distributed to or for the benefit of the beneficial owners in the following manner:

(a) Expense of the Trust. All customary expenses of the Insurance Trustee, if any, shall be first paid or provision made therefor;

(b) Reconstruction or Repair. In the event the damage for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost thereof, as herein elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to or credited to the Owners in proportion to their Percentage Interests as set forth in the Declaration and their respective mortgagees (if any) as their interests may appear. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by such mortgagee.

(c) When Damaged Area is not to be Restored. In the event it is determined in the manner herein elsewhere provided that the damage for which the proceeds are paid shall not be reconstructed or repaired, then the remaining proceeds shall be paid as provided by the Act.

#### 7.7 Repair or Reconstruction After Fire or Other Casualty.

(a) In the event of damage to or destruction of the Condominium as a result of fire or other casualty, the Board of Directors shall arrange for the prompt repair and restoration of the damaged area, unless (1) the Condominium is terminated, (2) repair or replacement would be illegal under any state or local health or safety statute or ordinance; or (3) one hundred (100%) percent of the Unit Owners, including every Unit Owner of a Unit or assigned Limited Common Element which will not be rebuilt, vote to not to rebuild unless insurance proceeds are adequate to rebuild. All repair and restoration to any damaged area shall put said damaged area substantially in the same condition which existed prior the damage (including any damaged Units, and any kitchen or bathroom fixtures initially installed therein, but not including any wall, ceiling, or floor decorations or coverings or other furniture, furnishings, fixtures, or equipment installed in the Units); and the Board of Directors shall, under the direction of the Insurance Trustee, if any, arrange for the disbursement of the proceeds of all insurance policies to the Board or the Insurance Trustee. If the proceeds of insurance are insufficient to defray the estimated costs of reconstruction and repair, or if at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for the payment of the costs thereof are insufficient, an assessment shall be made against each Unit Owner for the damage to the Common Elements in sufficient amounts to provide funds for the payment of such costs. Such assessments against Unit Owners shall be in proportion to the Owner's respective Allocated Interests in the Common Elements. Said fund shall be paid to the Insurance Trustee, or, if none, to the Board of Directors, for disbursement as hereinafter set forth.

(b) Immediately after a casualty causing damage to property for which the Board of Directors has the responsibility of restoration and repair, the Board of Directors shall obtain reliable and detailed estimates of the cost to place the damaged

property in condition as good as that before the casualty. For damage in excess of Fifty Thousand (\$50,000.00) Dollars, the Board of Directors shall retain the services of a public adjuster. Such costs may include professional fees and premiums for such bonds as the Insurance Trustee may reasonably require.

(c) The proceeds of insurance collected on account of casualty, and the sums received from collection of assessments against Unit Owners on account of such casualty, if any, shall constitute a construction fund, which shall be disbursed in payment of the costs of reconstruction and repair in the following manner:

1. If the amount of the estimated costs of reconstruction is less than Fifty Thousand (\$50,000.00) Dollars, then the construction fund shall be disbursed in payment of such costs upon order of the Board of Directors; provided, however, that upon request of a mortgagee which is a beneficiary of an insurance policy, the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner hereafter provided in the following Paragraph 2;

2. If the estimated cost of reconstruction and repair of the Buildings or other improvements is more than Fifty Thousand (\$50,000.00) Dollars, then the construction fund shall be disbursed in payment of such costs upon approval of an architect or registered professional engineer, licensed to practice in Rhode Island and employed by the Association to supervise such work, payment to be made from time to time, as the work progresses. The architect/engineer shall be required to furnish a certificate giving a brief description of services and materials furnished by various contractors, subcontractors, materialmen, the architect/engineer, or other persons who have rendered services or furnished materials in connection with the work (a) that the sums requested by them in payment are justly due and owing and that said sums do not exceed the value of the services and materials furnished; (b) that there is no other outstanding indebtedness known to the said architect/engineer for the services and materials described; and (c) that the cost as estimated by said architect/engineer for the work remaining to be done subsequent to the date of such certificate does not exceed the amount of the construction fund remaining after payment of the sum so requested.

## ARTICLE VIII

### Operation of the Property

8.1 Abatement and Enjoyment of Violation by Unit Owners. The breach of any provision of the Rules and Regulations for the Condominium, these By-Laws, or the Declaration shall give the Board of Directors or their authorized agents the right, in

addition to any other rights set forth in these By-Laws: (a) to enter the Unit in which, or as to which, such violation or breach exists and to summarily abate and remove, whether within the Unit or not, at the expense of the defaulting Unit Owner, any structure, thing, or condition that may exist in said Unit or on the Common Areas contrary to the intent and meaning of the provisions hereof; and the Board of Directors shall not thereby be deemed guilty in any manner of trespass, or (b) to enjoin, abate, or remedy, by appropriate legal proceedings, either at law or in equity, the continuance of any such breach.

8.2 Access at Reasonable Times. For the purpose solely of performing any of the repairs or maintenance, or inspections for same, required or authorized by these By-Laws, or in the event of a bona fide emergency involving illness or potential danger to life or property, the Association, the Board of Directors, the Manager, or Managing Agent, through their duly authorized agents or employees, shall have the right, after reasonable efforts to give notice to the Unit Owner or occupant, or without notice in the event of an emergency, to enter any Unit at any hour considered to be reasonable under the circumstances. In the event the Association, Board of Directors, Manager, or Managing Agent maintains or repairs any Unit in accordance herewith, the cost thereof shall constitute a special assessment against such Unit.

8.3 Easements for Utilities and Related Purposes. The Board of Directors and, until the Declarant no longer controls the Board of Directors, the Declarant, are, acting individually, authorized and empowered to grant (and shall, from time to time, grant) such licenses, easements and/or rights-of-way for sewer lines, water lines, electrical cables, telephone cables, gas lines, storm drains, underground conduits, and/or such other purposes related to the provision of public utilities to the Condominium as may be considered necessary and appropriate by the Board of Directors for the orderly maintenance, preservation, and enjoyment of the Common Elements or for the preservation of the health, safety, convenience, and/or welfare of the Owners.

8.4 Maintenance and Repairs.

(a) Except for maintenance required herein imposed on the Association, each Owner shall maintain, repair and replace, at his own expense, the interior and exterior of his Unit and any and all equipment, appliances, or fixtures therein situated, in good order, condition and repair, and in a clean and sanitary condition, and shall do all redecorating, painting and the like which may at any time be necessary to maintain the good appearance of his Unit. Each Owner shall be liable for damages, liabilities, costs, and expenses, including reasonable attorneys' fees, caused by or arising out of his failure to perform any such maintenance or repair work.

(b) Limited Common Elements. Each Unit Owner shall maintain in a

neat, clean, and sanitary condition, and shall repair, replace and maintain any Limited Common Element reserved for the benefit of his Unit alone.

(c) General Common Elements. The Association shall be responsible for all repairs, replacements, and maintenance of the General Common Elements, and the costs thereof shall be charged by the Board of Directors as a common expense to all owners.

(d) Negligence, etc. of Unit Owners. Any expense incurred by the Board of Directors in carrying out its responsibilities under subsections 8.4(b), (c), or (d) necessitated by the negligence, misuse, or neglect of a Unit Owner, to the extent not paid for by insurance, shall be charged to such Unit Owner.

8.5 Additions, Alterations, or Improvements by the Board of Directors. The Board of Directors may cause any additions, alterations, or improvements to the Common Elements, provided that any such work which costs in excess of Ten Thousand (\$10,000.00) Dollars shall be approved by a majority of the Unit Owners. The Board of Directors shall assess one or more of the Unit Owners for the cost thereof, in accordance with subsection 6.1(f) hereof.

8.6 Additions, Alterations, or Improvements by Unit Owners. No Unit Owner shall make any structural addition, alteration, or improvement in or to his Unit, or the Common Elements, without the prior written consent thereto of the Board of Directors. The Board of Directors shall have an obligation to answer any written request by a Unit Owner for approval of a proposed structural addition, alteration, or improvement in such Owner's Unit within thirty (30) days after such request, and failure to do so within the stipulated time shall constitute a consent by the Board of Directors to the proposed addition, alteration, or improvement. Notwithstanding the foregoing, no Unit Owner shall do any work or make any alterations or changes which would jeopardize the soundness or safety of the Property, reduce its value or impair any hereditament, without in every such case the prior unanimous written consent of all other Unit Owners. The Board of Directors may impose such other terms, conditions, and restrictions in connection with any additions, alterations, or improvements by any Unit Owners which are approved by the Board of Directors. All such work shall be performed and completed in good and workmanlike condition and of quality at least equal to present construction.

8.7 Use of Common Elements. Notwithstanding anything to the contrary contained herein, the ownership of the General Common Elements and the right to use the same by each of the Owners, his lessees, invitees, and guests, shall at all times be and remain subject to:

(a) the rights of all other Owners, their lessees, invitees, and guests, to use the same, as provided in the Declaration, the By-Laws and the Rules and Regulations; and

(b) the right of the Association to (1) limit the number of guests or other persons (except Owners and their lessees) which may use the General Common Elements; (2) charge reasonable admission and other fees for the use of any recreational facilities included in the General Common Elements, if any; (3) suspend with respect to any Owner voting rights and the right to such any such recreational facility for any period during which any annual or special assessment remains unpaid and for a period, not to exceed thirty (30) days, for any violation of the Declaration, including the By-Laws and the Rules and Regulations; and (4) fine any Owner for any violation of the Declaration, including the By-Laws and the Rules and Regulations.

8.8 Rules of Conduct. Rules and Regulations concerning the use of the Units and the Common Elements may be promulgated and amended by the Board of Directors with the approval of a majority of the Unit Owners. Copies of such Rules and Regulations shall be furnished by the Board of Directors to each Unit Owner prior to the time when the same shall become effective. Initial Rules and Regulations for the Condominium, which shall be effective until amended by the Board of Directors with the approval of a majority of the Unit Owners, may be annexed hereto and made a part hereof as Schedule "A".

## ARTICLE IX Mortgagees

9.1 Record of Mortgagees. The Board of Directors shall keep an accurate record of each mortgagee of a Unit who notifies the Board of Directors in writing that said mortgagee is the holder of a mortgage secured by one or more Units, and such records shall contain at least the name and address of the mortgagee, the Unit upon which the lien is secured, and the date of receipt of notice of said lien.

9.2 Notice of Unpaid Assessments. The Board of Directors, whenever so requested in writing by a mortgagee of a Unit, shall promptly report any then unpaid assessments due from, or any other default by, the Owner of the mortgaged Unit.

## ARTICLE X Declarant

10.1 Management of Property. Until the Declarant no longer controls the Board of Directors, the Declarant may require the Association to appoint the Declarant as agent for the Association in the management of the Property, at a reasonable rate of compensation. Such compensation or fee, if any, shall constitute a Common Expense.

10.2 Sales, etc. by Declarant. Notwithstanding any provision in the Declaration (including the By-Laws), to the contrary, the Declarant shall have the unrestricted right to sell, assign, mortgage, lease, or otherwise transfer any Unit or interest therein or appertaining thereto which it owns, on such terms and conditions as it may determine.

## ARTICLE XI Compliance -- Severability

These By-Laws are set forth to comply with the requirements of the Act. In case any of the By-Laws conflict with the provisions of the Act, the provisions of the Act shall apply. If any provisions of these By-Laws or any section, sentence, clause, phrase, or word, or the application thereof, in any circumstance, is held invalid, the validity of the remainder of these By-Laws shall not be affected thereby, and, to this end, the provisions hereof are declared to be severable.

## ARTICLE XII No Severance of Ownership

No Unit Owner shall execute any deed, mortgage, or other instrument conveying or mortgaging title to his Unit without including therein the appurtenant interest, it being the intention hereof to prevent any severance of such combined ownership. Any such deed, mortgage or other instrument purporting to affect one or more such interests without including all such interests, shall be deemed and taken to include the interest or interests so omitted, even though the latter shall not be expressly mentioned or described therein. No part of the appurtenant interests of any Unit may be sold, transferred, or otherwise disposed of, except as part of a sale, transfer, or other disposition of the Unit to which such interests are appurtenant, or as part of a sale, transfer, or other disposition of such part of the appurtenant interests of all Units, except insofar as permitted by the Act.

## ARTICLE XIII Miscellaneous

13.1 Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit, or describe the scope of these

By-Laws, or the intent of any provisions thereof.

13.2 Gender. Whenever the context so requires, reference herein to the neuter, masculine, or feminine pronouns shall be construed in the singular, plural, masculine, feminine, or neuter, in accordance with the context of this document, and said pronouns shall be deemed to include the Declarant's and any Unit Owners' heirs, executors, administrators, successors, and/or assigns.

13.3 Waiver. No restriction, condition, obligation, or provision contained in these By-Laws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

13.4 Notices. All notices hereunder shall be sent by registered or certified mail to the Board of Directors, c/o the Managing Agent, or, if there be no Managing Agent, to the office of the Board of Directors, or to such other address as the Board of Directors may hereafter designate from time to time by notice in writing to all Unit Owners and to all mortgagees of Units. All notices to any Unit Owner shall be sent by regular mail to Unit addressed, or to such other address as may have been designated by them in writing to the Board of Directors. All notices to mortgagees of Units shall be sent by regular mail to their respective addresses, as designated by them from time to time, in writing, to the Board of Directors. All notices shall be deemed to have been given when mailed.

#### ARTICLE XIV Amendments to By-Laws

14.1 Amendments. Except as otherwise may be provided in the Act or the Declaration, and except as otherwise may be provided in this Article, these By-Laws, may be amended either (a) by an affirmative vote of the Owners of sixty-seven (67%) percent of the Allocated Interests in good standing at any annual or special meeting, as evidenced by a certified resolution of such vote prepared and executed by the Secretary of such meeting, provided that notice of the proposed amendment shall have been given to each Unit Owner at least fifteen (15) days in advance of such meeting; or (b) pursuant to a written instrument duly executed by the Owners of sixty-seven (67%) percent of the Allocated Interests in good standing.

14.2 Recording. An amendment of these By-Laws shall become effective only when such certified resolution or written instrument referred to in Section 14.1 hereof is recorded by the Secretary or by some agent at the direction of the Secretary.



14.3 Conflicts. No modification or amendment of these By-Laws may be adopted which shall violate the provisions of the Act. A modification or amendment once adopted and recorded as provided for herein shall then constitute part of the official By-laws of the Condominium, and all Owners shall be bound to abide by such modification or amendment.

14.4 Approval of Declarant. Until the date that the Declarant no longer controls the Board of Directors, these By-Laws may not be amended without the prior written approval of the Declarant. These By-Laws were approved and adopted as of the date set forth in the Declaration.

COMPASS CIRCLE, LLC

By \_\_\_\_\_