

EXHIBIT D  
AMENDED AND RESTATED BYLAWS  
OF  
THE FAIRWAY TOWNHOUSES OWNERS ASSOCIATION

Background

The Fairway Townhouses, a Condominium (the "Condominium") was created by Declaration dated January 13, 1988, and recorded in the Oxford County Registry of Deeds (the "Registry") in Book 1541, Page 1 (the "Original Declaration") submitting certain real estate then owned by The Bethel Inn Corporation to the provisions of the Maine Condominium Act, 33 M.R.S. § 1601-101 et seq. (the "Condominium Act").

As contemplated by the Original Declaration and Section 1603-101 of the Condominium Act an association of Unit Owners known as The Fairway Townhouses Owners Association (the "Association") was incorporated as a Maine nonprofit corporation by Articles of Incorporation filed with the Maine Secretary of State on January 12, 1987. The Association has adopted certain By-Laws (the "Bylaws") pursuant to Section 1603-106 of the Condominium Act and Section 601 of the Maine Nonprofit Corporation Act, 13-B M.R.S § 101 et seq. (the "Nonprofit Corporation Act").

The Original Declaration was amended by Amendment to Declaration of Condominium and Adoption of Supplemental Timeshare Declaration Fairways (sic) Townhouses Condominium, dated October 8, 1997, and recorded in the Registry in Book 2484, Page 237 (the "Supplemental Timeshare Declaration") to create a common scheme and plan of timeshare ownership, use, operation, enjoyment, repair, maintenance, restoration, remodeling and improvement of certain Units in the Condominium that may be submitted to such common scheme and plan (the "Timeshare Plan") and certain Units in the Condominium were submitted to the provisions of the Maine Timeshare Act, 33 M.R.S. § 591 et seq. (the "Timeshare Act") by documents recorded in the Registry as contemplated by the Supplemental Timeshare Declaration (the "Supplemental Timeshare Declaration").

The Association has proposed that the Original Declaration, the Supplemental Timeshare Declaration and certain other related documents be amended and restated in a consolidated form, and the Owners of Units to which at least seventy-five percent (75%) of the votes in the Association are allocated and all Eligible Mortgage Holders, if any, have voted or agreed to approve such amendment and restatement in a consolidated form (the "Amended and Restated Fairway Townhouses Documents").

The Bylaws have not been updated to contemplate the creation of the Timeshare Plan and contain many terms that are no longer applicable or are obsolete, or overlap or conflict with one another or with the Original Declaration and the Supplemental Timeshare Declaration. For that reason and to provide for more efficient management and operation of the Condominium and the Timeshare Plan, the Association also has proposed that the Bylaws be amended and restated, and the Owners of Units to which at least fifty percent (50%) of the votes in the Association are allocated and all Eligible Mortgage Holders, if any, have voted or agreed to approve such amendment and restatement.

Therefore, the Bylaws are amended and restated in their entirety as follows:

## ARTICLE I

### Applicability

Section 1.01. Applicability of Bylaws. The provisions of these Bylaws are applicable to the Property of the Condominium, including but not limited to the Units and the Timeshare Estates in the Units and to the use and occupancy thereof.

Section 1.02. Application. All present and future Unit Owners, Timeshare Owners, mortgagees, lessees, Guests and occupants of the Units and their employees and any other persons who may use the facilities of the Condominium in any manner are subject to these Bylaws, the other Amended and Restated Fairway Townhouses Documents, and to the rules and regulations established by the Board of Directors of the Association (the "Board of Directors" or "Board") as hereinafter set forth. The acceptance of a deed conveyance or the entering into of a lease or the act of occupancy of a Unit by any of the foregoing persons shall constitute an agreement that these Bylaws, the rules and regulations and the provisions of the other Amended and Restated Fairway Townhouses Documents, as they may be amended further from time to time, are accepted, ratified and will be complied with.

Section 1.03. Office. The principal office of the Association and the Board of Directors shall be located at Bethel, Maine with a registered office at such place as the Board of Directors may designate from time to time. As of the date of the adoption of these Amended and Restated Bylaws the mailing address of the Association is PO Box 15, Bethel, ME 04217. The Board shall provide notice of any change in the Association's mailing address from time to time in the manner specified in Section 9.01.

Section 1.04. Defined Terms. Capitalized terms used in these Amended and Restated Bylaws without definition shall have the meanings specified or used in the Amended and Restated Fairway Townhouses Documents, the Condominium Act or the Timeshare Act, as applicable. In the event of a conflict the definition contained in the applicable statute shall take precedence.



## ARTICLE II

Board of Directors

Section 2.01. Board of Directors. The affairs of the Condominium shall be governed by a Board of Directors consisting of seven (7) persons. Two (2) of the members of the Board shall be Unit Owners; two (2) of the members of the Board shall be Timeshare Owners; and the remaining three (3) members of the Board may be either Unit Owners or Timeshare Owners. The members of the Board of Directors shall be elected by the Owners as the terms of the members expire for terms of three (3) years each in accordance with the provisions of Section 3.02 hereof.

Section 2.02. Powers and Duties. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and shall do all such acts and things except as by law or by the Amended and Restated Fairway Townhouses Documents or by these Amended and Restated Bylaws may not be delegated to the Board of Directors by the Owners. Such powers and duties of the Board of Directors shall include, but shall not be limited to, the following:

- (a) Operation, care, upkeep and maintenance of the Common Elements.
- (b) Determination of the Common Expenses required for the affairs of the Condominium, including, without limitation, the operation and maintenance of the Property.
- (c) Collection of assessments from the Owners, provided that until notice is provided by the Association to Timeshare Owners otherwise the Timeshare Manager shall act as the agent of the Association in the collection of assessments from the Timeshare Owners, as provided in the Amended and Restated Fairway Townhouse Documents.
- (d) Employment and dismissal of the personnel necessary for the maintenance, operation, repair and replacement of the Common Elements.
- (e) Adoption and amendment of rules and regulations covering the details of the operation and use of the Property, subject to the provisions of the Amended and Restated Fairway Townhouses Documents, including but not limited to those permitting the Timeshare Manager to establish rules and regulations for the use and occupancy of the Timeshare Units.
- (f) Opening of bank accounts on behalf of the Association and designating the signatories required therefor.
- (g) Obtaining of insurance for the Property including the Units, pursuant to the provisions of Section 5.06 hereof.
- (h) Making of repairs, additions and improvements to or alterations of the Property, and making of repairs to and restoration of the Property after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings, subject to the provisions of the Amended and Restated Fairway Townhouses Documents, including but not

limited to those delegating certain responsibility for repairs, additions, improvements, alterations and restoration of the Timeshare Units to the Timeshare Manager.

(i) Serving as the replacement Timeshare Manager as contemplated by the Amended and Restated Fairway Townhouses Documents.

Section 2.03. Managing Agent and Manager. The Board of Directors may employ for the Condominium a managing agent or a manager, which may or may not be the same party employed as the Timeshare Manager, 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 subdivisions (a), (b), (c), (d), (f), (g), and (h) of Section 2.02.

Section 2.04. Removal of Members of the Board of Directors. Any one or more of the members of the Board of Directors may be removed with or without cause by the holders of a majority of the votes in the Association and a successor may then and there or thereafter be elected to fill the vacancy thus created. Any member of the Board of Directors whose removal has been proposed by the Owners shall be given an opportunity to be heard at the meeting.

Section 2.05. Vacancies. Vacancies in the Board of Directors caused by any reason other than the removal of a member thereof by a vote of the Owners shall be filled at a special meeting called by the Board of Directors held for that purpose promptly after the occurrence of any such vacancy, even though the members of the Board of Directors present at such a meeting may constitute less than a quorum, and each person so elected shall be a member of the Board of Directors for the remainder of the term of the member so replaced and until a successor shall be elected at the next annual meeting of the Owners.

Section 2.06. Organization Meeting. The first meeting of the members of the Board of Directors following the annual meeting of the Owners shall be held within ten (10) days thereafter at such time and place as shall be fixed by the Owners at the meeting at which such Board of Directors shall have been elected, and no notice shall be necessary to the newly elected members of the Board of Directors in order legally to constitute such meeting, provided a majority of the whole Board of Directors shall be present thereat.

Section 2.07. Regular Meeting. Regular meetings of the Board of Directors may be held at such time and place as shall be determined but at least one (1) such meeting shall be held during each fiscal year. Notice of regular meetings of the Board of Directors shall be given to each member of the Board of Directors, by mail, telephone or email, at least three (3) business days prior to the day named for each meeting.

Section 2.08. Special Meeting. Special Meetings of the Board of Directors may be called by the President on three (3) business days' notice to each member of the Board of Directors, given by mail, telephone, or email, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of at least three (3) members of the Board of Directors. Conference call meetings or meetings held by other electronic means by which all participants may hear one another are authorized.

Section 2.09. Waiver of Notice. Any member of the Board of Directors may at any time waive notice of any meeting of the Board of Directors in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member of the Board of Directors at any meeting of the Board shall constitute a waiver of the notice by him of the time and place thereof. If all the members of the Board of Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 2.10. Quorum of Board of Directors. At all meetings of the Board of Directors, a majority of the members thereof shall constitute a quorum for the transaction of business, and the votes of a majority of the members of the Board of Directors present at a meeting at which or simultaneously participating in a conference call meeting or other meeting conducted by electronic means by which all participants may hear one another at which a quorum is present shall constitute the decision of the Board of Directors. If at any meeting of the Board of Directors there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present any business which might have been transacted at the meeting originally called may be transacted without further notice.

Section 2.11. Informal Action by Board of Directors. Any action required to be taken at a meeting of the Board of Directors or any other action which may be taken at a meeting of the Board of Directors, may be taken without a meeting if a consent in writing setting forth the action so taken shall be signed by all of the members of the Board of Directors entitled to vote with respect to the subject matter thereof.

Section 2.12. Fidelity Bonds. The Board of Directors shall obtain such fidelity bonds for officers, employees or contractors of the Association handling or responsible for Association funds as it shall deem reasonable from time to time. The premiums on such bonds shall constitute a Common Expense.

Section 2.13. Compensation. No member of the Board of Directors shall receive any compensation from the Association for acting as such.

Section 2.14. Fiscal Year. The Board of Directors shall establish a fiscal year from time to time.

Section 2.15. Validity of Contracts with Interested Executive Board Members. Subject to any provisions of the Nonprofit Corporation Act to the contrary, no contract or other transaction between the Association and one or more of its Board members or between the Association and any corporation, firm or association in which one or more of the Board members are directors or officers, or are financially interested, shall be void or voidable because such Board member or members are present at any meeting of the Board that authorized or approved the contract or transaction or because his votes are counted, if the circumstances in either of the following subparagraphs exist:

(a) The fact that a Board member is also such a director or officer or has such financial interest is disclosed or known to the Board and is noted in the minutes thereof, and the Board authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient for the purpose without counting the vote or votes of such Board member or members; or

(b) The contract or transaction is made in good faith and is not unconscionable to the Association at the time it is authorized, approved or ratified.

Section 2.16. Inclusion of Interested Board Members in a Quorum. Any Board member holding such director or officer position or having such financial interest in another corporation, firm or association may be counted in determining the presence of a quorum at a meeting of the Board or a committee thereof that authorizes, approves or ratifies a contract or transaction of the type described in Section 2.15 hereof.

### ARTICLE III

#### Owners

Section 3.01. Title to Units. Title to the Units or Timeshare Estates may be taken in any manner that an interest in real estate may be held.

Section 3.02. Annual Meetings. The annual meetings of the Owners shall be held in March or April of each year at such date and time as may be specified in the notice given in accordance with the provisions of these Amended and Restated Bylaws. At such meetings, members of the Board of Directors shall be elected as the terms of the incumbent officers expire for a term of three (3) years.

Section 3.03. Place of Meetings. Meetings of the Owners shall be held at the principal office of the Association or at such other suitable place convenient to the Owners as may be designated by the Board of Directors.

Section 3.04. Special Meetings. It shall be the duty of the President to call a special meeting of the Owners if so directed by resolution of the Board of Directors, upon a petition signed and presented to the Secretary by Owners of Units to which not less than twenty-five (25%) percent of the interest in the Common Elements are allocated. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

Section 3.05. Notice of Meetings. It shall be the duty of the Secretary to provide a notice of each annual or special meeting of the Owners at least ten (10) but not more than twenty (20) days prior to such meeting, stating the purpose thereof as well as the time and place where it is to be held, to each Owner of record.

Section 3.06. Adjournment of Meetings. If any meeting of Owners cannot be held because a quorum has not attended, a majority vote by those who are present at such meeting, 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.

Section 3.07. Waiver of Notice. Any Owner may at any time waive notice of any meetings of the Owners in writing, and such waiver shall be deemed equivalent to the giving of such notice.

Section 3.08. Eligibility. Any person who acquires title to a Unit or a Timeshare Estate shall be a member of the Association. Such membership shall be automatically transferred upon the conveyance of the Unit or the Timeshare Estate, as applicable.

Section 3.09. Voting. Each Unit is allocated one (1) vote in matters coming before the Owners for a vote. A majority of the votes cast at a meeting at which a quorum is present shall be binding upon all Owners for all purposes except when a higher percentage is required by these Amended and Restated Bylaws, the Amended and Restated Fairway Townhouses Documents, or by law.

Section 3.10. Votes in the Event of Multiple Ownership of a Unit; Timeshare Units.

(a) Units not Subject to the Timeshare Plan. If only one (1) of the multiple Unit Owners of a Unit not subject to the Timeshare Plan is present, in person or by proxy, at a meeting of the Association, such Owner shall be entitled to cast the vote allocated to that Unit. If more than one (1) of the multiple Owners of a Unit not subject to the Timeshare Plan is present, in person or by proxy, the vote allocated to that Unit may be cast only in accordance with the agreement of a majority of interest of the multiple Owners.

(b) Timeshare Units. A vote allocated to a Timeshare Unit may be cast only if Owners owning at least twenty-five percent (25%) of the Timeshare Estates in that Unit are present at a meeting of the Association in person or by proxy (a "Minimum Timeshare Unit Presence"). If there is a Minimum Timeshare Unit Presence for a particular Timeshare Unit at a meeting of the Association, the vote allocated to that Timeshare Unit may be cast only in accordance with the agreement of a majority of interest of the multiple Owners of Timeshare Estates in that Unit present.

(c) Deemed Majority Agreement. There is deemed to be a majority agreement when any one of such multiple Owners casts the vote allocated to a Unit permitted to vote under this Section 3.10 without protest being made promptly to the person presiding over the meeting by any other of the Owners of that Unit.

Section 3.11. Order of Business. The order of business at all meetings of the Owners shall be as follows, to the extent that is required:

(a) Roll call.

(b) Proof of notice of meeting or waiver of notice.

(c) Reading of minutes of preceding meeting.

(d) Reports of officers.

(e) Report of Board of Directors

(f) Report of committees.

(g) Election of members of the Board of Directors.

(h) Unfinished business.

(i) New Business.

(j) Adjournment.

Section 3.12. Parliamentary Procedures. At all meetings of the Owners or of the Board of Directors, Robert's Rules of Order, as then amended, shall be followed, except in the event of conflict, these Bylaws or Declaration, as the case may be, shall prevail.

Section 3.13. Quorum. Except as may be otherwise provided in these Amended and Restated Bylaws, the presence, in person or by proxy, of the holders of ten percent (10%) of the votes in the Association entitled to be cast at that meeting shall constitute a quorum at any meeting of the Owners.

Section 3.14. Proxies. Votes may be cast in person or by proxy. Proxies must be filed with the Secretary at or before the time of each meeting. An Owner may designate any person, who need not be an Owner, to act as proxy. The designation of any such proxy shall be made in writing, signed by the Owner, and shall be revocable at any time by written notice to the Secretary by the Owner designating the proxy. If a Unit is owned by more than one (1) person (including Units subject to the Timeshare Plan), each Owner of the Unit may vote or register protest at the casting of votes by the other Owners of the Unit through a duly executed proxy. Votes for members of the Board of Directors may be cast by mail, as provided in 13-B M.R.S. §604(2).

Section 3.15. Informal Action of Owners. Any action required to be taken at a meeting of the Owners or any action which may be taken at a meeting of the Owners, may be taken without a meeting if consent in writing, setting forth the action so taken, shall be signed by Owners representing 100 percent (100%) of the votes with respect to the subject matter thereof.

## ARTICLE IV

Officers

Section 4.01. Designation. The principal officers of the Association shall be the President, the Secretary and the Treasurer, all of whom shall be elected by the Board of Directors. The Board of Directors may appoint a Vice President, an Assistant Treasurer, an Assistant Secretary and such other officers as in its judgment may be necessary. The President and any Vice President, but no other officers, must be members of the Board of Directors.

Section 4.02. Election of Officers. The officers of the Association shall be elected annually by the Board of Directors at the organizational meeting of each new Board of Directors and shall hold office at the pleasure of the Board of Directors.

Section 4.03. Removal of Officers. Upon the 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 of the Board of Directors called for that purpose.

Section 4.04. President. The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Owners and of the Board of Directors. He shall have all of the general powers and duties which are incident to the office of president of a nonprofit corporation organized under the laws of the State of Maine.

Section 4.05. 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 some other member of the Board of Directors to act in the place of the President, on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him by the Board of Directors or by the President.

Section 4.06. Secretary. The Secretary shall keep the minutes of all meetings of the Owners and of the Board of Directors; he shall have charge of such books and papers as the Board of Directors may direct; and he shall, in general, perform all of the duties incident to the office of secretary of a nonprofit corporation organized under the laws of the State of Maine.

Section 4.07. Treasurer. The Treasurer shall have the responsibility for Association funds and securities and shall be responsible for keeping full and accurate financial records and books of accounts showing all receipts and disbursements and for the preparation of all required financial data. He shall be responsible for the deposit of all monies and other valuable effects in the name of the Association, or the managing agent, in such depositories as may from time to time be designated by the Board of Directors, and he shall, in general, perform all the duties incident to the office of treasurer of a nonprofit corporation organized under the laws of the State of Maine.

Section 4.08. Agreements, Contracts, Deeds, Checks, Etc. All agreements, contracts, deeds, leases, checks and other instruments of the Association shall be executed by such officers of the Association or by such other person or persons as may be designated by the Board of Directors from time to time.

Section 4.09. Compensation of Officers. No officer shall receive any compensation from the Association for acting as such.

## ARTICLE V

### Operation of the Condominium

Section 5.01. Determination of Common Expenses and Fixing of Common Charges. The Board of Directors shall from time to time, and at least annually, prepare a budget for the Condominium, determine the amount of the common charges payable by the Owners to meet the Common Expenses of the Condominium, and allocate and assess such common charges among the Units according to their percentage of liability for Common Expenses as established by the Amended and Restated Fairway Townhouses Documents, as further amended from time to time. The Common Expenses shall include, among other things, (a) the costs of repairs and maintenance of the Common Elements and Limited Common Elements and (b) the cost of all insurance premiums on all policies of insurance required to be or which have been obtained by the Board of Directors pursuant to the provisions of Section 5.06 and the fees and disbursements of the Insurance Trustee, if any. The Common Expenses may also include such amounts as the Board of Directors may deem proper for the operation and maintenance of the Property, including without limitation, an amount for working capital for the Condominium, for a general operating reserve, for a reserve fund for replacement, and to make up any deficit in the Common Expenses for any prior year. The Board of Directors shall advise all Owners, promptly, in writing, of the amount of common charges payable by each of them, respectively, as determined by the Board of Directors, as aforesaid, and shall furnish copies of each budget on which such common charges are based to all Owners and Eligible Mortgage Holders.

Section 5.02. Payment of Common Charges. All Owners shall be obligated to pay the common charges assessed by the Association ("assessments") in such installments, at such times and at such addresses as the Board of Directors shall designate from time to time. Until notice is provided by the Association to Timeshare Owners otherwise, the Timeshare Manager shall act as the agent of the Association in the collection of assessments from the Timeshare Owners, as provided in the Amended and Restated Fairway Townhouse Documents.

Section 5.03. Statement of Common Charges. The Board of Directors shall promptly provide any Owner requesting in writing a recordable statement setting forth the amount of unpaid assessments currently levied against the Unit.

Section 5.04. Abatement and Enjoinment of Violations by Owners. The violation of any rule or regulation adopted by the Board of Directors, or the breach of any Bylaw contained herein or of any provision of the Amended and Restated Fairway Townhouses Documents shall give the Board of Directors the right in addition to any other rights set forth in these Bylaws:



(a) To enter the Unit in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing or condition that may exist therein 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;

(b) To enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach at the cost, including attorney's fees, of such Owner;

(c) If the Board of Directors has adopted and published rules and regulations governing the use of the Common Elements and the personal conduct of any person thereon violates those rules and regulations, to suspend such use by any such person for violation of such rules and regulations for a period not to exceed thirty (30) days for any single violation; and/or

(d) To levy summary charges against an Owner for such violation, in addition to any damages, in such amounts as may be determined by the Board of Directors from time to time. Each day a violation continues after notice may be considered a separate violation at the discretion of the Board of Directors. Collection of charges for damages or summary charges may be enforced against the Owner or Owners.

#### Section 5.05. Maintenance and Repairs.

(a) Subject to the provisions of the Amended and Restated Fairway Townhouses Documents with regard to maintenance and repair of Timeshare Units and Unit Property, all maintenance of and repairs to any Unit, structural or non-structural, ordinary or extraordinary (other than maintenance of and repairs to any Common Elements contained thereon, and not necessitated by the negligence, misuse or neglect of any Owner of such Unit) shall be made by the Owner of such Unit. Each Owner shall be responsible for all damages to any and all other Units and/or to the Common Elements that his failure to do so may engender.

(b) All maintenance, repairs and replacements to the Common Elements and Limited Common Elements (unless necessitated by the negligence, misuse or neglect of an Owner, in which case such expense shall be charged to such Owner), shall be made by the Board of Directors and be charged to all the Owners as a Common Expense.

Section 5.06. Insurance. To the extent reasonably available, the Association shall obtain and maintain insurance coverage outlined below and otherwise required by the Condominium Act as a Common Expense. All insurance affecting the Condominium shall be governed by the provisions of this Article and Section 1603-113 of the Condominium Act.

A. Physical Damage. "All risk" property and casualty insurance insuring the Common Elements and Units (exclusive of improvements and betterments installed in the Units, and exclusive of personal property and other contents therein) against all common risks of direct physical loss commonly insured against, covering the interests of and naming as named insureds the Association (for the use and benefit of the individual Unit Owners as appropriate), the Board, the Owners, and mortgagees of Owners to the extent the identity of such mortgagee is provided

by the Owner, as their insurable interests may appear. The total amount of insurance shall be one hundred percent (100%) of the replacement cost of the insured property (exclusive of land, excavations, foundations and other items normally excluded from such casualty policies), subject to such reasonable deductibles as the Board may determine. To the extent reasonably available upon reasonable cost, such policy shall contain:

(i) The following endorsements (or their equivalent): (a) "no control", i.e. to the effect that coverage shall not be prejudiced by any act or neglect of any occupant or Owner or their agents when such act or neglect is not within the control of the insured, or the Owners collectively; nor by any failure of the insured, or the Owners collectively, to comply with any warranty or condition with regard to any portion of the Condominium over which the insured, or the Owners collectively, have no control; (b) "Construction Code Endorsement" or "increased cost of construction"; (c) steam boiler coverage endorsement, if applicable; and (d) "agreed amount" or elimination of co-insurance clause and inflation-guard endorsement, if applicable;

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

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

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

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

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

Any loss covered by the insurance policy described in this Section shall be adjusted with the Association by its Board, and the insurance proceeds for said loss shall be payable to the Association, and not to any mortgagee. The Association shall hold any insurance proceeds in trust for Owners, mortgagees and other lien holders as their interests may appear. Subject to the provisions of the Act, the proceeds shall be disbursed first for the repair or restoration of the damage to the Property, and Owners, mortgagees and other lien holders are not entitled to

receive payment of any portion of the proceeds unless there is a surplus of proceeds after the damaged Common Elements and Units have been repaired or restored, or the decision has been made not to repair or restore the damage as provided in Section 5.07, or the Condominium is terminated.

B. Liability Insurance. Comprehensive general public liability insurance, including medical payments insurance, insuring each Board member, any managing agent, each Owner and the Association in an amount determined by the Board each year, but not less than \$2,000,000.00 each occurrence for bodily injury or death arising from a single occurrence, insurance for liability for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Elements, any property owned or leased by the Association, the use of any public or private ways serving the Condominium and/or relating to any legal liability resulting from suits or actions related to employment contracts to which the Association is a party. Such insurance shall be issued on a comprehensive liability basis.

C. Worker's Compensation Insurance. The Board of Directors shall obtain and maintain Worker's Compensation Insurance to meet the requirements of the laws of the State of Maine.

D. Other Insurance. The Board of Directors is authorized to obtain and maintain such other insurance as it may from time to time deem appropriate, including but not limited to insurance necessary to cover the indemnification obligations of the Association under Article 7.

All insurers which issue an insurance policy or policies to the Association, upon request, shall issue a copy of the policy to any Owner or mortgagee. The Association shall use its best efforts to cause all such insurers issuing the policy not to cancel (including cancellation for non-payment of premium), substantially modify or refuse to renew such policy or policies until twenty (20) days after notice of the proposed cancellation, modification or non-renewal has been mailed to the Association, the managing agent, each Owner and each mortgagee to whom a certificate or memorandum of insurance has been issued at their respective last known addresses. All policies under this Section shall in addition contain to the extent reasonably available at a reasonable cost a provision such that the insurer waives any right to claim by way of subrogation against the Association, the Board, the managing agent or the Owners, and their respective agents, employees, guests and, in the case of Owners, the members of their household

Except as may be otherwise provided in the Amended and Restated Fairway Townhouses Documents, each Owner shall have the right, at his own expense, to obtain insurance for his own Unit and for his own benefit and to obtain insurance coverage upon his personal property and for his personal liability as well as upon any improvements made by him to his Unit under coverage normally called "improvements and betterments coverage", and for such other risks as are normally insured against; provided, however, that no Owner shall be entitled to exercise his right to acquire or maintain such insurance coverage so as to decrease the amount which the Board, on

behalf of all Owners, may realize under any insurance policy maintained by the Board or to cause any insurance coverage maintained by the Board to be brought into contribution with insurance coverage obtained by an Owner. All such policies shall contain waivers of subrogation. Each Owner shall obtain and maintain general liability insurance in such amounts as are usual and customary for property of this type or in such greater amounts as may be specified by the Association from time to time.

**Section 5.07. Repair or Reconstruction After Fire or Other Casualty.**

(a) Subject to the provisions of the Amended and Restated Fairway Townhouses Documents and the Condominium Act, in the event of substantially total destruction of the Property as a result of fire or other casualty and, upon an affirmative vote of eighty percent (80%) of the votes in the Association promptly voting not to proceed with repair or restoration, the property remaining shall be deemed to be owned in common by the Owners, as provided in the Condominium Act.

(b) Subject to the provisions of the Amended and Restated Fairway Townhouses Documents, in the event of less than substantially total destruction of the Property as a result of fire or other casualty, or, if the vote against proceeding with repair or restoration, as provided in Section 5.07(a), is not sufficient, then in either event the Board of Directors shall arrange for the prompt repair and restoration of the Units (including any damaged Units, and any kitchen or bathroom fixtures initially installed therein by Declarant, but not including any wall, ceiling or floor decorations or coverings or other furniture, furnishings, fixtures or equipment installed in the Units), as well as any other buildings, and the Board of Directors or the Insurance Trustee, as the case may be, shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments. Any cost of such repair and restoration in excess of the insurance proceeds shall constitute a Common Expense and the Board of Directors may assess all the Owners for such deficit as part of the common charges.

(c) Repair or restoration must be either substantially in accordance with the architectural and engineering plans and specifications for the original buildings, and shall also include such improvements and fixtures as may have been installed by any particular Owner and as to which payment for such repair or reconstruction is forthcoming, or according to plans and specifications approved by the Board of Directors, by a majority vote of the Association and by Eligible Mortgage Holders of mortgages encumbering fifty-one (51%) percent of the percentage interest in the Common Elements subject to mortgages held by Eligible Mortgage Holders, if any, and if the damaged property contains any Units, by a majority of the Owners of such Units.

**Section 5.08. Improvements by Board of Directors/Special Assessments.** The Board of Directors shall consider from time to time whether additions, alterations or improvements to the Common Elements (collectively, "Improvements") are necessary or desirable. If the cost of such Improvements is not included in the budget ratified by the Association, then the Board may not proceed with such Improvements until the proposed expenditure has been presented to and

ratified by the Association as provided in Section 1603-103(c) of the Condominium Act. If the cost of such Improvements would result in a special assessment not previously approved, the imposition of the special assessment must be approved by the Owners in a regular or special meeting of the Association. Notwithstanding the foregoing, however, if the Board determines that any such Improvement that would result in a special assessment is necessary to meet an emergency and the amount of the special assessment does not exceed two months of common charges, the Board may proceed with the Improvement and make the special assessment immediately without ratification by the Association.

Section 5.09. Additions, Alterations or Improvements by Unit Owners. No Owner shall make any structural addition, alteration or improvement in or to any building nor shall he paint or otherwise decorate or change the appearance of any portion of the exterior of any building without the prior written consent thereto of the Board of Directors.

Any application to the Town of Bethel or to any department or to any other governmental authority for a permit to make an addition, alteration or improvement in or to any Unit shall be executed by the Board of Directors only, without however, incurring any liability on the part of the Board of Directors or any of them to any contractor, subcontractor or materialman on account of such addition, alteration or improvement, or to any person having any claim for injury to person or damage to property arising therefrom.

Section 5.10. Use of Common Elements. An Owner shall not place or cause to be placed in the Common Elements, other than the areas designated as storage areas, any furniture, packages or objects of any kind. The public areas shall be used for no purpose other than for normal transit through them.

Section 5.11. Use of Limited Common Elements.

(a) The storage areas at the end of each building are assigned to the Units located in that building for the use of the Owners of those Units in the manner determined by the Board of Directors or the managing agent. No items deemed extra hazardous for insurance purposes or which create a hazard to the health of occupants of the Units, however, may be stored in those areas.

(b) The Limited Common Elements forming a "backyard" or "sideyard", if any, appurtenant to each Unit may be used as normal accessories to a residential dwelling. The location of the "backyard" or "sideyard" shall be as determined from time to time by the Board of Directors. No fences or other barriers may be erected on the Limited Common Elements without the permission in writing of the Board of Directors.

Section 5.12. Right of Access. An Owner shall grant a right of access to his Unit to the manager and/or the managing agent and/or any other person authorized by the Board of Directors, for the purpose of making inspections or for the purpose of correcting any condition originating in his Unit and threatening another Unit or a Common Element, or for the purpose of

performing installations, alterations or repairs to the mechanical or electrical services of other Common Elements in his Unit. In case of an emergency, such right of entry shall be immediate, whether the Owner is present at the time or not. In the event of the exercise of the right of access provided in this Section 5.12, any costs of repairs shall be borne in accordance with the provisions of Section 5.01.

Section 5.13. 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 votes in the Association. The Timeshare Manager may establish rules and regulations for the use and occupancy of the Timeshare Units. Copies of such rules and regulations shall be furnished by the Board of Directors or the Timeshare Manager, as applicable, to each affected Owner prior to the time when the same shall become effective.

## ARTICLE VI

### Eligible Mortgage Holders

The Board of Directors shall provide such notices and other rights to any Eligible Mortgage Holders as may be required by the Condominium Act. "Eligible Mortgage Holders" are only those holders of a recorded first mortgage on a Unit or Timeshare Estate, if any, that have delivered written notice to the Association by prepaid United States mail, return receipt requested, or by delivery in hand securing a receipt therefor, which notice shall state the mortgagee's name and address, the Owner's name and address and the identifying number of the Unit, and shall state that the mortgage is a recorded first mortgage.

## ARTICLE VII

### Liability of Directors and Officers

Section 7.01. Exculpation. No member of the Board or officer of the Association shall be liable for acts or defaults of himself or any other officer or member, or for any loss sustained by the Association or any member thereof, unless the same has resulted from his own willful misconduct or more culpable conduct.

Section 7.02. Indemnification. The Association shall indemnify any person who was or is threatened to be made a party against any actual, threatened, or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he is or was an officer, member of the Board, agent or employee of the Association against all expenses, including reasonable counsel fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection therewith, excepting, however, such matters in which such person is finally adjudged by a court of competent jurisdiction to have acted with willful misconduct or more culpable conduct toward the Association or absent a final adjudication thereof, excepting such matters in which the Board (excluding any interested

member) determines any such person acted with willful misconduct or more culpable conduct. This right to indemnification shall be in addition to any other power of the Association to indemnify as permitted by law. The Association may also maintain insurance on behalf of any person who is or was a member, officer, agent or employee of the Association against any liability asserted against him and incurred by him in such capacity or arising out of his status as such, whether or not the Association would otherwise have the power or duty to indemnify him.

## ARTICLE VIII

### Records

Section 8.01. Records and Audits. The Board of Directors or the managing agent shall keep detailed records of the actions of the Board of Directors and the managing agent, minutes of the meetings of the Board of Directors, minutes of the meetings of the Owners and financial records and books of account for the Association. Such records shall include: (i) detailed, accurate records, in chronological order, of the receipts and expenditures affecting the Common Elements, specifying and itemizing the maintenance and repair expenses of the Common Elements and any other expenses incurred, (ii) a separate account for each Unit which, among other things, shall contain the amount of each assessment of common charges against such Unit, the date when due, the amounts paid thereon and the balance remaining unpaid, and (iii) all other records required from time to time under the Condominium Act or the Timeshare Act, as applicable.

Section 8.02. Annual Reports. An Annual Report of the receipts and expenditures of the Association, reviewed by an independent certified public accountant, shall be rendered by the Board of Directors to all Owners and to any Eligible Mortgage Holders.

Section 8.03. Examination of Records. The books and records to be maintained by the Association shall be available for examination by the Owners and any Eligible Mortgage Holders upon request at convenient times, which may include by posting on a website maintained by the Association.

## ARTICLE IX

### Miscellaneous

Section 9.01. Notices. All notices hereunder shall be sent registered or certified mail to the Board of Directors, care of 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 Owners and any Eligible Mortgage Holders. All notices to any Owner shall be sent by prepaid U.S. mail to the Unit address or to such other address as may have been designated by them from time to time, in writing to the Board of Directors, or to such email address specified by the Owner. All notices to any Eligible Mortgage Holders shall be sent by registered or certified mail to their respective addresses, as



designated by any such Eligible Mortgage Holder from time to time, in writing, to the Board of Directors. All notices shall be deemed to have been given when sent, except notices of change of address which shall be deemed to have been given when received.

Section 9.02. Invalidity. The invalidity of any part of these Amended and Restated Bylaws shall not impair or affect in any manner the validity, enforceability or effect of the balance of these Amended and Restated Bylaws.

Section 9.03. 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 Amended and Restated Bylaws, or the intent of any provision thereof.

Section 9.04. Gender. The use of masculine gender in these Amended and Restated Bylaws shall be deemed to include the feminine gender and the use of the singular shall be deemed to include the plural and the plural the singular, whenever the context so requires.

Section 9.05. Waiver. No restriction, condition, obligation or provision contained in these Amended and Restated Bylaws 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.

Section 9.06. Conflict. These Amended and Restated Bylaws are set forth to comply with the requirements of the Condominium Act and the Nonprofit Corporation Act. In the event of any conflict between these Amended and Restated Bylaws and the provisions of such Acts or of the Amended and Restated Fairway Townhouses Documents, the provisions of such Acts or of the Amended and Restated Fairway Townhouses Documents, as the case may be, shall control.

## ARTICLE X

### Amendments to Bylaws

These Amended and Restated Bylaws may be altered, amended or added to at any duly called meeting of Owners, provided: (1) that the notice of the meeting shall contain a summary of the proposed amendment; and (2) that the amendment shall be approved by majority vote of the Association.

## ARTICLE XI

### Amendment to Declaration

The following officers may prepare, execute, certify and record amendments to the Declaration of Condominium on behalf of this Association:

(a) The President and Vice President, or

(b) The President and Secretary.