

Filed for Record at Request of:  
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Puyallup, WA 98371

**CONDOMINIUM DECLARATION**  
of  
**BAYHILL TOWNHOMES PHASE 1**  
(An Airspace Condominium)

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Grantor: Bay Hill, LLC, a Washington limited liability company  
Grantee: Bayhill Townhomes Phase 1  
Reference Numbers of Documents Assigned or Released:  
Legal Description (abbreviated): A portion of the SW 1/4 of the NE 1/4 Section 17, Township 18 North, Range 2 West, W.M., Thurston County, Washington  
Complete Legal is on Exhibit "A".  
Assessor's Tax Parcel Nos.: 33560014100, 33560014200, and 33560014300  
Survey Map and Plans Recorded Under Recording No. 3941929

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Pursuant to the Act defined in Section 1.8.1 and for the purpose of submitting the Property hereinafter described to the provisions of said Act, the undersigned, being sole owner(s), lessee(s) or possessor(s) of said Property, make the following Declaration. By acceptance of a conveyance, contract for sale, lease, rental agreement, or any form of security agreement or instrument, or any privileges of use or enjoyment, respecting the Property or any unit in the Condominium created by this Declaration, it is agreed that this Declaration, together with the Survey Map and Plans referred to herein, states covenants, conditions, restrictions, and reservations effecting a common plan for the Condominium development mutually beneficial to all of the described units, and that the covenants, conditions, restrictions, reservations and plan are binding upon the entire Condominium and upon each such unit as a parcel of realty, and upon its owners or possessors, and their heirs, personal representatives, successors and assigns, through all successive transfers of all or part of the Condominium or any security interests therein, without requirement of further specific reference or inclusion in deeds, contracts or security instruments and regardless of any subsequent forfeitures, foreclosures, or sales of units under security instruments.

The name of this Condominium is Bayhill Townhomes Phase 1 (an airspace condominium).

**Article 1**  
**INTERPRETATION**

1.1 Liberal Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of this Condominium under the provisions of Washington law. It is intended and covenanted also that, insofar as it affects this Declaration and Condominium, the provisions of the Act under which this Declaration is operative, shall be liberally construed to effectuate the intent of this Declaration insofar as reasonably possible.

1.2 Consistent with Act. The terms used herein are intended to have the same meaning given in the Act unless the context clearly requires otherwise or to so define the terms would produce an illegal or improper result.

1.3 Covenant Running With Land. It is intended that this Declaration shall be operative as a set of covenants running with the land, or equitable servitudes, binding on its successors and assigns, all subsequent owners of the Property, together with their grantees, successors, heirs, executors, administrators, devisees or assigns, supplementing and interpreting the Act, and operating independently of the Act should the Act be, in any respect, inapplicable.

1.4 Percent of Owners or Mortgagees. For purposes of determining the percentage of owners or Mortgagees, or percentage of voting power for, approving a proposed decision or course of action in cases where an owner owns, or a Mortgagee holds Mortgage on, more than one unit, such owner shall be deemed a separate owner for each such unit so owned and such Mortgagee shall be deemed a separate Mortgagee for each such first Mortgage so held.

1.5 Declarant is Original Owner. Declarant is the original owner of all units and Property and will continue to be deemed the owner thereof except as conveyances or documents changing such ownership regarding specifically described units are recorded.

1.6 Captions and Exhibits. Captions given to the various Articles and Sections herein are for convenience only and are not intended to modify or affect the meaning of any of the substantive provisions hereof. The various exhibits referred to herein and attached hereto shall be deemed incorporated herein by reference as though fully set forth where such reference is made.

1.7 Inflationary Increase in Dollar Limits. Any dollar amounts specified in this Declaration in connection with any proposed action or decision of the Board or Association may, in the discretion of the Board, be increased proportionately by the increase in the consumer price index for the city of Seattle, Washington for All Urban Consumers, prepared by the United States Department of Labor for the base period, January 1<sup>st</sup> of the calendar year following the year in which the Declaration was recorded, to adjust for any deflation in the value of the dollar.



1.8 Definitions

1.8.1 "The Act" means the Washington Condominium Act, Laws of 1989, Chapter 43 (RCW Chapter 64.34), as amended.

1.8.2 "Allocated Interest" means those undivided interests in the Common Elements, the common expense Liability, and votes in the Association allocated to each unit more particularly provided for in Article 8 and as shown in Exhibit C.

1.8.3 "Assessment" means all sums chargeable by the Association against a unit including, without limitation: (a) regular and special Assessments for Common Expenses, charges, and fines imposed by the Association; (b) interest and late charges on any delinquent account; and (c) costs of collection, including reasonable attorneys' fees, incurred by the Association in connection with the collection of a delinquent owner's account.

1.8.4 "Association" means all of the owners acting as a group in accordance with the Bylaws and with this Declaration as it is duly recorded and as they may be lawfully amended, which Association is more particularly provided for in Article 9.

1.8.5 "Board" means the board of directors of the Association provided for in Section 10.3.

1.8.6 "Books and Records of the Association" shall be given the broadest possible meaning and shall include, without limitation, exception or qualification, the following:

(a) Declaration, Survey Map and Plans, Articles of Incorporation, Bylaws and other rules and regulations governing the Condominium (or any part thereof), and all amendments thereto;

(b) Minute books, including all minutes, of all owner, Board, Officer, Committee or other meetings relating to the Condominium (or any part thereof), including all reports, documents, communications or written instruments attached thereto or referenced therein);

(c) All financial records, including without limitation canceled checks, bank statements, and financial statements of the Association and source documents from the time of incorporation of the Association through the current date;

(d) All reports, documents, communications or written instruments pertaining to the personal property of the Association or the Condominium (or any part thereof);

(e) All reports, documents, communications, written instruments, plans, and specifications pertaining to the construction, remodeling, maintenance, repair, replacement or condition of the Condominium (or any part thereof);



(f) All insurance policies or copies thereof for the Condominium (or any part thereof) and Association;

(g) Copies of any certificates of occupancy that may have been issued for the Condominium (or any part thereof);

(h) Any other permits or notices issued by governmental bodies applicable to the Condominium (or any part thereof) in force or issued;

(i) All written warranties that are still in effect for the Condominium (or any part thereof), or any other area or facilities which the Association has the responsibility to maintain and repair, from the Declarant, contractor, subcontractors, suppliers, and manufacturers, together with all owners' manuals or instructions furnished with respect to installed equipment or building systems;

(j) A roster of owners, Officers and Board members and eligible Members and their addresses and telephone numbers, if known;

(k) Any leases of the Common Elements or areas and other leases to which the Association is a party; any employment, service, consultation, professional or other contracts in which the Association, Board or Officer is one of the contracting parties, or in which the Association or the owners have an obligation or a responsibility, directly or indirectly, to pay some or all of the fee or charge, or which in any way relate to the Condominium (or any part thereof);

(l) All reports, documents, communications or written instruments pertaining to any litigation or other legal or mediation/arbitration proceeding (whether pending, threatened, or under consideration) to which the Association (or Board, Officer or owner) is or may be a party, or which may relate to or affect the Condominium (or any part thereof), and

(m) All other all reports, documents, communications or written instruments in any way relating to or affecting the Association, Board, Officers, owners or the Condominium (or any part thereof).

1.8.7 "Bylaws" shall mean the Bylaws of the Association provided for in Article 9.

1.8.8 "Common Elements" means all portions of the Condominium other than the units.

1.8.9 "Common Expenses" means expenditures made by or financial liabilities of the Association, together with any allocations to reserves.



1.8.10 "Common Expense Liability" means the liability for Common Expenses allocated to each unit pursuant to Article 8.

1.8.11 "Condominium" means the condominium created by this Declaration and related Survey Map and Plans pursuant to the Act.

1.8.12 "Conveyance" means any transfer of the ownership of a unit, including a transfer by deed or by real estate contract and with respect to a unit in a leasehold condominium, a transfer by lease or assignment thereof, but shall not include a transfer solely for security.

1.8.13 "Declarant" means any person or group of persons acting in concert who (a) executed as Declarant this Declaration; or (b) reserves or succeeds to any Special Declarant Right under the Declaration.

1.8.14 "Declarant Control" means the right, if expressly reserved by this Declaration, of the Declarant or persons designated by the Declarant to appoint and remove Association officers and Board members, or to veto or approve a proposed action of the Board or Association; provided, in no event shall exercising the voting rights allocated to a unit or units owned by the Declarant or Declarant's affiliates be deemed "Declarant Control".

1.8.15 "Declaration" means this Declaration and any amendments thereto.

1.8.16 "Development Rights" means any right, if expressly reserved by the Declarant in this Declaration to: (a) add real property or improvements to the Condominium; (b) create units, Common Elements, or Limited Common Elements within real property included or added to the Condominium; (c) subdivide units or convert units into Common Elements; (d) withdraw real property from the Condominium; or (e) reallocate Limited Common Elements with respect to units that have not been conveyed by the Declarant.

1.8.17 "Dispose" or "Disposition" means a voluntary transfer or conveyance to a purchaser or lessee of any legal or equitable interest in a unit, but does not include the transfer or release of a security interest.

1.8.18 "Eligible Mortgagee" means a mortgagee of a unit or the Mortgagee of the Condominium that has filed with the secretary of the Association a written request that it be given copies of notices of any action by the Association that requires the consent of Mortgagees.

1.8.19 "Foreclosure" means a forfeiture or judicial or nonjudicial foreclosure of a Mortgage or a deed in lieu thereof.

1.8.20 "Identifying Number" means the designation of each unit in a Condominium.



1.8.21 "Interior Surfaces" (where that phrase is used in defining the boundaries of Limited Common Elements) shall not include paint, paneling, and other such finished surface coverings. Said finished coverings, along with fixtures and other tangible personal property located in and used in connection with said Limited Common Element, shall be deemed a part of said Limited Common Element.

1.8.22 "Limited Common Element" means a portion of the Common Elements allocated by this Declaration (or by subsequent amendments thereto) or by operation of law for the exclusive use of one or more but fewer than all of the units as provided in Article 7.

1.8.23 "Manager" means the person retained by the Board to perform such management and administrative functions and duties with respect to the Condominium as are delegated to such person and as are provided in a written agreement between such person and the Association.

1.8.24 "Mortgage" means a mortgage or deed of trust that creates a lien against a unit and also means a real estate contract for the sale of a unit.

1.8.25 "Mortgagee" means the beneficial owner, or the designee of the beneficial owner, of an encumbrance on a unit created by mortgage or deed of trust and shall also mean the vendor, or the designee of a vendor, of a real estate contract for the sale of a unit. A Mortgagee of the Condominium and a Mortgagee of a unit are included within the definition of Mortgagee.

1.8.26 "Mortgagee of a unit" means the holder of a Mortgage on a unit, which mortgage was recorded simultaneous with or after the recordation of this Declaration. Unless the context requires otherwise, the term "Mortgagee of a unit" shall also be deemed to include the Mortgagee of the Condominium.

1.8.27 "Mortgagee of the Condominium" means the holder of a Mortgage on the Property which this Declaration affects, which Mortgage was either recorded prior to the recordation of this Declaration; or was recorded against all units after the recordation of this Declaration but prior to the recorded conveyance of any unit. The term "Mortgagee of the Condominium" does not include Mortgagees of the individual units.

1.8.28 "Person" means a natural person, corporation, partnership, limited partnership, trust, governmental subdivision or agency, or other legal entities.

1.8.29 "Property" or "Real Property" means any fee, leasehold or other estate or interest in, over, or under the land described in Exhibit A, including buildings, structures, fixtures, and other improvements thereon and easements, rights and interests appurtenant thereto which by custom, usage, or law pass with a conveyance of land although not described in the contract of sale or instrument of conveyance. "Property" included parcels, with or without upper or lower boundaries, and spaces that may be filled with air or water, and all personalty intended for use in connection therewith.



1.8.30 "Purchaser" means any person, other than Declarant, who by means of a disposition acquires a legal or equitable interest in a unit other than (a) a leasehold interest including renewal options, of less than twenty years at the time of creation of the unit, or (b) as security for an obligation.

1.8.31 "Renting or Leasing" a unit means the granting of a right to use or occupy a unit, for a specified term or indefinite term (with rent reserved on a periodic basis), in exchange for the payment of rent (that is, money, property or other goods or services of value); but shall not mean and include joint ownership of a unit by means of joint tenancy, tenancy-in-common or other forms of co-ownership.

1.8.32 "Residential Purposes" means use for dwelling or recreational purposes, or both.

1.8.33 "Special Declarant Rights" means rights, if expressly reserved in this Declaration for the benefit of Declarant to:

(a) Complete improvements indicated on Survey Maps and Plans filed with the Declaration under RCW 64.34.232;

(b) Exercise any Development Right under Section 23.2;

(c) Maintain sales offices, management offices, signs advertising the Condominium, and models under Section 23.1.2;

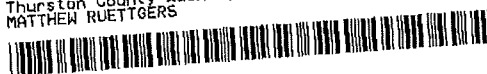
(d) Use easements through the Common Elements for the purpose of making improvements within the Condominium or within real property which may be added to the Condominium;

(e) Make the Condominium part of a larger Condominium or a development under RCW 64.34.280;

1.8.34 "Survey Map and Plans" means the survey map and the plans recorded simultaneously with this Declaration and any amendments, corrections, and addenda thereto subsequently recorded.

1.8.35 "Unit" means a portion of the Condominium designated for separate ownership, the boundaries of which are described pursuant to Article 4.

1.8.36 "Unit owner" means, subject to Section 1.9.5, a Declarant or other person who owns a unit but does not include a person who has an interest in a unit solely as security for an obligation; or is merely "renting" or "leasing" a unit as defined in Section 1.8.3 1. "Unit owner" means the vendee, not the vendor, of a unit under a real estate contract



1.8.37 "Unit Structure" means the improvements located or to be located within a unit.

1.9 Construction and Validity

1.9.1 All provisions of the Declaration and Bylaws are severable.

1.9.2 The rule against perpetuities may not be applied to defeat any provision of the Declaration, Bylaws, rules, or regulations adopted pursuant to RCW 64.34.304(1)(a).

1.9.3 In the event of a conflict between the provisions of the Declaration and the Bylaws, the Declaration prevails except to the extent the Declaration is inconsistent with the Act.

1.9.4 The creation of this Condominium shall not be impaired and title to the unit and Common Elements shall not be rendered unmarketable or otherwise affected by reason of an insignificant failure of the Declaration or Survey Map and Plans or any amendment thereto to comply with the Act.

1.9.5 If the Declaration or Bylaws now or hereafter provide that any officers or directors of the Association must be unit owners, then notwithstanding the definition contained in Section 1.8.35, the term "Unit owner" in such context shall, unless the Declaration or Bylaws otherwise provide, be deemed to include any director, officer, partner in, or trustee of any person, who is, either alone or in conjunction with another person or persons, a unit owner. Any officer or director of the Association who would not be eligible to serve as such if he or she were not a director, officer, partner in, or trustee of such a person shall be disqualified from continuing in office if he or she ceases to have any such affiliation with that person, or if that person would have been disqualified from continuing in such office as a natural person.

**Article 2  
DESCRIPTION OF REAL PROPERTY**

The Real Property included in the Condominium is described in Exhibit A attached hereto and is a description of the property in Phase 1. The interest of the Declarant in the real property to be included in the condominium is fee simple. The legal for the balance of the real property to be condominiumized in future phases is described in Exhibit B attached hereto. The parcels of land described in Exhibit A and B is also known on that certain Condominium Survey Map and Plans which has been recorded simultaneous herewith.

**Article 3  
DESCRIPTION OF UNITS**

There may be up to 55 units created in this condominium of which 12 units shall be created in Phase 1. Exhibit C attached hereto sets forth the following:

3.1 Unit Number. The Identifying Number of Each unit created by the Declaration.

3.2 Unit Description. With respect to each existing unit:

3.2.1 The approximate square footage.

3.2.2 Because the unit is an envelope of defined space (which may in the future, but not necessarily on the Declaration's recording date, contain a dwelling structure), the Declaration may not include the number of bathrooms, bedrooms and fireplaces within a unit or the building levels on which the unit is located.

3.2.3 Access to Common Ways and Public Streets. Each unit has direct access to Common Area parking areas and/or driveways.

3.3 Phasing for Additional Units. There may be up to 3 additional phases. The Declarant reserves the right to have additional phases. The Declarant further reserves the right to combine phases or modify the number of units in all phases during the term of Declarant's control as set forth in this Declaration.

#### **Article 4 BOUNDARIES**

4.1 Unit Boundaries. Units shall consist of an envelope of space, the perimeter boundaries of which on the surface of the land as located and depicted on the Survey Map and Plans and which boundaries extend below and above the ground elevation for each unit as shown on the Survey Map and Plans. A unit shall include all structures, improvements, and fixtures now or hereafter located within said space.

4.2 Monuments as Boundaries. Any physical boundaries of a unit constructed in substantial accordance with the original Survey Map and Plans thereof become its boundaries rather than the bounds expressed in the Survey Map and Plans, regardless of settling or lateral movements of the said physical boundaries or minor variances between boundaries shown on the Survey Map and Plans and those of any said physical boundaries. This Section does not relieve a Declarant or any other person of liability for failure to adhere to the Survey Map and Plans.

4.3 Relocation of Boundaries, Adjoining Units.

4.3.1 In General. Subject to the provisions of the Declaration and other provisions of law, the boundaries between adjoining units may only be relocated by an amendment to the Declaration upon application to the Association by the owners of those units. If the owners of the adjoining units have specified a reallocation between their units of their Allocated Interests, the application must state the proposed reallocations. Unless the Board determines within thirty days that the reallocations are unreasonable, the Association shall prepare an amendment that identifies



the units involved, states the reallocations, is executed by those unit owners, contains words or conveyance between them and is recorded in the name of the grantor and the grantee.

4.3.2 Survey Map and Plans. The Association shall obtain and record Survey Maps or Plans complying with the requirements of RCW 64.34.232(4) necessary to show the altered boundaries between adjoining units and their dimensions and Identifying Numbers.

## **Article 5 DESCRIPTION OF OTHER IMPROVEMENTS**

Other improvements in addition to unit structures to be constructed within the condominium are as follows:

5.1 Roads. There shall be constructed roads within the condominium.

5.2 Other Improvements. Such other improvements as may be constructed by the Declarant for the benefit of the unit owners. The maintenance of such other improvements shall be performed by the Association as an Association expense.

## **Article 6 DESCRIPTION OF COMMON ELEMENTS**

Except as otherwise specifically allocated by the Provisions of Article 7 or other provisions of this Declaration or amendments hereto, the Common Elements consist of the entire property, except for the units. Each unit has its percentage interest in such Common Elements and its percentage obligations towards maintaining such areas. The percentages with respect to the Common Elements in the Bayhill Townhomes Phase 1, as well as the percentage obligations toward the cost of maintaining such Common Elements, are set forth in Exhibit "C." Common Elements also include the following:

6.1 The Real Property described in Exhibit A, and improvements thereto, which are not part of a unit.

6.2 All streets and sidewalks, if any, which provide access to the units.

6.3 Any yards or landscaped areas, or walkways, which are not part of a unit, that surround and provide access to the units.

6.4 All utility easements, designated mailbox and/or dumpster enclosure area, if any.

6.5 If constructed by the Declarant, any landscaped monument/entry area constituting entry to the condominium, as well as any perimeter or interior fencing constructed by the Declarant.



6.6 Street lights installed by the Declarant, if any, together with storm water drainage facilities.

6.7 If constructed by Declarant, any underground sprinkler and lighting system.

6.8 All other parts of the Property necessary or convenient to its existence, maintenance and safety, or normally in Common use.

#### Article 7

#### DESCRIPTION OF LIMITED COMMON ELEMENTS

7.1 Limited Common Elements. The Limited Common Elements are allocated for the exclusive use of the owners of the unit or units to which they are adjacent or assigned and, in addition to any Limited Common Elements provided by law or other provisions of the Declaration, shall include but not be limited to:

7.1.1 Driveways. Each unit shall have as a Limited Common Element the driveway and walkway serving as a means of ingress and egress to that unit from any street.

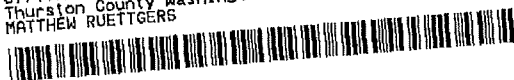
7.1.2 Mailbox. Each unit may have as a limited common element an assigned mailbox located at the discretion of the U.S. Postal Service and/or a group of mailboxes at such place as shall be designed by the U.S. Postal Service.

7.2 Miscellaneous. Any limited common elements as designated on the Survey Map and Plans and other limited common elements, if any, as may be described on said Survey Map and Plans.

7.3 Transfer of Limited Common Elements.

7.3.1 Reallocation Between Units. Except in the case of reallocation made by the Declarant pursuant to development rights reserved in this Declaration, a limited common element may only be reallocated between units with the approval of the board and by an amendment to the Declaration executed by the owner of, and approved in writing by the mortgagees holding mortgages against the units to which the limited common element was and will be allocated. The board shall approve the request of the owner or owners under this section within thirty (30) days unless the proposed reallocation does not comply with the Act or the Declaration. The failure of the board to act upon a request within such period shall be deemed approval thereof. The amendment shall be recorded in the names of the parties and of the condominium.

7.3.2 Limited Common to Common Elements. Seventy-Five (75%) percent of the unit owners, including the owner of the unit to which the limited common element will be assigned or incorporated, must agree to reallocate a limited common element as a common element or to incorporate a common element into an existing unit. Such reallocation or incorporation shall be reflected in an amendment to the Declaration and/or Survey Map and Plans. Provided, however,



this section shall not apply with respect to any such reallocation or incorporation made as a result of the exercise of any development right reserved by the Declarant.

## Article 8 ALLOCATED INTERESTS

### 8.1 Allocated Interests

#### 8.1.1 Percentage of Undivided Interest in the Common Elements and in the Common Expenses of the Association.

(a) The formula for determining the undivided interest in the common elements and in the common expenses shall be as follows: Each unit's percentage shall be determined by dividing 100 by the total number of units. Thus, when only Phase 1 is part of the Condominium, each unit shall have a 1/12th interest in the common elements. When Phase 2 is added, each unit shall have an interest in the common elements as determined by dividing 100% by the total number of units of all phases which have been added as provided for under the provisions of this Declaration. In the event the total percentages does not equal 100, then the Declarant shall have the right to round off the percentage interest of a unit so that the total percentage interest of all units shall equal 100 percent.

(b) Allocation of Votes. The allocation of votes shall be as follows: Each unit shall have one (1) vote so that the total amount of votes shall be the total number of units.

(c) Amendment of Percentages. Subject to the rights of the Declarant to amend this Declaration when adding Phases, any other change in percentage interest must be approved by ninety per cent (90%) of the first mortgagees and unit owners, and an amendment must be made to the Declaration changing the percentage interest in a manner consistent with the terms of this Declaration. As described above, the percentages of ownership in the common elements for each unit shall be changed whenever the number of units within the condominium changes.

## Article 9 OWNER'S ASSOCIATION

9.1 Form of Association. The Association shall be organized as a non-profit corporation under the laws of the State of Washington and shall be known as Bayhill Townhomes Condominium Association.

### 9.2 Membership

9.2.1 Qualification. Each owner (including Declarant) shall be a member of the Association and shall be entitled to one membership for each unit so owned; provided, that if a unit has been sold on contract, the contract purchaser shall exercise the rights of the unit owner for



purposes of the Association, this Declaration, and the Bylaws, except as hereinafter limited, and shall be the voting representative unless otherwise specified. ownership of a unit shall be the sole qualification for membership in the Association.

9.2.2 Transfer of Membership. The Association membership of each owner (including Declarant) shall be appurtenant to the unit giving rise to such membership, and shall not be assigned, transferred, pledged, hypothecated, conveyed or alienated in any way except upon the transfer of title to said unit and then only to the transferee of title to such unit. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a unit shall operate automatically to transfer the membership in the Association appurtenant thereto to the new owner thereof.

### 9.3 Voting.

9.3.1 Number of Votes. The total voting power of all owners shall be equal to the total number of units, with one vote allocated to each unit

9.3.2 Multiple owners. If only one of the multiple owners of a unit is present at a meeting Of the Association, the owner is entitled to cast all the votes allocated to that unit. If more than one. of the multiple owners are present, the votes allocated to that unit may be cast only in accordance with the agreement of a majority in interest of the multiple owners. There is majority agreement if any one of the multiple owners casts the votes allocated to that unit without protest being made promptly to the person presiding over the meeting by any of the other owners of the unit.

9.3.3 Proxies. Votes allocated to a unit may be cast pursuant to a proxy duly executed by a unit owner. If a unit is owned by more than one person, each owner of the unit may vote or register protest to the casting of votes by the other owners of the unit through a duly executed proxy. A unit owner may not revoke a proxy given pursuant to this section except by actual notice of revocation to the person presiding over a meeting of the association. A proxy is void if it is not dated or purports to be revocable without notice. Unless stated otherwise in the proxy, a proxy terminates eleven months after its date of issuance.

9.3.4 Association Owned units. No votes allocated to a unit owned by the Association may be cast. and in determining the percentage of votes required to act on any matter, the votes allocated 10 units owned by the Association shall be disregarded.

9.3.5 Pledged Votes. If an owner is in default under a first Mortgage for Ninety (90) consecutive days or more, the Mortgagee shall automatically be authorized to declare at any time thereafter that the unit owner has pledged his or her vote on all issues to the Mortgagee during the continuance of the default. If the Board has been notified of any such pledge to a Mortgagee, or in the event the record owner or owners have otherwise pledged their vote regarding special matters to a Mortgagee under a duly recorded Mortgage, only the vote of such Mortgagee or vendor, will be recognized in regard to the special matters upon which the vote is so pledged, if a copy of the instrument with this pledge has been filed with the Board. Amendments to this subsection shall only



be effective upon the written consent of all the voting owners and their respective Mortgagees, if any.

9.4 Meetings, Notices and Quorums.

9.4.1 Meetings. A meeting of the Association must be held at least once each year. Special meetings of the Association may be called by the president, a majority of the Board, or by unit owners having twenty percent of the votes in the Association. Not less than ten nor more than sixty days in advance of any meeting, the secretary or other officer specified in the bylaws shall cause notice to be hand-delivered or sent prepaid by first class united States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit owner. The notice of any meeting shall state the time and place of the meeting and the items on the agenda to be voted on by the members, including the general nature of any proposed amendment to the Declaration or Bylaws, changes in the previously approved budget that result in a change in Assessment obligations, and any proposal to remove a director or officer.

9.4.2 Quorums.

(a) A quorum is present throughout any meeting of the Association if the owners of units to which twenty-five percent of the votes of the Association are allocated are present in person or by proxy at the beginning of the meeting.

(b) A quorum is deemed present throughout any meeting of the Board if persons entitled to cast fifty percent of the votes on the Board are present at the beginning of the meeting.

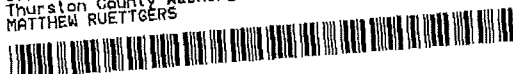
9.5 Bylaws of Association.

9.5.1 Adoption of Bylaws. Bylaws (and amendments thereto) for the administration of the Association and the Property, and for other purposes not inconsistent with the Act or with the intent of this Declaration shall be adopted by the Association upon concurrence of those voting owners holding a majority of the total voting power. Amendments to the Bylaws may be adopted at any regular or special meeting. Declarant may adopt initial Bylaws.

9.5.2 Bylaws Provisions. The Bylaws may contain supplementary, not inconsistent, provisions regarding the Operation and administration of the Condominium.

**Article 10  
MANAGEMENT OF CONDOMINIUM**

10.1 Administration of the Condominium. The unit owners covenant and agree that the administration of the Condominium shall be in accordance with the provisions of this Declaration and the Articles of Incorporation and Bylaws of the Association which are incorporated herein by reference and made a part hereof.



10.2 Election and Removal of Board and Officers.

10.2.1 Election By Owners in General. The unit owners (including Declarant and any Affiliate of Declarant to the extent units are owned by Declarant or any such Affiliate) shall elect a Board of at least three members, at least a majority of whom must be unit owners. The Board shall elect the officers. Such members of the Board and officers shall take office upon election.

10.2.2 Election By Owners, Other Than Declarant.

(a) The affairs of the Association shall initially be governed by a Board composed of at least one (1) but not more than three (3) members as determined by Declarant.

(b) Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the units which may be created to unit owners other than Declarant at least one (1) member and not less than twenty-five percent (25%) of the members of the Board may be elected by unit owners other than Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the units which may be created to unit owners other than a Declarant, not less than thirty-three and one-third percent of the members of the Board may be elected by unit owners other than the Declarant.

(c) Commencing with the first Association meeting at which the unit owners are to elect, the entire Board (other than a meeting held when Declarant still owned all of the units), and unless the Bylaws are amended at that meeting, the Board shall be composed of three (3) Members (not including a Board member designated by Declarant), a majority of whom must be owners of units in the Condominium; provided, the Declarant (or a representative of Declarant) shall have the right (which may not be terminated by amendment to the Declaration or Bylaws, and which shall continue so long as any Special Declarant Rights or Developments remain in effect or Declarant has any obligation or liability of any express or implied warranty) to serve as a full non-voting member of the Association Board (with all of the rights and powers of a Board member except for the right to vote).

10.2.3 Taking Office; Officers. The Board shall elect the officers of the Association. Such members of the Board and officers shall take office upon election.

10.2.4 Removal. The unit owners, by a two-thirds vote of the voting power in the Association present and entitled to vote at any meeting of the unit owners at which a quorum is present may remove any member of the Board with or without cause.

10.3 Management by Board.

10.3.1 On Behalf of Association. Except as otherwise provided in the Declaration, the Bylaws, Section 10.3.2 or the Act, the Board shall act in all instances on behalf of the Association. In the performance of their duties, the officers and members of the Board are required to exercise ordinary and reasonable care.



10.3.2 Not on Behalf of Association. The Board shall not act on behalf of the Association to amend the Declaration in any manner that requires the vote or approval of the unit owners pursuant to Section 21.1, to terminate the Condominium pursuant to RCW 64.34.268, or to elect members of the Board or determine the qualifications, powers, and duties, or terms of office of members of the Board pursuant to section 10.2; but the Board may fill vacancies in its membership for the unexpired portion of any term.

10.3.3 Budget Approval. Within thirty days after adoption of any proposed budget for the Condominium, the Board shall provide a summary of the budget to all the unit owners and shall set a date for a meeting of the unit owners to consider ratification of the budget not less than fourteen nor more than sixty days after mailing of the summary. Unless at that meeting the owners of units to which a majority of the votes in the Association are allocated reject the budget, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected or the required notice is not given, the periodic budget last ratified by the unit owners shall be continued until such time as the unit owners ratify a subsequent budget proposed by the Board.

#### 10.4 Authority of the Association

10.4.1 The Association acting by and through the Board, or a Manager appointed by the Board, for the benefit of the Condominium and the owners, shall enforce the provisions of this Declaration and of the Bylaws and shall have all powers and authority permitted to the Association under the Act and this Declaration, including without limitation:

- (a) Adopt and amend Bylaws, rules, and regulations;
- (b) Adopt and amend budgets for revenues, expenditures, and reserves, and impose and collect Assessments for Common Expenses from unit owners;
- (c) Hire and discharge or contract with managing agents and other employees, agents, and independent contractors;
- (d) Subject to the provisions of the Declaration, institute, defend, or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more unit owners on matters affecting the Condominium; provided, that on matters affecting a unit the Association must obtain the prior written consent of the owner of the unit affected;
- (e) Make contracts and incur liabilities;
- (f) Regulate the use, maintenance, repair, replacement, and modification of Common Elements;
- (g) Cause additional improvements to be made as a part of the Common Elements;



(h) Acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property, but Common Elements may be conveyed or subjected to a security interest only pursuant to Section 10.8;

(i) Grant easements, leases, licenses, and concessions through or over the Common Elements and petition for or consent to the vacation of streets and alleys;

(j) Impose and collect any payments, fees, or charges for the use, rental, or operation of the Common Elements, and for services provided to unit owners;

(k) Impose and collect charges for late payment of assessments and, after notice and an opportunity to be heard by the Board or by such representative designated by the Board and in accordance with such procedures as provided in the Declaration or Bylaws or rules and regulations adopted by the Board levy reasonable fines in accordance with a previously established schedule thereof adopted by the Board and furnished to the owners for violations of the Declaration, Bylaws, and rules and regulations of the Association;

(l) Impose and collect reasonable charges for the preparation and recording of amendments to the Declaration, resale certificates required by RCW 64.34.425 and statements of unpaid Assessments;

(m) Provide for the indemnification of its officers and Board and maintain directors' and officers' liability insurance;

(n) Assign its right to future income, including the right to receive common expense assessments, but only to the extent the Declaration provides;

(o) Exercise any other powers conferred by the Declaration or Bylaws;

(p) Exercise all other powers that may be exercised in this state by the same type of corporation as the Association;

(q) Exercise any other powers necessary and proper for the governance and operation of the Association;

(r) Maintain and repair any unit, its appurtenances and appliances, and any Limited Common Elements, if such maintenance or repair is reasonably necessary in the discretion of the Board to protect the common element or preserve the appearance and value of the Condominium, and the owner of said unit has failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair has been delivered by the Board to the owner, provided that the Board shall levy a special charge against the unit of such owner for the cost of such maintenance or repair, and



(s) Pay any amount necessary to discharge any lien or encumbrance levied against the entire Property or any part thereof which is claimed to or may, in the opinion of the Board, constitute a lien against the Property or against the Common Elements, rather than merely against the interest therein of particular owners. Where one or more owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it, and any costs and expenses (including court costs and attorney fees) incurred by the Board by reason of such lien or liens shall be specially charged against the owners and the units responsible to the extent of their responsibility.

10.4.2 The Board's power hereinabove enumerated shall be limited in that the Board shall have no authority to acquire and pay for out of the Association funds a capital addition or improvement (other than for purposes of restoring, repairing or replacing portions of the Common Elements) having a total cost in excess of Five Thousand Dollars (\$5,000), without first obtaining the affirmative vote of a majority of owners at a meeting called for such purpose, or if no such meeting is held, then the written consent of a majority of owners; provided that any expenditure or contract for each capital addition or improvement in excess of Twenty-Five Thousand Dollars (\$25,000) must be approved by owners having not less than seventy-five percent (75%) of the voting power.

10.4.3 Nothing herein contained shall be construed to give the Association authority to conduct an active business for profit on behalf of all of the owners or any of them.

10.4.4 The Board and its agents or employees, may enter any unit or limited common element when necessary in connection with any maintenance, landscaping or construction for which the Board is responsible or in the event of emergencies. Such entry shall be made with as little inconvenience to the owners as practicable, and any damage caused thereby shall be repaired by the Board paid for as a common expense if the entry was due to an emergency, or for the purpose of maintenance or repairs to Common or Limited Common Elements where the repairs were undertaken by or under the direction or authority of the Board; provided, if the repairs or maintenance were necessitated by or for the unit entered or its owners, or requested by its owners, the costs thereof shall be specially charged to such unit. In furtherance of the foregoing, the Board (or its designated agent) shall have the right at all times to possess such keys and/or lock combinations as are necessary to gain immediate access to units and Limited Common Elements.

10.5 Borrowing by Association. In the discharge of its duties and the exercise of its powers as set forth in Section 10.4. 1, but subject to the limitations set forth in this Declaration, the Board may borrow funds on behalf of the Association and to secure the repayment of such funds, assess each unit (and the owner thereof) for said units pro rata share of said borrowed funds and the obligation to pay said pro rata share shall be a lien against said unit and the undivided interest in the Common Elements appurtenant to said unit. Provided, that the owner of a unit may remove said unit and the Allocated Interest in the Common Elements appurtenant to such unit from the lien of such assessment by payment of the Allocated Interest in common expense Liability attributable to such unit. Subsequent to any such payment, discharge, or satisfaction, the unit and the Allocated Interest in the Common Elements appurtenant thereto shall thereafter be free and clear of the liens so paid,



satisfied, or discharged. Such partial payment, satisfaction, or discharge shall not prevent the lienor from proceeding to enforce his rights against any unit and the Allocated Interest in the Common Elements appurtenant thereto not so paid, satisfied, or discharged.

#### 10.6 Association Records and Funds

10.6.1 Records and Audits. The Association shall keep financial records sufficiently detailed to enable the Association to comply with RCW 64.34.425 in providing resale certificates. All Books and Records of the Association (as defined in Section 1.8) shall be made reasonably available (at all reasonable hours of weekdays or under other reasonable circumstances) for examination and copying by Declarant, and any owner, Mortgagee, insurer and guarantor of any Mortgage on any unit, or their agents. At least annually, the Association shall prepare, or cause to be prepared, a financial statement of the Association in accordance with generally accepted accounting principles. If this Condominium consists of fifty or more units, the financial statements of the Condominium shall be audited at least annually by a certified public accountant. If this Condominium consists of fewer than fifty units, an annual audit is also required but may be waived annually by owners (other than the Declarant) of units to which sixty percent of the votes are allocated, excluding the votes allocated to units owned by the Declarant.

10.6.2 Fund Commingling. The funds of the Association shall be kept in accounts in the name of the Association and shall not be commingled with the funds of any other Association, nor with the funds of any Manager of the Association or any other person responsible for the custody of such funds. Any reserve funds of the Association shall be kept in a segregated account and any transaction affecting such funds, including the issuance of checks, shall require the signature of at least two persons who are officers or directors of the Association.

10.7 Association as Trustee. With respect to a third person dealing with the Association in the Association's capacity as a trustee, the existence of trust powers and their proper exercise by the Association may be assumed without inquiry. A third person is not bound to inquire whether the Association has power to act as trustee or is properly exercising trust powers. A third person, without actual knowledge that the Association is exceeding or improperly exercising its powers, is fully protected in dealing with the Association as if it possessed and properly exercised the powers it purports to exercise. A third person is not bound to assure the proper application of trust assets paid or delivered to the Association in its capacity as trustee.

#### 10.8 Common Elements, Conveyance, Encumbrance

10.8.1 In General. Portions of the Common Elements which are not necessary for the habitability of a unit may be conveyed or subjected to a security interest by the Association if the owners of units to which at least eighty percent (80%) of the votes in the Association are allocated, including eighty percent (80%) of the votes allocated to units not owned by Declarant or an Affiliate of Declarant, agree to that action; but all the owners of units to which any limited common element is allocated must agree in order to convey that limited common element or subject it to a security interest. Proceeds of the sale or financing are an asset of the Association.



10.8.2 Agreement . An agreement to convey Common Elements or subject them to a security interest must be evidenced by the execution of an agreement, or ratifications thereof, in the same manner as a deed, by the requisite number of unit owners. The agreement must specify a date after which the agreement will be void unless recorded before that date. The agreement and all ratifications thereof must be recorded in every county in which a portion of the Condominium is situated and is effective only upon recording.

10.8.3 Conditions Precedent. The Association, on behalf of the unit owners, may contract to convey Common Elements or subject them to a security interest, but the contract is not enforceable against the Association until approved pursuant to Sections 10.8.1 and 10.8.2. Thereafter, the Association has all powers necessary and appropriate to effect the conveyance or encumbrance, including the power to execute deeds or other instruments.

10.8.4 Void Transaction. Any purported conveyance, encumbrance, or other voluntary transfer of Common Elements, unless made pursuant to this Section, is void.

10.8.5 Support Right. A conveyance or encumbrance of Common Elements pursuant to this section shall not deprive any unit of its rights of access and support.

10.8.6 Prior Encumbrances. A conveyance or encumbrance of Common Elements pursuant to this section shall not affect the priority or validity of preexisting encumbrances either on units (and their Allocated Interest in Common Elements) or on Common Elements.

10.9 Termination of Contracts and Leases. If entered into before the Board elected by the unit owners pursuant to Section 10.2.2 takes office, (1) any management contract, employment contract, or lease or recreational or parking areas or facilities, (2) any other contract or lease between the Association and a Declarant or an Affiliate of a Declaration, or (3) any contract or lease that is not bona fide or was unconscionable to the unit owners at the time entered into under the circumstances then prevailing may be terminated without penalty by the Association at any time after the Board elected by the unit owners pursuant to Section 10.2.2 takes office upon not less than ninety days' notice to the other party or within such lesser notice period provided for without penalty in the contract or lease. This Section does not apply to any lease, the termination of which would terminate the Condominium or reduce its size, unless the real property subject to that lease was included in the Condominium for the purpose of avoiding the right of the Association to terminate a lease under this Section.

10.10 Governmentally Required Maintenance, etc. Any insurance, maintenance, repair, replacement, alteration or other work, or the monitoring of such work, which is required by any governmental entity (including without limitation, federal, state or local government, public or private utility provider, local improvement district, or other governmental or quasi-governmental entity or agency), and regardless of whether such requirement is now or hereafter established, and whether imposed in connection with a building permit or other governmental approval or requirement, and whether involving land within public rights of way or subject to ownership or exclusive use of one owner, shall be the sole and exclusive responsibility of the Association (not the



Declarant) and any cost incurred in connection therewith shall be a Common Expense. In furtherance of the generality of the foregoing, and not by way of limitation, such work shall include maintenance of any grass-lined swales and proper disposal of clippings; maintenance of wetland plantings; replacement of wetland and landscape plantings that die during any required maintenance period; maintenance of public and private storm sewer and retention systems. Declarant shall have the right but not the obligation, to perform any such work if the Association fails to do so. The Association shall promptly upon demand reimburse Declarant for any costs directly or indirectly incurred by Declarant as a result of the Declarant performing or the Association's failure to perform, such work (including any work necessary to obtain a release, or avoid a forfeiture, of any cash deposit or other bond made by Declarant.

10.11 Maintenance Repair, Inspection and Warranty Procedure. The Association shall defend, indemnify and hold Declarant harmless from any expense or claim arising from or relating to any Association's failure to promptly and properly maintain, repair or inspect the Condominium (or any part thereof), or the Association's failure to promptly and properly make a claim (or comply with dispute resolution procedures) under any warranty obtained or issued by Declarant. Declarant shall not be liable under any express or implied warranty (including without limitation the Washington Condominium Act implied warranties) for loss or damage which the Association or owners have not taken timely action to minimize, or which is caused or made worse by a failure to properly and promptly maintain, repair, or inspect (including without limitation failure to fully comply with any inspection, monitoring, maintenance or repair checklist, manual or recommendation provided by Declarant (or a contractor, subcontractor or manufacturer) to the Association or owners.

10.12 Association Litigation.

10.12.1 The term "Legal Proceedings" as used herein shall include litigation, Administrative mediation, arbitration or other proceedings in the name of the Association on behalf of itself or two or more unit owners on matters affecting the Condominium.

10.12.2 The provisions of this Section 10.12 shall not apply to Legal Proceedings, as a result of which the Association could not be held responsible for costs of suit (including fees for attorneys, experts, witnesses, investigations and other costs of suit) in a aggregate amount of not more than \$5,000 (including without limitation fees contingent on a result), and which involve:

(a) Collection of delinquent regular or special Assessments, the enforcement of any Assessment lien and interest and penalties in connection therewith;

(b) Collection of monies owed to the Association, or recovery of damages caused to the Association or Condominium (or any part thereof), when the principal amount to be recovered involves less than \$25,000;

(c) Enforcement of the provisions of the Declaration, Articles, Bylaws or rules and regulations of the Association;

(d) Defense of a claim against the Association, when the principal amount to be recovered involves less than \$25,000; or

(e) The filing of a complaint, answer or other pleading for the limited purpose satisfying a statute of limitation deadline, avoiding entry of a default order or judgement, or preventing personal injury or serious harm to the Condominium (if such purpose is certified in good faith by the Association's attorney), but except for this limited purpose the other conditions of Section 10.12 must be satisfied.

10.12.3 In order for the Association (or the Board acting on behalf of the Association) to institute, defend, or intervene in Legal Proceedings, and in order for the Association to become obligated in the aggregate sum in excess of \$5,000, to professionals, consultants or other experts in connection with Legal Proceedings, the following conditions must first be satisfied:

(a) The Board has received a detailed written summary ("Litigation Summary") concerning the substance of the proceeding, including: (i) agreements with lawyers, experts and consultants; issues involved; (ii) legal and factual basis of anticipated allegations on behalf of and against the Association; (iii) remedies to be sought on behalf of and against the Association; (iv) estimated amount to be sought on behalf of (and that could be sought from) the Association, (v) Association's estimated costs of suit (including fees for attorneys, experts, witnesses, investigations and other costs of suit) and any third-party costs of suit that the Association would pay if the Association does not prevail; (vi) reports and recommendations by any professionals or consultants retained by the Association (and by any opposing party, if available); (vii) any written demands or settlements offers made by an opposing party (the Board shall request that an opposing party make such demand and settlement offer); and (viii) any negative consequences that the Association, Condominium or owners could suffer during such proceedings including required disclosures to prospective purchasers, impediments to unit refinancing, or diminishment of unit value.

(b) If the proceeding will involve a claim against the Declarant (or Declarant's contractor, subcontractors, vendors, suppliers or other professionals) concerning construction defects or other condition of the Condominium, the Litigation Summary will also include: a description of the construction defects or other condition (which shall also have been transmitted to the Declarant); and any written response from the Declarant concerning such defects (including any offer to settle by performing remedial work, payment of cash or a combination of both).

(c) A copy of the Litigation Summary shall be transmitted to all owners, together with a written notice of the owner's right of access to the Books and Records of the Association as provided in Section 10.6.1, and a written notice of a special owner's meeting to be convened as provided in this Declaration, at which meeting the Declarant (and its representatives shall be entitled to attend and participate in on a non-voting basis).

(d) The owners holding eighty percent (80%) of the total Association voting power must grant approval for the Association (or the Board acting on behalf of the Association) to institute, defend, or intervene in legal proceedings, provided, that under no circumstances may legal proceedings be commenced against Declarant (or Declarant's contractor, subcontractors, vendors, suppliers or other professionals) with respect to any alleged construction defect or other condition which Declarant has agreed in writing to remedy and is proceeding with reasonable due diligence to do so.

#### Article 11

#### USE; REGULATION OF USES; ARCHITECTURAL UNIFORMITY

11.1 Residential units. The units shall be used: for Residential Purposes only, including sleeping, eating, food preparation for on-site consumption by occupants and guests, entertaining by occupants of personal guests and similar activities commonly conducted within a residential dwelling, without regard to whether the unit owner or occupant resides in the unit as a primary or secondary personal residence, on an ownership, rental, lease or invitee basis; for such other reasonable ancillary purposes commonly associated with residential dwellings and otherwise in compliance with the Declaration and applicable law in residential dwellings; for the common social, recreational or other reasonable uses normally incident to such purposes; and for purposes of operating the Association and managing the Condominium.

11.2 Vehicle Parking Restrictions. Unit owners and their guests may only park automobiles, light trucks, and passenger vans within the units or on the Limited Common Element driveway serving as access to the units. No other parking by unit owners or guests shall be permitted except as otherwise approved through parking rules and regulations which may be adopted by the Association. Boats, motor homes, trailers, campers, or other recreational vehicles may not be parked outside a unit structure except on a temporary basis only (not to exceed 24 hours) and must be kept within the garage situated within the unit structure. (The Board may adopt rules and regulations relating to parking and storage of vehicles.) The Board may require removal of any vehicle (and any other personal property) improperly stored or parked. If the same is not removed, the Board shall cause removal at the risk and expense of the owner thereof.

11.3 Common Drive and Walks. Common drives, walks, corridors, stairways and other general Common Elements shall be used exclusively for normal transit and no obstructions and/or decorations or other items shall be placed thereon or therein except by express written consent of the Board.

#### 11.4 Unit Structure Maintenance.

Subject to the provisions of this Declaration:

11.4.1 Standard of Condition. Each unit owner shall, at said unit owner's sole cost and expense, have the duty and responsibility to keep the interior and exterior of the unit and



the unit structure, improvements, equipment, appliances, and appurtenances in good order, condition, and repair. Each unit owner shall be responsible for the construction, alteration, maintenance, repair or replacement of any building, fixtures, or appliances which may be or are used in connection with the unit or unit structure. However, as set forth below, the Association shall have the responsibility to clean and paint/stain the exterior of all unit structures and shall also be responsible for the maintenance and repair of any roofs on unit structures subject to any other provisions in this Declaration.

11.4.2 Alterations of Units and Unit Structures. A unit owner may not change the exterior appearance of a unit or unit structure without the permission of the Association.

11.4.3 Unit and Unit Structure Maintenance.

(a) Decisions by Board. Decisions with respect to the standard of appearance and condition of units and unit structures in connection with the necessity for, and manner of, caring for, maintaining, repairing, repainting or redecorating unit structures ("maintenance work") shall be made by the board and the cost of said maintenance and repainting (not structural repair) shall be paid by the Association as a common expense together with the maintenance and repair of the roofs on the unit structures.

(b) Performance of Work. Performance of such maintenance work shall be carried out and paid for by the Association, except that any structural repairs to the exterior of the units (not including the roof structures) shall be the responsibility and shall be at the cost of the unit owner of that portion of the exterior of the unit structure having structural repairs performed.

(c) Board Approval. Unit owners may not modify, paint, or otherwise decorate, or in any way alter the exterior of a unit structure without the prior written approval of the board.

(d) Exterior Appearance. In order to preserve a uniformed exterior appearance with respect to the unit structure and those portions of the unit visible to the public, the board shall provide requirements for the painting and other decorative finish of the unit structure, and improvements situated within the units such as patio/yard areas, and prescribe the type and color of such decorative finishes and may prohibit, require or regulate any modification or decoration of a unit structure, patio/yard areas undertaken or proposed by any owner. This power of the board extends to screens, doors, awnings, rails, or other visible portions of each unit and unit structure. The board may also require the use of a uniform color and type of unit structure window covering (including draperies, blinds, shades, etc.) visible from the exterior of said unit or unit structure.

(e) Landscaping. The Association shall be responsible to provide and maintain the back, side and front yard lawns and landscaped areas within any unit which shall include proper mowing, watering, and the board may make such rules and regulations concerning this care and maintenance. In addition, the Association shall be responsible to provide and maintain any Limited Common Elements assigned to that unit.



(f) Effect on Insurance. Nothing shall be done or kept in any unit which will increase the rate of insurance on the Common Elements or other units without the prior written consent of the board. No unit owner shall permit anything to be done or kept in his unit or in any common element which would result in the cancellation of insurance with respect to any unit or unit structure or any part of the Common Elements or which would be in violation of any laws.

(g) Insurance Coverage. In the event the exteriors of the unit structure for which the Association has the responsibility to maintain and/or repair is damaged through casualty or any other loss for which the unit owner is required to have insurance insuring against said loss, then in that event, the Association shall have the right to be reimbursed from said insurance proceeds which are available to perform such maintenance and repair under the unit owner's insurance policy as provided herein.

11.5 Alterations of units Subject to the provisions of Section 11.5 a unit owner:

11.5.1 Non-Structural. May make any improvements or alterations to the owner's unit that do not affect the structural integrity or mechanical or electrical systems or lessen the support of any other units or any portion of the Condominium;

11.5.2 Common Element. May not change the appearance of the Common Elements or the exterior appearance of a unit without permission of the Association;

11.6 Signs. No sign of any kind shall be displayed to the public view on or from any unit or common or limited common element without the prior consent of the Board; provided, that the Board shall, by and subject to appropriate rule, permit temporary placement of a sign, at a space designated by the Board, indicating that a unit is for sale or lease; and provided, that this section shall not apply to Declarant or Declarant's agents in exercising any Special Declarant Right reserved by Declarant under this Declaration.

11.7 Pets. Domestic household pets, such as dogs and cats, may be kept by unit owners; provided, that the keeping of pets shall be subject to such reasonable rules and regulations as the Board may from time to time adopt. The Board may require the removal of any animal which the Board in the exercise of reasonable discretion finds disturbing other unit owners unreasonably, and may exercise this authority for specific animals even though other animals are permitted to remain. Animals which are generally perceived as being dangerous (such as pitbull dogs) are prohibited.

Pets will not be allowed on any Common Elements (or Limited Common Elements allocated for the use of more than one unit) unless they are on a leash or being carried and are being walked to or from the unit to a public walk or street. At all times the Common Elements shall be free of any pet debris, including food and feces matter. At no time is pet feces to be deposited in garbage. No livestock, poultry, rabbits or other animals whatsoever shall be allowed or kept in any part of the Condominium, nor may any animal be bred or used therein for any commercial purpose. Any outside



facility for pets must be kept clean on a daily basis and no waste products or food be left in either the facility or on the Property.

11.8 Offensive Activity. No noxious or offensive activity shall be carried on in any unit or Common or Limited Common Element, nor shall anything be done therein which may be or become an annoyance or nuisance to other owners.

All occupants shall avoid making noises, and using musical instruments, radios, and amplifiers in such manner as may disturb other occupants. owner shall also control their pets so that they do not disturb other occupants.  
may disturb other occupants.

No garments, rugs or other objects shall be hung from the windows or facades, lanais of the project or otherwise displayed in public view. No rugs or other objects shall be dusted or shaken from the windows, lanais or doors of any unit or cleaned by beating or sweeping on any walkways, patios, entries or other exterior part of the project.

No refuse, garbage or trash of any kind shall be thrown, placed or kept on any common element of the project outside of the disposal facilities provided for such purposes.

Every unit owner and occupant shall at all times keep his unit in a strictly clean and sanitary condition, free of rodents and pests, and observe and perform all laws, ordinances, rules and regulations, including kennel laws and animal control laws.

11.9 Common Element Alterations. Nothing shall be altered or constructed in, or (except for an owner's personal property) removed from, the common element except upon the written consent of the Board and after procedures required herein or by law.

11.10 House Rules. The Board or the Association membership is empowered to pass, amend and revoke detailed, reasonable administrative rules and regulations, or "House Rules," necessary or convenient from time to time to insure compliance with the general guidelines of this Article. Such House Rules shall be binding on all unit owners, lessees, guests and invitees upon adoption by the Board or Association.

11.11 Rental units. The Leasing or Renting of a unit by its owner shall be governed by the provisions of this Section 11.11 and 11.16 restricting the amount of units to be leased or rented:

11.11.1 No Transient Purposes. With the exception of a lender in possession of a unit following a default in a Mortgage, a Foreclosure proceeding or any deed or other arrangement in lieu of a Foreclosure, no unit owner shall be permitted to Lease his unit for hotel or transient purposes which shall be defined as Renting for any period less than thirty (30) days. The Association may by resolution of the Board prohibit the Leasing of any unit for a period of less than six (6) months.



11.11.2 Entire unit. No unit owner may Lease less than the entire unit.

11.11.3 Written Leases. All Leasing or Rental agreements shall be in writing and be subject to this Declaration and Bylaws (with a default by the tenant in complying with this Declaration and/or Bylaws constituting a default under the Lease or Rental agreement). Before a lease of any unit shall become effective or tenancy commenced, a copy of the lease shall be delivered to the Board and acknowledged by the Board to be in compliance with the provisions of this Declaration. If any lessee or occupant of a unit violates or permits the violation by his guests or invitees of any provision hereof, or any provision of the By-Laws or Rules and Regulations of the Association, and the Board determines that such violations have been repeated and a prior notice to cease has been provided, the Board may give notice to the lessee or occupant of the unit and the owner thereof to forthwith cease such violations. If the violation is thereafter repeated, the Board shall have the authority, on behalf of and at the expense of the owner, to evict the tenant or occupant if the owner fails to do so after notice from the Board and an opportunity to be heard. The Board shall have no liability to an owner or tenant for any eviction made in good faith. The Association shall have a lien against the owner's unit for any costs incurred by it in connection with such eviction, including reasonable attorney's fees, which may be collected and foreclosed by the Association in the same manner as assessments are collected and foreclosed in accordance with the provisions of this Declaration.

11.11.4 Rent to Association. If a unit is rented by its owner, the Board may collect, and the tenant or lessee shall pay over to the Board, so much of the rent for such unit as is required to pay any amounts due the Association hereunder, plus interest and costs if the same are in default over thirty (30) days. The renter or lessee shall not have the right to question payment over to the Board, and such payment will discharge the lessee's or renter's duty of payment to the owner for rent, to the extent such rent is paid to the Association, but will not discharge the liability of the owner or purchaser and the unit under this Declaration for assessments and charges, or operate as an approval of the lease. The Board shall not exercise this power where a receiver has been appointed with respect to the unit or its owner; nor in derogation of any rights which a Mortgagee of such unit may have with respect to such rents. Other than as stated in this Section 11.11, there is no restriction on the right of any unit owner to Lease or otherwise Rent his unit.

11.11.5 Leasing of Units. Not more than twenty (20%) percent of the units may be leased at any one time; however, the provision is not applicable to a lender in possession of a unit after foreclosure nor to the Declarant as to the initial units owned by the Declarant at the time of recording of this Declaration.

11.12 Maintenance of View. Trees and vegetation planted in the Common Elements shall be pruned by the Association in a manner to preserve as much view as possible from each of the units.

11.13 Timesharing. Timesharing, as defined in the Washington Timeshare Act is prohibited.



11.14 Fireplaces. All fireplaces, if any, within a unit structure must comply with the most stringent of the Federal, State or local laws in effect at the time the fireplace is installed.

11.15 Design Control for Unit Structures.

11.15.1 Plan Approval. No unit structure shall be constructed on a unit or altered until there has been filed and approved by the Architectural Control Committee appointed by the Board, plans and specifications for the same. Included with each proposal there shall be, in a form satisfactory to the Architectural Control Committee, two sets of plans and specifications showing:

11.15.1 Size and dimension of the improvements;

11.15.2 Exterior design;

11.15.3 Exterior color scheme;

11.15.4 Exact location of the unit structure or unit building on the unit;

11.15.5 Location of driveways and parking areas;

11.15.6 Scheme for drainage and grading;

11.15.7 Proposed landscaping.

The decision of the Architectural Control Committee concerning the approval or disapproval of any plans and specifications submitted as provided for herein shall be final. Approval by the Architectural Control Committee shall not be given as to any plans and specifications, which in their opinion, would not be in conformity with the design and color scheme of structures already constructed, or if the proposed improvements in their opinion, would in any way be detrimental because of grading and drainage plans, location of structure on the unit, color scheme, finish design, proportions, shape, height, style, appropriateness, material used thereon, or repetition of any given plan or similar architectural design. Changes in any unit structure exterior color scheme must be submitted to the Architectural Control Committee for approval. The Architectural Control Committee shall promulgate such rules and regulations as may be necessary or required in order to supplement the procedure for the submission of plans for approval as set forth herein.

11.16 Exemption for Declarant. The provisions with respect to design control for unit structures as set forth above shall not apply to any unit structures constructed by the Declarant on any unit owned by the Declarant.

11.17 Barbeques. No barbeques shall be allowed unless they are propane or natural gas barbeques. The barbeques are subject to such rules and regulations as may be adopted by the Board of Directors.



11.18 Protected Antennas. Owners may not install any antennas, dishes or other receiving devices in or on any portion of the units or unit structures, Common Elements or Limited Common Elements, except as provided in this Section. Each Owner shall have the right to install a Protected Antenna (as defined by the provisions of 47 C.F.R. §1.4000 ("FCC Rule") as it now exists or is hereafter amended or replaced, or any other federal, state or local law, code, rule or regulation that preempts, prohibits or limits restrictions on, or conditions to, the installation, maintenance or repair of telecommunications equipment desired by an Owner) (but no other kind of antenna, dish or receiving device) within the Owner's unit, subject to such reasonable rules and regulations as the Board may adopt; provided, however, the Association may prohibit the installation of a Protected Antenna by Owners if the Association provides a central antenna system that complies with the FCC Rule or any other law, ordinance, rule or regulation that permits such prohibition. If the provisions of this Section conflict with any applicable federal, state or local law, ordinance, rule or regulation, the terms of such law, ordinance, rule or regulation shall prevail, but the conditions and limitations set forth in this Section shall be enforced to the maximum extent permitted by law.

11.19 Fences. Fences along the private yard of a dwelling shall be maintained by, and at the expense of, the dwelling owner in accordance with the rules and regulations of the Board. All other fences shall be maintained by the Association.

11.20 Quiet Enjoyment. No Owner shall permit anything to be done or kept in the Owner's Unit, Limited Common Elements, or Common Elements which would interfere with the right of quiet enjoyment of the other residents of the Condominium. In particular, sound system loudspeakers shall not be rigidly attached to the party wall with another Unit or the ceilings, walls, shelves, or cabinets in a Unit in a manner that will induce vibrations into the structure of the building.

11.21 Hazardous Substances. The Owner of each Unit shall not permit any Hazardous Substance to be generated, processed, stored, transported, handled, or disposed of on, under, in, or through the Owner's Unit or the Property. Each Owner shall indemnify, defend, and hold harmless the other Owner or Owners and the Association from all fines, suits, procedures, claims, and actions of any kind arising out of or in any way connected with any spills or discharges of Hazardous Substances or wastes arising from the operation or use of the Unit or the Property by the Owner, tenants, or invitees of the Unit. As used herein, the term "Hazardous Substance" means any hazardous, toxic, or dangerous substance, waste, or material which is or becomes regulated under any federal, state, or local statute, ordinance, rule, regulation, or other law now or hereafter in effect pertaining to environmental protection, contamination, or cleanup, including without limitation any substance, waste, or material which now or hereafter is designated as a "Hazardous Substance" under the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9601 et seq.), or under any local or state rule or regulation. Without limiting the foregoing, Hazardous Substances shall include, but not be limited to, any substance which after being released into the environment and upon exposure, ingestion, inhalation, or assimilation, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavior abnormalities, cancer, and/or genetic abnormalities.



**Article 12**  
**COMMON EXPENSES AND ASSESSMENTS**

12.1 Estimated Expenses. Within sixty (60) days prior to the beginning of each calendar year, or such other fiscal year as the Board may adopt, the Board: shall estimate the charges including Common Expenses, and any special charges for particular units to be paid during such year; shall make provision for creating, funding and maintaining reasonable reserves for contingencies and operations, as well as for maintenance repair, replacement and acquisition of Common Elements; and shall take into account any expected income and any surplus available from the prior year's operating fund. Without limiting the generality of the foregoing but in furtherance thereof, the Board shall create and maintain from regular monthly Assessments a reserve fund for replacement of those Common Elements which can reasonably be expected to require replacement or a major repair prior to the end of the useful life of the Buildings. The Board shall calculate the contributions to said reserve fund so that there are sufficient funds therein to replace, or perform such major repair, to each common element covered by the fund at the end of the estimated useful life of each such Common Element. The initial Board, whether appointed by Declarant or elected by unit owners, may at any suitable time establish the first such estimate. If the sum estimated and budgeted at any time proves inadequate for any reason (including non-payment for any reason of arty owner's Assessment), the Board may at any time levy a further Assessment, which shall be assessed to the owners according to Section 12.4. Similarly, if the sum estimated and budgeted, and being collected and/or already collected, at any time proves excessive, the Board may reduce the amount being assessed and/or apply existing funds (in excess of current needs and required reserves) against future Assessments and/or refund such excess funds.

12.2 Payment by Owners. Each owner shall be obligated to pay its share of Common Expenses and special charges made pursuant to this Article to the treasurer for the Association in equal monthly installments on or before the first day of each month during such year, or in such other reasonable manner as the Board shall designate. No owner may exempt himself from liability for payment of assessments for any reason, including waiver of use or enjoyment of any of the Common Elements or abandonment of the owner's unit.

12.3 Commencement of Assessments. The Declarant in the exercise of its reasonable discretion shall determine when the Association shall commence making Assessments; provided, that in all events the Assessments shall commence on a date within 60 days after the date on which seventy-five percent (75%) of the units which may be created, have been conveyed to owners (other than Declarant or on Affiliate of Declarant). Until the Association makes an Assessment, the Declarant shall pay all Common Expenses. After any Assessment has been made by the Association, Assessments must be made against all units, based on a budget adopted by the Association; provided, until a date within 60 days after the date on which seventy-five percent (75%) of the units which may be created have been conveyed to owners (other than Declarant or an Affiliate of Declarant):

(a) The Board (whether appointed by Declarant or elected by unit owners) may elect not to collect monthly assessments calculated as provided in Section 12.1 and



instead elect to collect and expend monthly assessments based on the actual costs of maintaining, repairing, operating and insuring the Common Areas; or

(b) The Declarant may elect to pay all of certain of such actual costs and have unit owners pay a pro-rata share (based on each unit's Allocated Interest) of the remainder of such costs.

12.4 Allocated Liability. Except for Assessments under Sections 12.5, 12.6, 12.7 and 12.8, all Common Expenses must be assessed against all the units in accordance with the allocations set forth in Exhibit C. Any past due common expense Assessment or installment thereof bears interest at the rate established by the Association pursuant to Section 12.12.11.

12.5 Limited Common Element. Any common expense associated with the operation, maintenance, repair, or replacement of a limited common element shall be paid by the owner of or assessed against the units to which that limited common element is assigned, equally.

12.6 Only Some Units Benefitted. The Board may elect that any common expense or portion thereof benefitting fewer than all of the units must be assessed exclusively against the units benefitted.

12.7 Association Dues to Bayhill Homeowners Association. In accordance with the provisions of a Declaration of Protective Covenants which was recorded under Thurston County Auditor's Recording No. 3771635, the units are subject to homeowners assessments to be paid to the Bayhill Homeowners Association, which amount shall be included as part of the common expense of each unit and the total amount of assessments due for all property within the condominium shall then be paid by the Condominium Association to the Bayhill Homeowners Association. Each unit owner may be a member of said Homeowners Association and are subject to the terms and provisions of the Declaration to the extent the same are not inconsistent with the provisions of this Declaration.

12.8 Utility Costs. All utilities which are separately metered and which provide service to only one unit (unit structure) shall be at the sole cost and expense of the owner of said unit; however, all other utilities which are not separately metered to units shall be paid by the Association as an Association expense.

12.9 Assessments for Judgment. Assessments to pay a judgment against the Association pursuant to RCW 64.34.368(I) may be made only against the units in the Condominium at the time the judgment was entered in proportion to their allocated common expense liabilities at the time the judgment was entered.

12.10 Owner Misconduct. To the extent that any common expense is caused by the misconduct of any unit owner, the Association shall assess that expense against the owner's unit.



12.11 Reallocation. If common expense liabilities are reallocated, common expense Assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated common expense Liabilities.

12.12 Yard. All yard and lawn areas, whether in a unit or a common element, shall be maintained by the Association and considered a common expense.

12.13 Lien For Assessments.

12.13.1 Lien. The Association has a lien on a unit for any unpaid Assessments levied against a unit from the time the Assessment is due.

12.13.2 Priority. A lien under Section 12.12 shall be prior to all other liens and encumbrances on a unit except: (a) liens and encumbrances recorded before the recording of the Declaration; (b) a Mortgage on the unit recorded before the date on which the Assessment sought to be enforced became delinquent; and (c) liens for real property taxes and other governmental assessments or charges against the unit.

12.13.3 Mortgage Priority. Except as provided in Sections 12.12.4 and 12.12.5, the lien shall also be prior to the Mortgages described in Section 12.12.2(b) to the extent of Assessments for Common Expenses, excluding any amounts for capital improvements, based on the periodic budget adopted by the Association pursuant to Section 12. 1, which would have become due during the six months immediately preceding the date of the sheriff's sale in an action for judicial foreclosure by either the Association or a Mortgagee, the date of a trustee's sale in a non-judicial foreclosure by a Mortgagee, or the date of recording of the Declaration of forfeiture in a proceeding by the vendor under a real estate contract.

12.13.4 Mortgagee Notice. The priority of the Association's lien against units encumbered by a Mortgage held by an Eligible Mortgagee or by a Mortgagee which has given the Association a written request for a notice of delinquent Assessments shall be reduced by up to three months if and to the extent that the lien priority under Section 12,12.3 includes delinquencies which relate to a period after such holder becomes an Eligible Mortgagee or has given such request for notice and before the Association gives the holder a written notice of the delinquency. This Section does not affect the priority of mechanics' or material men's liens, or the priority of liens for other Assessments made by the Association.

12.13.5 Recording as Notice. Recording of the Declaration constitutes record notice and perfection of the lien for Assessments. While no further recording of any claim of lien for Assessment under this section shall be required to perfect the Association's lien, the Association may record a notice of claim of lien for Assessments under this Section in the real property records of any county in which the Condominium is located. Such recording shall not constitute the written notice of delinquency to a Mortgagee referred to in Section 12.12.3.



12.13.6 Limitation on Action. A lien for unpaid Assessments and the personal liability for payment of Assessments is extinguished unless proceedings to enforce the lien or collect the debt are instituted within three years after the amount of the Assessments sought to be recovered becomes due.

12.13.7 Foreclosure. The lien arising under Section 12.12 may be enforced judicially by the Association or its authorized representative in the manner set forth in chapter 61.12 RCW. The Association or its authorized representative shall have the power to purchase the unit at the foreclosure sale and to acquire, hold, lease, mortgage, or convey the same. Upon an express waiver in the complaint of any right to a deficiency judgment in a judicial foreclosure action, the period of redemption shall be eight months. Nothing in this Section shall prohibit an Association from taking a deed in lieu of foreclosure.

12.13.8 Receiver. From the time of commencement of an action by the Association to foreclose a lien for nonpayment of delinquent Assessments against a unit that is not occupied by the owner thereof, the Association shall be entitled to the appointment of a receiver to collect from the lessee thereof the rent for the unit as and when due. If the rental is not paid, the receiver may obtain possession of the unit, refurbish it for rental up to a reasonable standard for rental units in this type of Condominium, rent the unit or permit its rental to others, and apply the rents first to the cost of the receivership and attorneys' fees thereof, then to the cost of refurbishing the unit, then to applicable charges, then to costs, fees, and charges of the foreclosure action, and then to the payment of the delinquent Assessments. Only a receiver may take possession and collect rents under this section, and a receiver shall not be appointed less than ninety days after the delinquency. The exercise by the Association of the foregoing rights shall not affect the priority of preexisting liens on the unit.

12.13.9 Mortgagee Liability. Except as provided in Section 12.12.3, the holder of a Mortgage or other Purchaser of a unit who obtains the right of possession of the unit through foreclosure shall not be liable for Assessments or installments thereof that became due prior to such right of possession. Such unpaid Assessments shall be deemed to be Common Expenses collectible from all the unit owners, including such Mortgagee or other purchaser of the unit. Foreclosure of a Mortgage does not relieve the prior owner of personal liability for Assessments accruing against the unit prior to the date of such sale as provided in this Section.

12.13.10 Lien Survives Sale. The lien arising under Section 12.13 shall not be affected by the sale or transfer of the subject unit except in the event of sale through foreclosure, as provided in Section 12.13.9.

12.14 Owner Liability. In addition to constituting a lien on the unit, each Assessment shall be the joint and several obligation of the owner or owners of the unit to which the same are assessed as of the time the Assessment is due. In a voluntary conveyance the grantee of a unit shall be jointly and severally liable with the grantor for all unpaid Assessments against the latter up to the time of the grantor's conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore. Suit to recover a personal judgment for any



delinquent Assessment shall be maintainable in any court of competent jurisdiction without foreclosing or waiving the lien securing such sums.

12.15 Late Charge. The Association may from time to time establish reasonable late charges and a rate of interest to be charged on all subsequent delinquent Assessments or installments thereof. In the absence of another established non-usurious rate, delinquent Assessments shall bear interest from the date of delinquency at the maximum rate permitted under RCW 19.52.020 on the date on which the Assessments became delinquent.

12.16 Attorneys Fees. The prevailing party shall be entitled to recover any costs and reasonable attorneys' fees incurred in connection with the collection of delinquent Assessments, whether or not such collection activities result in suit being commenced or prosecuted to judgment. In addition, the prevailing party shall be entitled to recover costs and reasonable attorneys' fees if it prevails on appeal and in the enforcement of a judgment.

12.17 Assessment Certificate. The Association, upon written request, shall furnish to a unit owner or a Mortgagee a statement signed by an officer or authorized agent of the Association setting forth the amount of unpaid Assessments against that unit. The statement shall be furnished within fifteen days after receipt of the request and is binding on the Association, the Board, and every unit owner, unless and to the extent known by the recipient to be false.

12.18 Acceleration of Assessments. In the event any monthly Assessment or special charge attributable to a particular unit remains delinquent for more than sixty (60) days, the Board may, upon fifteen (15) days written notice to the owner of such unit, accelerate and demand immediate payment of all, or such portion as the Board determines, of the monthly Assessments and special charges which the Board reasonably determines will become due during the next succeeding twelve (12) months with respect to such unit.

12.19 Delinquent Assessment Deposit Working Capital

12.19.1 Delinquent Assessment Deposit.

(a) A unit owner may be required by the Board or by the Manager, from time to time, to make and maintain a deposit not less than one (1) month nor in excess of three (3) months estimated monthly Assessment and charges, which may be collected as are other Assessments and charges. Such deposit shall be held in a separate fund, be credited to the unit owned by such owner, and be for the purpose of establishing a reserve for delinquent Assessments.

(b) Resort may be had thereto at any time when such owner is ten (10) days or more delinquent in paying his monthly or other Assessments and charges. Said deposits shall not be considered as advance payments of regular Assessments. In the event the Board should draw upon said deposit as a result of a unit owner's delinquency in payment of any Assessments, said owner shall continue to be responsible for the immediate and full payment of said delinquent Assessment (and all penalties and costs thereon) and thus the full restoration of said deposit, and the



Board shall continue to have all of the rights and remedies for enforcing such Assessment payment and deposit restoration as provided by this Declaration and by law.

(c) Upon the sale of a unit, the seller/Owner thereof shall not be entitled to a refund from the Association of any deposit or reserve account made or maintained with respect to such unit pursuant to this or any other Section of this Declaration; rather, any such deposit or reserve account shall continue to be held by the Association for the credit of such unit and the unit Purchaser shall succeed to the benefit thereof, and the unit seller shall be responsible for obtaining from the Purchaser appropriate compensation therefore.

12.19.2 Working Capital Contribution. The first Purchaser of any unit shall pay to the Association, in addition to other amounts due, an amount equal to two (2) months of estimated monthly Assessments as a contribution to the Association's working capital. Such working capital contributions shall not be used to defray Declarant's expenses in completing the construction of the Condominium, to pay Declarant's contributions to Association reserves or to make up any deficits in the budget of the Association. Upon the election of the first Board by unit owners other than Declarant, Declarant shall pay to the Association as a working capital contribution an amount equal to two (2) months of monthly Assessments for each of the units then owned by Declarant. When a unit owned by Declarant is sold, Declarant may apply funds collected at closing from the Purchaser to reimburse itself for funds paid to the Association for such contribution with respect to that unit.

### **Article 13 INSURANCE**

13.1 In General. Commencing not later than the time of the first conveyance of a unit to a person other than a Declarant, the Association shall maintain, to the extent reasonably available:

13.1.1 Property insurance on the Condominium with respect to any common area improvements insuring against all risk of direct physical loss common insured against. The total amount of insurance after application of any deductibles shall not be less than one hundred percent of the actual cash value of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations, and other items normally excluded from property policies; and

13.1.2 Liability insurance, including medical payments insurance, in an amount determined by the Board but not less than One Million Dollars, covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the Common Elements.

13.1.3 Workmen's compensation insurance to the extent required by applicable laws.

13.1.4 Fidelity bonds naming the members of the Board, the Manager and its employees and such other persons as may be designated by the Board as principals and the



Association as obligee, in at least an amount equal to three months aggregate assessments for all units plus reserves in the custody of the Association or Manager at any given time during the term of each bond. Such fidelity bonds shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definitions of "employee" or similar expression.

13.1.5 Insurance against loss of personal property of the Association by fire, theft and other losses with deductible provisions as the Board deems advisable.

13.1.6 Such other insurance (including directors and officers liability) as the Board deems advisable; provided, that notwithstanding any other provisions herein, the Association shall continuously maintain in effect such casualty, flood and liability insurance and a fidelity bond meeting the insurance and fidelity bond requirements for condominium projects established by Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Veteran's Administration, or other governmental or quasi-governmental agencies involved in the secondary mortgage market, so long as any such agency is a Mortgagee or owner of a unit within the project, except to the extent such coverage is not available or has been waived in writing by such agency.

13.2 Coverage Not Available. If the insurance described in Section 13.1 is not reasonable available, or is modified, canceled, or not renewed, the Association promptly shall cause notice of that fact to be hand delivered or sent prepaid by first class united States mail to all unit owners, to each Eligible Mortgagee, and to each Mortgagee to whom a certificate or memorandum of insurance has been issued at their respective last known addresses. The Association in any event may carry any other insurance it deems appropriate to protect the Association or the unit owners.

13.3 Required Provisions. Insurance policies carried pursuant to this Article shall:

13.3.1 Provide that each unit owner is an insured person under the policy with respect to liability arising out of the owner's interest in the Common Elements or membership in the Association;

13.3.2 Provide that the insurer waives its right to subrogation under the policy as to any and all claims against the Association, the owner of any unit and/or their respective agents, employees or tenants, and members of their household, and of any defenses based upon co-insurance or upon invalidity arising from the acts of the insured;

13.3.3 Provide that no act or omission by any unit owner, unless acting within the scope of the owner's authority on behalf of the Association, nor any failure of the Association to comply with any warranty or condition regarding any portion of the premises over which the Association has no direct control, will void the policy or be a condition to recovery under the policy;

13.3.4 Provide that if, at the time of a loss under the policy, there is other insurance in the name of a unit owner covering the same risk covered by the policy, the Associations policy provides primary insurance, and that the liability of the insurer thereunder shall not be



affected by, and the insurer shall not claim any right of set-off, counterclaims, apportionment, proration, contribution or assessment by reason of, any other insurance obtained by or for any unit owner or any Mortgagee;

13.3.5 Provide that, despite any provision giving the insurer the right to restore damage in lieu of a cash settlement, such option shall not be exercisable without the prior written approval of the Association, or when in conflict with the provisions of any insurance trust agreement to which the Association is a party, or any requirement of law;

13.3.6 Contain no provision (other than insurance conditions) which will prevent Mortgagees from collecting insurance proceeds; and

13.3.7 Contain, if available, an agreed amount and Inflation Guard Endorsement.

13.4 Claims Adjustment. Any loss covered by the property insurance under this Article must be adjusted with the Association, but the insurance proceeds for that loss are payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not to any holder of a Mortgage. The insurance trustee or the Association shall hold any insurance proceeds in trust for unit owners and lienholders as their interests may appear. Subject to the provisions of Article 14, the proceeds must be disbursed first for the repair or restoration of the damaged property, and unit owners and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored or the Condominium is terminated.

### 13.5 Insurance.

13.5.1 Owners Insurance. Each unit owner shall maintain and pay for property insurance which shall include the unit structure and improvements constructed by a unit owner within the unit or Limited Common Elements assigned to that unit insuring the same against all risks of direct physical loss commonly insured against. The total amount of the insurance after application of any deductibles shall not be less than 100% of the current replacement costs of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations and other items normally excluded from said property insurance. Any insurance policy procured by the unit owner as required herein shall name the Association as an additional insured as it relates to the Association's responsibility to maintain and repair the roofs and exterior of the unit structure since the Association is required to be reimbursed from said insurance proceeds payable for such repair if caused by a loss or casualty insured against as required herein by the unit owner.

13.5.2 Owners Additional Insurance. Each owner shall also obtain liability insurance insuring the unit owner against liability from claims arising out of accidents, injuries occurring within the unit or Limited Common Elements assigned to the unit. Such insurance shall be at the expense of the unit owner. No owner shall, however, be entitled to exercise his right to maintain insurance coverage in any manner which would decrease the amount that the Board of



Directors, or any trustee of the Board of Directors, on behalf of all of the owners, will realize under any insurance policy which the Board of Directors may have in force on the Condominium at any particular time. Each owner is required and agrees to notify the Board of Directors of all improvements by the owner to his unit the value of which is in excess of \$1,000.00. Each owner, if requested by the Board of Directors, shall file a copy of such individual policy or policies with the Board of Directors within 30 days after request is made, and the Board of Directors shall immediately review its effect with its insurance broker, agent or carrier.

13.6 Certificate. An insurer that has issued an insurance policy under this Article shall issue certificates or memoranda of insurance to the Association and, upon written request to any unit owner or holder of a Mortgage. The insurer issuing the policy may not modify the amount or the extent of the coverage of the policy or cancel or refuse to renew the policy unless the insurer has complied with all applicable provisions of Chapter 48.18 RCW pertaining to the cancellation or nonrenewal of contracts of insurance. The insurer shall not modify the amount or the extent of the coverage of the policy, or cancel or refuse to renew the policy, without complying with the requirements of the Act,

13.7 Notification on Sale of unit. Promptly upon the conveyance of a unit, the now unit owner shall notify the Association of the date of the conveyance and the unit owner's name and address. The Association shall notify each insurance company that has issued an insurance policy to the Association for the benefit of the owners under Article 13 of the name and address of the new owner and request that the new owner be made a named insured under such policy.

#### Article 14 DAMAGE OR DESTRUCTION; RECONSTRUCTION

##### 14.1 Definitions; Significant Damage; Repair; Emergency Work.

14.1.1 As used in this Article, the term "Significant Damage" means damage or destruction, whether or not caused by casualty, to any part of the property which the Board is responsible to maintain or repair which would exclude any unit structures: (a) for which funds are not available in the maintenance and repair or contingency budget of the Association to make timely repairs; and (b) which has a significant adverse impact on the habitability of any unit or the ability of an owner or owners to use the property or any significant portion of the property for its intended purpose.

14.1.2 As used in this Article, the term "Repair" means to repair, reconstruct, rebuild or restore the building or improvement which is a common element which suffered significant damage to substantially the same condition to which they existed prior to the damage or destruction. Modifications to conform to then applicable governmental rules and regulations or available means of construction may be made.

14.1.3 As used in this Article, the term "Emergency Work" shall mean the work which the Board deems reasonably necessary to avoid further damage, destruction or substantial



diminution in value to the improvements and to reasonably protect the owners from liability arising out of the condition of the property.

14.2 Initial Board Determinations. In the event of significant damage to any part of the Common Elements, the Board shall promptly, and in all events within thirty (30) days after the date of significant damage, or, if the significant damage did not occur at a particular identifiable time, after the date of its discovery, make the following determinations with respect thereto employing such advise as the Board deems advisable:

14.2.1 The nature and extent of the significant damage, together with an inventory of the improvements and property directly affected thereby.

14.2.2 A reasonably reliable estimate of the cost to repair the significant damage, which estimate shall, if reasonably practicable, be based upon a firm bid obtained from a responsible contractor.

14.2.3 The anticipated insurance proceeds, if any, to be available from insurance covering the loss based on the amount paid or initially offered by the insurer.

14.2.4 The amount, if any, that the estimated cost of repair exceeds the anticipated insurance proceeds therefore and the amount of assessment to each unit if such excess was paid as a common expense and specially assessed against all the units in proportion to their allocated interest in the Common Elements.

14.2.5 The Board's recommendation as to whether such significant damage should be repaired.

14.3 Notice of Damage or Destruction. The Board shall promptly, and in all events within thirty (30) days after the date of significant damage, provide each owner, and each first mortgagee with a written notice summarizing the initial Board determination made under Section 14.2. If the Board fails to do so within said thirty (30) days, then any owner or mortgagee may make the determination required under Section 14.2 and give the notice required under this Section.

14.4 General Provisions.

14.4.1 Duty to Restore. Any portion of the Condominium for which insurance is required under this Article which is significantly damaged shall be repaired promptly by the Association unless: (a) the Condominium is terminated; (b) repair would be illegal under any state or local health or safety statute or ordinance; or (c) eighty percent of the unit owners vote not to repair. Even if the significant damage is not to be repaired, the Board shall still have the authority to perform emergency work. The cost of repair in excess of insurance proceeds and reserves is a common expense.



14.4.2 Damage not Restored. If all or any portion of the damaged portions of a common element are not repaired (regardless of whether such damage is significant): (a) the insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition compatible with the remainder of the Condominium; (b) the remainder of the proceeds shall be distributed to all the unit owners or lienholders, as their interest may appear, in proportion to the common element interest of all the units.

14.5 Restoration by Board.

If the damage (regardless of whether such damage is significant) is to be repaired pursuant to Section 14.4., then:

14.5.1 Contract and Contractors. The Board shall have the authority to employ architects and attorneys, advertise for bids, let contracts to contractors and others, and to take such other action as is reasonably necessary to effectuate the repair and restoration. Contracts for such repair and restoration shall be awarded when the Board, by means of insurance proceeds and sufficient assessments, has provision for the costs thereof. The Board may further authorize the insurance carrier to proceed with repair upon satisfaction of the Board that such work will be appropriately carried out.

14.5.2 Insurance Trustee. The Board may enter into a written agreement in recordable form with any reputable institution or trust or escrow company that such firm or institution shall act as an insurance trustee to adjust and settle any claim for a loss in excess of Fifty Thousand Dollars (\$50,000), or for such firm or institution to collect the insurance proceeds and carry out the provisions of this Article.

14.6 Restoration by Unit Owner. The referenced provisions as set forth above shall not be applicable to any damage or destruction relative to a unit structure within a unit. The owner of the unit within said unit structure is responsible to maintain insurance as provided in this Declaration. Therefore, in the event of hazard of casualty loss, the owner of the unit in which the unit structure is located which sustains damage shall be required to repair promptly said damage unless: (a) repair would be illegal under any state, local, health, safety ordinance; or (b) unit owner receive consent of eighty (80%) percent of the unit owners not to repair. Said repairs shall be made within six (6) months after the date of casualty unless the damage or destruction requires replacement or rebuilding of the unit structure in which event the unit owner shall have twelve (12) months from the date of casualty to rebuild or replace. In the event of repair, reconstruction or replacement by a unit owner of a unit structure or any improvement within a unit, then all plan approval must be submitted as provided for under the provisions of this Declaration. The cost of repair in excess of the insurance proceeds is the sole responsibility and at the expense of the unit owner in which the unit structure is located. All other terms and provisions of this Article 14 shall be applicable except as expressly modified and amended herein.

14.7 Decision to Terminate. In the event of a decision to terminate the Condominium and not to repair and restore damage and destruction, the Board may nevertheless expend such of



the insurance proceeds and funds of the Association as the Board deems reasonably necessary for emergency work (which emergency work may include but is not necessarily limited to removal of the damaged or destroyed buildings and clearing, filling and grading the real property), and the remaining funds, if any, and property shall thereafter be held and distributed as provided in RCW 64.34.268.

## Article 15 CONDEMNATION

15.1 Association as Attorney-in-Fact. Any portion of the limited or Common Elements are partially or completely condemned, the Association shall act as a representative of the owners and mortgagees in any proceedings, negotiations, or settlements. Each owner appoints the Association as its attorney-in-fact for this purpose. Any proceeds shall be paid to the Association for the benefit of the owners and the mortgagees and shall be used and distributed as set forth below.

15.2 Distribution of Condemnation Proceeds. In the event of a condemnation of any of the Common Elements, the proceeds shall be used:

15.2.1 To restore if practical the remaining Common Elements;

15.2.2 For payment to unit owners and their mortgagees which are specifically damaged by the condemnation, which damage was an element of the condemnation award; and

15.2.3 The balance shall be distributed prorata among the unit owners and their mortgagees in proportion to their percentage interest in the Common Elements.

15.3 Condemnation of units or unit Structures. If any unit or unit structure is condemned, then the condemnation award for that unit or unit structure shall be paid to the owner of that unit and unit structure. In the event of a partial condemnation which does result in some but not all of the units and unit structures being condemned, then the condominium documents shall be amended to reflect any required elimination of units and reallocation of percentage interest.

15.4 Condemnation of Entire Property. In the event that the entire property is taken or condemned, or sold, or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership pursuant hereto shall terminate. The condemnation award with respect to the common and limited common areas shall be apportioned among the owners and shares proportionate to the respective undivided interest in the Common Element. If a standard different from the value of the property as a whole is employed to measure the condemnation award and the negotiation, judicial decree, or otherwise, then in determining such shares, the same standard shall be employed to the extent it is relevant and applicable. On the basis of the foregoing principal, the board of directors shall as soon as practical, determine the share of the condemnation award to which each owner is entitled. After first paying their respective share of each owner and all mortgagees and liens on the interest of such owner, the balance remaining in such share shall then be distributed to each owner



individually. Each unit owner shall receive directly the condemnation award as it relates to the value of the unit and unit structure being condemned or otherwise disposed of as provided for herein.

## **Article 16 COMPLIANCE WITH DECLARATION**

16.1 Enforcement. Each owner shall comply strictly with the provisions of this Declaration, the Bylaws and administrative rules and regulations passed hereunder, as the same may be lawfully amended from time to time, and with all decisions adopted pursuant to this Declaration, the Bylaws and administrative rules and regulations. Failure to comply shall be grounds for an action to recover sums due for damages, or injunctive relief, or both, maintainable by the Board (acting through its officers on behalf of the owners), or by the aggrieved owner on his own against the party (including an owner or the Association) failing to comply. In the event of a dispute between the Declarant and the Association (Or the Board or any owner), each party shall be solely responsible for payment of all legal fees incurred by that party, regardless of the nature of the dispute or who may be the prevailing party.

16.2 No Waiver of Strict Performance. The failure of the Board in any one or more instances to insist upon the strict performance of this Declaration, of the Bylaws, or to exercise any right or option contained in such documents, or to serve any notice or to institute any action, shall not be construed as a waiver or a relinquishment for the future of such term, covenant, condition or restriction, but such term, covenant, condition or restriction shall remain in full force and effect. The receipt by the Board of any assessment from an owner, with knowledge of any such breach shall not be deemed a waiver of such breach, and no waiver by the Board of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Board.

## **Article 17 LIMITATION OF LIABILITY**

17.1 Liability for Utility Failure. Etc. Except to the extent covered by insurance obtained by the Board pursuant to Article 13, neither the Association nor the Board nor the Manager shall be liable for: any failure of any utility or other service to be obtained and paid for by the Board; or for injury or damage to person or property caused by the elements, or resulting from electricity, noise, smoke, water, rain (or other liquid), dust or sand which may leak or flow from outside or from any parts of the buildings, or from any of its pipes, drains, conduits, appliances, or equipment, or from any other places; or for inconvenience or discomfort resulting from any action taken to comply with any law, ordinance or orders of a governmental authority. No diminution or abatement of Assessments shall be claimed or allowed for any such utility or service failure, or for such injury or damage, or for such inconvenience or discomfort.

17.2 No Personal Liability. So long as a Board member, Association committee member, or Association officer has acted in good faith, without wilful or intentional misconduct, upon the basis of such information as may be possessed by such person and such person's evaluation of such information, no such person (and no Association manager acting pursuant to the directions



of the Board) shall be personally liable to any owner, or other party, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence, including any discretionary decision, or failure to make a discretionary decision, by such person in such person's official capacity. Without limiting the generality of the foregoing, the term "discretionary decisions" shall include evaluating and deciding whether or not to act in response to reports, investigations or recommendations received by such person, and shall include deciding whether or not to commence, defend, continue, or settle lawsuits or arbitration/mediation or other legal proceedings involving the Association or Condominium (or any part thereof). Provided, that this Section shall not apply where the consequences of such act, omission, error or negligence are covered by insurance obtained by the Board pursuant to Article 13.

17.3 Indemnification of Board Members. Each Board member or Association committee member, or Association officer, shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of being or having hold such position at the time such expenses or liabilities are incurred, except in such cases wherein such person is adjudged guilty of willful or intentional misconduct, a knowing violation of the law in the performance of his duties and except in such cases where such person has participated in a transaction from which said person will personally receive a benefit in money, property or services to which said person is not legally entitled. Provided, that, in the event of a settlement, the indemnification shall apply only when the Board approves such settlement and reimbursement as being in the best interest of the Association, The Association and each owner shall defend, indemnify and hold Declarant harmless from any claim, expense or liability based on the failure of the Association or such owner to comply with applicable dudes and obligations under the Declaration, Association Articles or Bylaws, or Association rules and regulations or under any warranty obtained or issued by Declarant; or under applicable law.

17.4 Legal Proceedings. The rights, powers, benefits, duties and obligations granted to and imposed upon parties subject to this Declaration (including without limitation the Declarant, owners, Association, Board and Officers) shall not be restricted, diminished, or otherwise modified by threatened or pending legal proceedings (including without limitation litigation, administrative, mediation, or arbitration), which proceedings involve one or more of such parties.

## Article 18 MORTGAGEE PROTECTION

18.1 Change in Manager. In the event that professional management is employed by the Association, at least thirty (30) days' notice of any contemplated change in the professional manager shall be given to any Eligible Mortgagee. The Association shall not elect to terminate professional management and assume self-management without the prior written approval of seventy-five percent (75%) of the owners and fifty-one percent (51%) of all Eligible Mortgagees; provided that such prior consent shall not be required to change from one professional manager to another professional manager.

18.2 Abandonment of Condominium Status. Except when acting pursuant to the provisions of the Act involving damage, destruction, or condemnation, the Association shall not: without prior written approval seventy-five percent (75%) of all Eligible Mortgagees and seventy-five percent (75%) of the owners of record of the units, seek by act or omission to: abandon or terminate the condominium status of the project; or abandon, encumber, sell or transfer any of the Common Elements.

18.3 Partitions and Subdivision. The Association shall not combine nor subdivide any unit or the appurtenant Limited Common Elements, nor abandon, partition, subdivide, encumber or sell any Common Elements, or accept any proposal so to do, without the prior written approval of fifty-one percent (51%) of all Eligible Mortgages and seventy-five percent (75%) of owners of record of the units, and without unanimous approval of the Eligible Mortgagee(s) and owner(s) of the unit(s), so affected.

18.4 Change in Percentages. The Association shall not make any Material Amendment (as defined in Section 21.7) to this Declaration or Bylaws (including changes in the percentages of interest in the Common Elements) without the prior written approval of fifty-one percent (51 %) of all Eligible Mortgagees and seventy-five percent (75%) of all owners of record of the units, and without unanimous approval of the Eligible Mortgagee(s) and owner(s) of the unit(s) for which the percentage(s) would be changed.

18.5 Copies of Notices. A Mortgagee of a unit (and any insurer or guarantor of such Mortgage) shall be entitled to receive timely written notice: (a) that the owner/Mortgagor of the unit has for more than sixty (60) days failed to meet any obligation under the Condominium documents, (b) of all meetings of the Association and be permitted to designate a representative to attend all such meetings; (c) of any condemnation loss or casualty loss affecting a material portion of the Property or the unit on which it holds a Mortgage; (d) of any lapse, cancellation or material modification of insurance policies or fidelity bonds maintained by the Association; and (e) of any proposed action that requires the consent of a specified percentage of Mortgagees. To be entitled to receive notices under this Section 18.5, the Mortgagee (or Mortgage insurer or guarantor) must send a written request to the Association stating both its name and address and the unit number or address of the unit on which it has (or insures or guaranties) the Mortgage.

18.6 Effect of Declaration Amendments. No amendment of this Declaration shall be effective to modify change, limit or alter the rights expressly conferred upon Mortgagees in this instrument with respect to any unsatisfied Mortgage duly recorded unless the amendment shall be consented to in writing by the holder of such Mortgage. Any provision of this Declaration conferring rights upon Mortgagees which is inconsistent with any other provision of said Declaration or the Bylaws shall control over such other inconsistent provisions.

18.7 Insurance

18.7.1 Board Duties. With respect to a first Mortgagee of a unit the Board shall:



(a) Cause any insurance carrier to include in the insurance policy a standard mortgage clause, naming any mortgagee who makes written request to the Board to be so named;

(b) Furnish any such Mortgagee with a copy of any insurance policy or evidence thereof which is intended to cover the unit on which such Mortgagee has a lien;

(c) Require any insurance carrier to give the Board and any and all insured (including such Mortgagees) at least thirty (30) days' written notice before canceling, reducing the coverage or limits, or otherwise substantially modifying any insurance with respect to the Property on which the Mortgagee has a lien (including cancellation for a premium nonpayment);

(d) Not make any settlement of any insurance claims for loss or damage to any such unit, Common or limited common element exceeding Five Thousand Dollars (\$5,000) without the approval of such Mortgagee; provided, that the withholding of such approval shall not be unreasonable or in conflict with the provisions of Article 14;

(e) Give such Mortgagee written notice of any loss or taking affecting Common Elements, if such loss or taking exceeds Ten Thousand Dollars (\$10,000);

(f) Give such Mortgagee written notice of any loss, damage or taking affecting any unit or Limited Common Elements in which it has an interest, if such loss, damage or taking exceeds One Thousand Dollars (\$1,000);

18.7.2 Additional Policy Provisions. In addition, the insurance policy acquired shall:

(a) Provide that any reference to a Mortgagee in such policy shall mean and include any holders of Mortgages of any unit or unit lease, in their respective order and preference, whether or not named therein;

(b) Provide that such insurance as to the interest of any Mortgagee shall not be invalidated by any act or neglect of the Board or unit owners or any persons claiming under any of them;

(c) Waive any provision invalidating such Mortgage clause by reason of: the failure of any Mortgagee to notify the insurer of any hazardous use or vacancy; any requirement that the Mortgagee pay any premium thereon; and any contribution clause.

18.8 Inspection of Books. Declarant (and Declarant's agents), owners, Mortgagees, insurers and guarantors of any Mortgage on any unit shall be entitled: to inspect and copy at all reasonable hours of weekdays (or under other reasonable circumstances) all of the Books and Records of the Association (as defined in Section 1.8), within a reasonable time following request; and, upon written request of any holder, insurer or guarantor of a first Mortgage at no cost to the party so requesting (or if this project contains fewer than fifty (50) units, upon the written request

of the holders of fifty-one percent (51%) or more of first Mortgages at their expense if an audited statement is not otherwise available), to receive an annual audited financial statement of the Association within ninety (90) days following the end of any fiscal year of the Association.

**Article 19**  
**EASEMENTS**

19.1 General. It is intended that in addition to rights under the Act, each unit has an easement in and through each other unit and the Common and Limited Common Elements for: all support elements and utilities, wiring, heat and service elements, and for reasonable access thereto, as required to effectuate and continue proper operation of the same; and for maintenance, repair and replacement. Each unit as it is constructed is granted an easement (to which each other unit and all Common and limited common element is subject) for the location and maintenance of all the original equipment and facilities and utilities for such unit. The specific mention or reservation of any easement in this Declaration does not limit or negate the general easement for Common Elements reserved by law.

19.2 Utility, Etc., Easements. The Board, on behalf of the Association and all members thereof, shall have authority to grant utility, road and similar easements, licenses and permits under, through or over the Common Elements, which easements the Board determines are reasonably necessary to the ongoing development and operation of the Property.

19.3 Association. There is hereby reserved and granted to the Association, or their duly authorized agents and representatives, easements and rights of access over, across, under or into the Condominium, units, and any part thereof as are necessary, for repairs, maintenance or replacement and/or to perform the rights, duties and obligations of the Association as are set forth or as provided or authorized in this Declaration, in the Articles, Bylaws or Association Rules.

19.4 Declarant Functions. There is hereby reserved to the Declarant (and its duly authorized agents, employees, contractors and representatives, such easements and rights of access over, across, under or into the Condominium (and any part thereof) as are necessary, for repairs, maintenance or replacement and/or to perform the rights, duties and obligations of the Declarant as are set forth, provided for or authorized in: this Declaration; Survey Map and Plans; Articles, Bylaws, or Association Rules; building or other governmental permits or approvals; and Purchase and Sale Agreement between Declarant and a unit Purchaser, any express or implied warranty under which Declarant is obligated; or otherwise authorized or required by law.

19.5 Encroachments. Each unit and all Common and limited common element is hereby declared to have an easement over all adjoining units and Common and Limited Common Element, for the purpose of accommodating any encroachment due to engineering errors, or errors in original construction, reconstruction, repair of any portion of the Building, or any other similar cause, and any encroachment due to building overhang or projection. There shall be valid easements for the maintenance of said encroachments so long as they shall exist and the rights and obligations of owners shall not be altered in any way by said encroachment; provided, however, that in no event



shall a valid easement for encroachment be created in favor of an owner or owners if said encroachment occurred due to the willful act or acts with full knowledge of said owner or owners. In the event a unit or Common or limited common element is partially or totally destroyed, and then repaired or rebuilt, the owners agree that minor encroachments over adjoining units and Common and Limited Common Elements shall be permitted, and that there shall be valid easements for the maintenance of said encroachments so long as they shall exist. The foregoing encroachments shall not be construed to be encumbrances affecting the marketability of title to any unit. The provisions of this Section 19.5 are intended to supplement Article 4 and RCW 64.32.252 and, in the event of any conflict the provisions of Article 4 and RCW 64.34.252 shall control.

**Article 20  
PROCEDURES FOR SUBDIVIDING OR COMBINING**

20.1 Procedure. Subdivision and/or combining of any unit or units, are authorized as follows:

20.1.1 Owner Proposal. Any owner of any unit or units may propose any subdividing or combining of any unit or units, and appurtenant Common Elements or Limited Common Elements in writing, together with complete plans and specifications for accomplishing the same and a proposed amendment to this Declaration, the Survey Map and Plans covering such subdividing or combining, to the Board, which shall then notify all other unit owners of the requested subdivision or combination.

20.1.2 Owner/Mortgagee Approval. Upon written approval of such proposal by seventy-five percent (75%) of the owners and seventy-five percent (75%) of the Eligible Mortgagees, and of all Eligible Mortgagee(s) and owner(s) of the unit(s) to be combined or subdivided, the owner(s) making the proposal may proceed according to such plans and specifications; provided that the Board may in its discretion (but it is not mandatory that the Board exercise this authority) require that the Board administer the work or that provisions for the protection of other units or Common Elements or reasonable deadlines for completion of the work be inserted in the contracts for the work.

20.1.3 Survey Map and Plans. The changes in the Survey Map, if any, and the changes in the Plans and Declaration shall be placed of record as amendments to the Survey Map, Plans, and Declaration of Condominium in accordance with the provisions of Article 2.1.

20.1.4 Allocated Interest. The Allocated Interests formerly allocated to the subdivided unit shall be reallocated to the new units in any reasonable and equitable manner prescribed by that owner of the subdivided unit. The Allocated Interests of the new unit resulting from a combination of units shall be the aggregate of the Allocated Interests formerly allocated to the units being combined.



**Article 21**  
**AMENDMENT OF DECLARATION, SURVEY MAP, PLANS**

21.1 In General. Except in cases of amendments that may be executed by a Declarant (in the exercise of any Development Right), the Association (in connection with Sections 4.3 or 7.2.3, Articles 15 or 20, or termination of the Condominium), or certain unit owners (in connection with Article 4 or 7.2.3, or Article 20, or termination of the Condominium), and except as limited by Section 21.4, the Declaration, including the Survey Maps and Plans, may be amended only by vote or agreement of owners of units to which at least seventy-five percent (75%) of the votes in the Association are allocated; provided, that the following Sections and Articles may be amended only by vote or agreement of owners of units to which one hundred percent (100%) of the votes in the Association are allocated, and only with the consent of the Declarant (so long as any right, duty or obligation of the Declarant continues under the Declaration or any express or implied warranty, agreement or law: Sections 1.8.6, 1.8.38, 10.2.2(c), 10.4.1 (d), 10.6.1 10.10, 10.11, 10.12, 17.2, 17.3, 18.8, 19.4, 21.6 and 21.7, and Articles 23 and 24.

21.2 Challenge to Validity. No action to challenge the validity of an amendment adopted by the Association pursuant to this Article may be brought more than one year after the amendment is recorded.

21.3 Recording. Every amendment to the Declaration must be recorded in every county in which any portion of the Condominium is located, and is effective only upon recording. An amendment shall be indexed in the name of the Condominium and shall contain a cross-reference by recording number to the Declaration and each previously recorded amendment thereto. All amendments adding units shall contain a cross-reference by recording number to the Survey Map and Plans relating to the added units and set forth all information required by RCW 64.32.216(l).

21.4 General Limitations. Except to the extent expressly permitted or required by other provisions of the Act, no amendment may create or increase Special Declarant Rights, increase the number of units, change the boundaries of any unit, the Allocated Interests of a unit or the uses to which any unit is restricted, in the absence of the vote or agreement of the owner of each unit particularly affected and the owners of units to which at least ninety percent of the votes in the Association are allocated other than the Declarant.

21.5 Execution. Amendments to the Declaration required by the Act to be recorded by the Association shall be prepared, executed, recorded, and certified on behalf of the Association by any officer of the Association designated for that purpose or, in the absence of designation, by the president of the Association.

21.6 Special Declarant/Development Rights. No amendment may restrict, eliminate, or otherwise modify any Special Declarant or Development Right, or any other right, power, benefit provided in the Declaration to Declarant (nor otherwise hinder the business activities or expectations of, or benefits provided hereunder to, the Declarant) without the consent of the Declarant and any Mortgagee of record (excluding Mortgagees of units owned by persons other than the Declarant)



with a security interest in the Special Declarant or Development Right or in any real property subject thereto.

21.7 Material Amendments. Any amendment to a provision of this Declaration establishing, providing for, governing or regulating the following (all of which shall be deemed "Material Amendments") shall require the consent of fifty-one percent (51%) of the Eligible Mortgagees: voting rights; Assessments, Assessment liens, or the priority of Assessment liens; reserves for maintenance, repair, and replacement of Common Elements; responsibility for maintenance and repairs; reallocation of interests in the Common or Limited Common Elements, or rights to their use; redefinition of any unit boundaries; convertibility of units into Common Elements or vice versa; expansion or contraction of the Condominium, or the addition, annexation, or withdrawal of property to or from the Condominium; insurance or fidelity bond; leasing of units; imposition of any restrictions on a unit owners right to sell or transfer his or her unit; a decision by the Association to establish self-management when professional management had been required previously by the Condominium's documents or by an Eligible Mortgage holder; restoration or repair of the Condominium (after a hazard damage or partial condemnation) in a manner other than that specified in the Declaration; any action to terminate the legal status of the Condominium after substantial destruction or condemnation occurs; or any provisions that expressly benefit Mortgage holders, insurers, or guarantors. A Mortgagee who fails to respond within thirty (30) days of a written request to approve an amendment shall be deemed to have approved the request if such request was delivered by certified or registered mail with a return receipt requested.

21.8 Map and Plans Amendment. Except as otherwise provided herein, the Survey Map and Plans may be amended by revised versions or revised portions thereof referred to and described as to effect in an amendment to this Declaration adopted as provided for herein. Copies of any such proposed amendment to the Survey Map and Plans shall be made available for the examination of every owner. Such amendment to the Survey Map and Plans shall also be effective, once properly adopted, upon recordation in the appropriate county office in conjunction with the Declaration amendment-

21.9 Lender Requirements. All unit owners covenant and agree, for themselves and their heirs, successors and assigns, to vote in favor of and implement any amendments hereto which may be necessary to satisfy the requirements of the Federal National Mortgage Association, Veteran's Administration and Federal Housing Administration.

## Article 22 MISCELLANEOUS

### 22.1 Notice for All Purposes.

22.1.1 Delivery of Notice. Any notice permitted or required to be delivered under the provisions of this Declaration or the Bylaws may be delivered either personally or by mail. If delivery is made by mail, any such notice shall be deemed to have been delivered twenty-four (24) hours after a copy has been deposited in the United States mail, postage prepaid, for first class mail,



addressed to the person entitled to such notice at the most recent address given by such person to the Board, in writing, for the purpose of service of such notice, or to the most recent address known to the Board. Notice to the owner or owners of any unit shall be sufficient if mailed to the unit of such person or persons if no other mailing address has been given to the Board by any of the persons so entitled. Mailing addresses may be changed from time to time by notice in writing to the Board. Notice to be given to the Board may be given to Declarant until the Board has been constituted and thereafter shall be given to the President or Secretary of the Board.

22.1.2 Mortgagee Notice. Upon written request therefore, and for a period specified in such notice, the Mortgagee of any unit shall be entitled to be sent a copy of any notice respecting the unit covered by his security instrument until the request is withdrawn or the security instrument discharged. Such written request may be renewed an unlimited number of times.

22.1.3 Mortgagee's Acceptance.

22.1.4 Priority of Mortgage. This Declaration shall not initially be binding upon any Mortgagee of record at the time of recording of said Declaration but rather shall be subject and subordinate to said Mortgage.

22.1.5 Acceptance Upon First Conveyance. Unless otherwise expressly approved by the Purchaser of a unit, Declarant shall not consummate the conveyance of title of such unit until said Mortgagee shall have accepted the provisions of this Declaration and made appropriate arrangements, in accordance with the Act, for partial release of units with their appurtenant Limited Common Elements and Allocated Interest in Common Elements from the lien of said Mortgage. The issuance and recording of the first such partial release by said Mortgagee shall constitute its acceptance of the provisions of this Declaration and the Condominium status of the units remaining subject to its Mortgage as well as its acknowledgment that such appropriate arrangements for partial release of units have been made; provided, that, except as to the units (and their Allocated Interests in Common Elements) so released, said Mortgage shall remain in full effect as to the entire Property.

22.2 Severability. The provisions hereof shall be deemed independent and severable, and the validity or partial invalidity or enforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision hereof if the remainder complies with the Act or as covenants effect the common plan.

22.3 Conveyances Notice Required. The right of a unit owner to sell, transfer, or otherwise convey the unit shall not be subject to any right of approval, disapproval, first refusal, or similar restriction by the Association or the Board, or anyone acting on their behalf. An owner intending to sell a unit shall deliver a written notice to the Board, at least two (2) weeks before closing, specifying: the unit to be sold; the name and address of the Purchaser, of the closing agent, and of the title insurance company insuring the Purchaser's interest; and the estimated closing date. The Board shall have the right to notify the Purchaser, the title insurance company, and the closing agent of the amount of unpaid assessments and charges outstanding against the unit, whether or not such information is requested. It is understood, however, that a violation of this Section shall not



invalidate a sale, transfer or other conveyance of a unit which is otherwise valid under applicable law.

22.4 Transfer of Declarant's Powers. It is understood that Declarant, at any time in the exercise of its sole discretion, may sell, assign, transfer, encumber, or otherwise convey to any person, upon such terms and conditions as Declarant may determine, all of Declarant's rights, powers, privileges and authority arising hereunder by virtue of Declarant's capacity as Declarant (which rights, powers, privileges and authority are in addition to those arising from Declarant's ownership of one or more units and include Development Rights and Special Declarant Rights).

22.5 Effective Date. This Declaration shall take effect upon recording.

22.6 Reference to Survey Map and Plans. The Survey Map and Plans of the Condominium referred to herein were filed with the Recorder of Thurston County, Washington, simultaneously with the recording of this Declaration.

**ARTICLE 23  
SPECIAL DECLARANT RIGHTS  
DEVELOPMENT RIGHTS**

23.1 Special Declarant Rights. As more particularly provided in this Article, Declarant for itself and any successor Declarant has reserved the following Special Declarant Rights:

23.1.1 Completion of Improvements. Declarant, its agents, employees, contractors and representatives shall have the right to complete, repair, replace or correct improvements and otherwise perform work as set forth, provided for or authorized in: this Declaration; Survey Map and Plans; Articles, Bylaws, or Association Rules; building or other governmental permits or approvals; and Purchase and Sale Agreement between Declarant and a unit Purchaser, any express or implied warranty under which Declarant is obligated; or otherwise authorized or required by law. This Special Declarant Right shall continue so long as any right, duty or obligation of the Declarant continues under any express or implied warranty, agreement or law.

23.1.2 Exercise of Declarant Rights. Declarant shall have the right to exercise Development Rights, if any, under this Declaration and the Act.

23.1.3 Termination of Declarant's Rights. Except as otherwise provided in this Declaration, the foregoing Special Declarant Rights shall continue so long as Declarant is completing improvements which are within or may be added to this Condominium, or Declarant owns any units, or any Development Rights remain in effect; provided, that Declarant may voluntarily terminate any or all of such Rights at any time by recording an amendment to the Declaration, which amendment specifies which Right is thereby terminated.

23.2 Liability for Damage The Declarant is subject to liability for the prompt repair and restoration, to a condition compatible with the remainder of the Condominium, of any portion of the



Condominium damaged by the exercise of rights reserved by Declarant pursuant to or created by this Declaration or the Act.

23.3 Declarant's Easements. Declarant has an easement through the Common Elements as may be reasonably necessary for the purpose of discharging Declarant's obligations or exercising Special Declarant Rights or Development Rights, whether arising under the Act or reserved in the Declaration.

23.4 Declarant's Right to Amend by Adding Additional Phases and Reservation of Development Rights. This Condominium will be developed and established in more than one Phase. This Declaration provides a description of the land within the Phases; the general common and limited common elements for the Phases; and the units and buildings in Phase 1. The survey map and plans, filed simultaneously herewith, depicted (certified as built with respect to Phase 1), the following:

- (a) A survey of the surface of Phase 1 land;
- (b) The location of the units within Phase 1, including the vertical and horizontal boundaries of the same and the number and dimensions of such units. The provisions of Phase 1 shall be effective immediately to establish Phase 1 as a Condominium under the Act. The provisions regarding the subsequent Phase shall not be effective to establish the subsequent Phase as a Condominium under the Act until Declarant records an amendment to the Declaration (and an amendment to the survey map and plans, if necessary) pursuant to this Declaration.

23.5.2 Declaration, Survey Map and Plans Amendments. For each subsequent phase following Phase 1, the Declarant shall execute and record an amendment to this Declaration stating that said subsequent phase is established as a Condominium under the Act. From and after the recording of said amendment, all of the land within Phase 1 and within the subsequent phase for which such an amendment has been recorded, together with all units, shall constitute a single Condominium pursuant to the Act and the provisions of this Declaration. In conjunction with said amendment to the Declaration, an updated or revised survey map or plans, or both shall be filed if the previous map and plans filed affecting or describing said subsequent phase lack required detail, certification or other matters required under the Act. The Declarant is the unit owner of any units thereby created. The amendment to the Declaration shall assign an identifying number to each new unit created, and reallocate the allocated interests among all units. The amendment must describe any common elements and any limited common elements thereby created and, in the case of limited common elements, designate the unit to which each is allocated to the extent required by RCW 64.34.228. Development rights may be reserved within any real property added to the Condominium if the amendment adding that real property includes all matters required by RCW 64.34.216 or 64.34.220, as the case may be, and the survey map and plans include all matters required by RCW 64.34.232. This provision does not extend the time limit on the exercise of development rights imposed by this declaration.



23.5.3 Common Areas. All common areas for each phase will be utilized by unit owners of the next succeeding phase as it is established, and the additional owners will, after the effective date of the subsequent phase, also share in the expenses of such common areas. Owners in a prior phase will utilize the common areas for the subsequent phase and also share in the expense thereof.

23.5.4 Completion. Declarant shall complete the subsequent Phase in accordance with the plans and specifications prepared from time to time by or for Declarant and as approved from time to time by governmental authorities having jurisdiction thereof and by the lender or lenders financing the construction of a subsequent phase. Improvements within the subsequent phase will be reasonably consistent with improvements in the prior phase in terms of quality of construction. Completion of the subsequent phase will be pursued by Declarant as expeditiously as reasonably possible, subject to delays for reasons (including, but not limited to, financing availability, labor disputes, material shortages, and acts of God) reasonably beyond the control of Declarant. All improvements for the subsequent phase will be substantially completed before such phase is incorporated into the Condominium by amendment as provided in this Declaration above.

23.5.5 Allocated interests. It is specifically covenanted that the allocated interest for Phase 1 are calculated with respect to the Units within Phase 1. At such time as the additional phase is made effective by the filing of the above described Declaration Amendment by Declarant, the allocated interests thereafter effective for all units in Phase 1 and those added in the subsequent phase shall be reallocated as provided for in this Declaration.

23.5.6 Assessments based on allocated interest for phases. All assessments for the various phases shall utilize and be based on the allocated interests stated for that phase until the succeeding phase is activated and commenced. The Declarant or Board may upon the activation of any phase, based on the reallocation of allocation interest, recompute the budget and the assessments, and impose the revised assessments.

23.5.6 Easements for phased developments.

(a) In addition to the general easements reserved by statute and by reference in other sections of this Declaration, there is reserved a non-exclusive easement in favor of Declarant (and Declarant's heirs, successors, assigns and purchasers) over and across the Phase 1 land (and across the land described herein, as hereafter amended, for the subsequently completed phase) for ingress and egress and over and across easements, roadways, and utility lines specified or established in and for complete phases, and the right to connect thereto is reserved. Such reservations are for the purpose either of completing the subsequent phase, or otherwise developing portions of the land for other purposes if not completed as a Condominium phase.

(b) The easements reserved under this paragraph shall entitle the Declarant (and Declarant's heirs, successors, assigns) for development of each successive phase of the Condominium, or for development and utilization of the lands to have been included in any phase if such lands are utilized for other purposes under the powers reserved to Declarant; to tie into



water, sewer, storm sewer, electrical, gas, telephone or other utility lines of all varieties; to connect with roadways or utility systems developed and emplaced in the completed phase of the Condominium; and utilize any recreational facilities developed in the completed phase of the Condominium.

(c) Declarant shall bear the cost of tie-ins to said utilities and roads and will not connect with said utilities in a manner that impairs or significantly reduces the quality of the utility service to the land described herein as Phase 1 and for the land in a subsequently complete phase, provided, that if said tie-ins cause an increase in the cost of delivering affected utility services to Phase 1 and for land in any subsequently complete phase, that cost shall be borne by the Declarant.

(d) Any land which is not developed as a subsequent phase of the Condominium and which utilized and benefits from the utility, roadway easements and recreational facility reserved to Declarant hereunder, shall pursuant to an irrevocable covenant running with the land be obligated to pay a prorata share (based on relative number of living units) of the costs of subsequent repairs, maintenance and operation of said utilities, roadways.

(e) Declarant (and Declarant's heirs, successors and assigns) shall have a non-exclusive easement to construct and maintain (at any time and at Declarant's sole cost and expense and in the exercise of Declarant's sole discretion and at such locations within Phase 1 and within the subsequently completed phase of the Condominium as Declarant may determine) such signs as Declarant may deem necessary for the identification of the name, location and direction, and for the sale or renting of buildings and units regardless of whether such buildings and units are located on land which is within a subsequent phase of the Condominium or on land which the Declarant under powers reserved hereunder has elected not to develop as a phase of the Condominium.

23.5.7 Liens arising in connection with phase. At the time the amendment incorporating a subsequent phase into the Condominium is made, no lien arising in connection with the Declarant's ownership of, and construction of improvements upon the subsequent phase land will adversely affect the rights of existing unit owners or the priority of first mortgages on units in the existing Condominium property. All taxes, assessments, mechanics liens, and other charges affecting a subsequent phase land will be paid or otherwise satisfactorily provided for by the Declarant.

23.5.8 Withdrawal of subsequent phase. If, despite the good faith efforts of Declarant, and for reasons (including, but not limited to, financing availability, labor disputes, material shortages and acts of God) beyond the reasonable control of Declarant, the subsequent phase is not completed and the amendment provided for in this section is not recorded, then Declarant at any time may elect not to incorporate all or some of such subsequent phase into the subject Condominium project and elect not to record the amendment provided on in this paragraph. To effectuate the foregoing, Declarant, upon its sole signature and without further consent at any of the other owners being required, may file such amendment to this Declaration and to the survey map



and plans as is necessary to withdraw the land within uncompleted phase (and improvements constructed thereon) from the provisions of this Declaration and to relinquish Declarant's rights under this paragraph. In the event Declarant should exercise its rights under this paragraph to withdraw the land within uncompleted phase (and improvements thereon), from the provisions of this Declaration, then: the phase in fact completed shall thereafter continue to constitute a complete, fully operational Condominium; land within the uncompleted phase (and improvements thereon) may be used for any other lawful purposes in Declarant's discretion; and the easements provided for in this section shall continue for the benefit of land within the uncompleted phase and Declarant (and its heirs, successors and assigns) for the development and utilization of land within the uncompleted phase.

23.5.9 Limitation of Declarant's Rights.

(a) It is understood that the total project (if the phases are completed) shall include Condominium residential units not exceeding 55 in number.

(b) Notwithstanding any other provisions herein, the Declarant's right to add Phases 2 through 6 (or any additional phases) by amendment under this paragraph shall expire five (5) years after the initial Declaration's recording.

(c) Notwithstanding any other provision herein, the Declarant shall have the right to add additional phases providing the total number of units within all phases shall not exceed 55 in number.

23.5.10 Withdrawal of property. Declarant shall have the right to withdraw real property from the Condominium as provided for in this Declaration subject to the following limitations:

(a) If all the real property is subject to withdrawal, and the Declaration or survey map or amendment thereto does not describe separate portions of real property subject to that right, none of the real property may be withdrawn if a unit in that portion of the real property is owned by a person other than the Declarant; and

(b) If a portion or portions are subject to withdrawal as described in the Declaration or in the survey map or in any amendment thereto, no portion may be withdrawn if a unit in that portion of the real property is owned by a person other than the Declarant.

23.5.11 Difference Parcels; Different Times.

(a) Any development right may be exercised with respect to different parcels of real property at different times.



(b) No assurances are made as to final boundaries of such parcels or as to the order in which those parcels may be subjected to the exercise of each development right; and

(c) Even though a development right is exercised in any portion of the real property subject to that right, that right need not be exercised in all or in any other portion of the remainder of that real property.

23.5.12 Exercise of development right. To exercise any development right reserved under this Declaration, the Declarant shall prepare, execute and record an amendment to the Declaration as provided for hereunder and comply with RCW 64.34.232.

23.5.13 Termination of development rights. Except as otherwise provided in this Declaration, the foregoing development rights shall continue so long as the Declarant has the right to add additional phases as provided in this Declaration or so long as Declarant owns one or more units in the Condominium, whichever shall be the last to occur. The Declarant may voluntarily terminate any or all of such rights at any time by recording an amendment to the Declaration, which amendment specifies which right is thereby terminated.

23.5.14 Liability for damage. The Declarant is subject to liability for the prompt repair and restoration, to a condition compatible with the remainder of the Condominium, of any portion of the Condominium damaged by the exercise of rights reserved by Declarant pursuant to or created by this Declaration or the Act.

23.5.15 Declarant's easements. Declarant reserves an easement through the common elements as may be necessary for the purpose of discharging Declarant's obligations or exercising special declarant rights or development rights hereunder, whether arising under the Act or reserved in the Declaration.

## Article 24 CONSTRUCTION OF UNIT STRUCTURES

A unit owner, (including Declarant) at its sole cost and expense, shall have the right to construct (in compliance with the provisions of this Declaration and all applicable laws, rules and regulations) and thereafter maintain, repair, alter and replace improvements within the unit owned by such owner. In connection therewith, a unit owner is granted the same easements as granted to the Declarant (subject to the same limitations and conditions as imposed on Declarant). In connection therewith, a unit owner, at its sole cost and expense, shall have the right and obligation to cause such amendments to this Declaration and the Survey Map and Plans to be prepared and recorded as may be required by law or requested by title insurers or mortgagees of the unit. The Declaration Survey Map and Plans may be amended to show date pertaining to unit Structures when completed.



**Article 25**  
**DISPUTE RESOLUTION**

25.1 Policy - Mediation. The parties hope there will be no disputes arising out of their relationship. To that end, each commits to cooperate in good faith and to deal fairly in performing its duties under this Declaration in order to accomplish their mutual objectives and avoid disputes. But if a dispute arises, the parties agree to resolve all disputes by the following alternate dispute resolution process: (a) the parties will seek a fair and prompt negotiated resolution, but if this is not successful, (b) all disputes shall be resolved by binding arbitration, provided that during this process, (c) at the request of either party made not later than forty-five (45) days after the initial arbitration demand, the parties will attempt to resolve any dispute by nonbinding mediation (but without delaying the arbitration hearing date). The parties confirm that by agreeing to this alternate dispute resolution process, they intend to give up their right to have any dispute decided in court by a judge or jury.

25.2 Binding Arbitration. Any claim between or among any party subject to this Declaration (including without limitation, the Declarant, Association Board or officers, unit owners, or their employees or agents) arising out of or relating to this Declaration, a unit or units, the Condominium or the Association shall be determined by Arbitration in the county in which the Condominium is located commenced in accordance with RCW 7.04.060; provided, that the total award by a single arbitrator (as opposed to a majority of the arbitrators) shall not exceed \$50,000, including interest, attorneys' fees and costs. If any party demands a total award greater than \$50,000, there shall be three (3) neutral arbitrators. If the parties cannot agree on the identity of the arbitrator(s) within ten (10) days of the arbitration demand, the arbitrator(s) shall be selected by the administrator of the American Arbitration Association (AAA) office in Seattle from its Large, Complex Case Panel (or have similar professional credentials). Each arbitrator shall be an attorney with at least fifteen (15) years' experience in commercial or real estate law and shall reside in the county in which the Condominium is located. Whether a claim is covered by the Article shall be determined by the arbitrator(s). All statutes of limitations which would otherwise be applicable shall apply to any arbitration proceeding hereunder.

25.3 Hearing Law - Appeal Limited. The arbitrator(s) shall take such steps as may be necessary to hold a private hearing within ninety (90) days of the initial demand for arbitration and to conclude the hearing within three (3) days; and the arbitrator(s) written decision shall be made not later than fourteen (14) calendar days after the hearing. The parties have included these time limits in order to expedite the proceeding, but they are not jurisdictional, and the arbitrator(s) may for good cause afford or permit reasonable extensions or delays, which shall not affect the validity of the award. The written decision shall contain a brief statement of the claim(s) determined and the award made on each claim. In making the decision and award, the arbitrator(s) shall apply applicable substantive law. Absent fraud, collusion or willful misconduct by an arbitrator, the award and decision shall be final, and the judgment may be entered in any court having jurisdiction thereof. The arbitrator(s) may award injunctive relief or any other remedy available from a judge, including without limitation joinder of parties or consolidation of this arbitration with any other involving common issues of law or fact or which may promote judicial economy; but shall not have the power





**EXHIBIT "A"**  
**TO**  
**DECLARATION OF COVENANTS,**  
**CONDITIONS AND RESTRICTIONS**  
**FOR**  
**BAYHILL TOWNHOMES PHASE 1, AN AIRSPACE CONDOMINIUM**

**DESCRIPTION OF THE LAND - PHASE 1**

PARCELS B, C, AND D OF BOUNDARY LINE ADJUSTMENT  
NO. BLA-0618820L, AS RECORDED NOVEMBER 20, 2006  
UNDER AUDITOR'S FILE NO. 3882012.  
IN THURSTON COUNTY, WASHINGTON.



**EXHIBIT "B"**  
**TO**  
**DECLARATION OF COVENANTS,**  
**CONDITIONS AND RESTRICTIONS**  
**FOR**  
**BAYHILL TOWNHOMES PHASE 1, AN AIRSPACE CONDOMINIUM**

**COMPLETE DESCRIPTION OF ALL PHASES**

PARCELS A AND B OF BOUNDARY LINE ADJUSTMENT NO.  
BLA-061881OL, AS RECORDED NOVEMBER 20, 2006 UNDER  
AUDITOR'S FILE NO. 3882011.  
IN THURSTON COUNTY WASHINGTON.

**ALSO:**  
PARCELS A, B, C, AND D OF BOUNDARY LINE ADJUSTMENT  
NO. BLA-061882OL, AS RECORDED NOVEMBER 20, 2006  
UNDER AUDITOR'S FILE NO. 3882012.  
IN THURSTON COUNTY WASHINGTON.

**ALSO:**  
PARCELS A, B, C, AND D OF BOUNDARY LINE ADJUSTMENT  
NO. BLA-061884OL, AS RECORDED NOVEMBER 20, 2006  
UNDER AUDITOR'S FILE NO. 3882013.  
IN THURSTON COUNTY WASHINGTON.

**ALSO:**  
LOT 136 OF THE PLAT OF BAYHILL, AS RECORDED  
SEPTEMBER 29, 2005 UNDER AUDITOR'S FILE NO. 3771634.  
IN THURSTON COUNTY WASHINGTON.



EXHIBIT "C"

Addresses/Unit Numbers	Approximate Square Footage Unit	Allocated Interest
4204 5 <sup>th</sup> Ave., NW, #1	990	1/12th
4204 5 <sup>th</sup> Ave., NW, #2	990	1/12th
4204 5 <sup>th</sup> Ave., NW, #3	990	1/12th
4204 5 <sup>th</sup> Ave., NW, #4	990	1/12th
4212 5 <sup>th</sup> Ave., NW, #5	990	1/12th
4212 5 <sup>th</sup> Ave., NW, #6	990	1/12th
4212 5 <sup>th</sup> Ave., NW, #7	990	1/12th
4212 5 <sup>th</sup> Ave., NW, #8	990	1/12th
4220 5 <sup>th</sup> Ave., NW, #9	990	1/12th
4220 5 <sup>th</sup> Ave., NW, #10	990	1/12th
4220 5 <sup>th</sup> Ave., NW, #11	990	1/12th
506 Oso Berry St., NW, #12	990	1/12th

After Recording Mail to:  
Bryce H. Dille  
CAMPBELL, DILLE, BARNETT,  
SMITH & WILEY, P.L.L.C.  
317 S. Meridian  
P.O. Box 488  
Puyallup, WA 98371

**FIRST AMENDMENT TO CONDOMINIUM  
DECLARATION OF BAYHILL TOWNHOMES PHASE II**

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Grantor: Bay Hill, LLC, a Washington limited liability company  
Grantee: Bayhill Townhomes  
Reference Numbers of Document Being Amended: 3941928  
Legal Description (abbreviated): A portion of the SW 1/4 of the NE 1/4 Section 17,  
Township 18 North, Range 2 West, W.M., Thurston County, Washington  
Complete Legal Description is located on Page \_\_\_\_ of document  
Assessor's Tax Parcel Number: 33560013400 and 33560013300  
Survey Map and Plans Adding Phase II Recorded Under Thurston County Auditor's  
Recording No. 3992958

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Pursuant to the applicable provisions of RCW 64.34, and in compliance with the amendment provisions of the Condominium Declaration recorded on the 11<sup>th</sup> day of July, 2007, under Thurston County Auditor's Recording No. 3941928, together with the Survey Map and Plans recorded simultaneously under Thurston County Auditor's Recording No. 3941929, the Declarant does hereby amend the same and states as follows:

1. **Reservation.** The Condominium Declaration specifically reserves for the Declarant the right to develop and include within the Condominium additional phases.
  
2. **Method of Amendment.** RCW 64.34, *et seq.*, and the provisions of the Declaration cited above, permit the Declarant to amend the Declaration to exercise development rights mentioned in the Condominium Declaration by adding additional phases, said Amendment to be signed by the Declarant with the Amended Survey Map and Plans and recorded simultaneously with the Thurston County Auditor's Office.



3. **Certified Survey Map and Plans.** Recorded simultaneously with this Amendment are certified Survey Map and Plans showing Phase II substantially completed.

4. **Amendment to Exhibits "A" and "C".** Exhibits "A" is hereby amended so that the legal description of the real property to be included shall be amended by adding Phase II and Exhibit "C" is hereby amended to include all of the condominium units, the identification numbers, the square footage, and the percentage of interest in common elements to be included in Phases I and II.

Exhibit "A" shall be amended to read as follows:

**EXHIBIT "A"**  
**TO**  
**DECLARATION OF COVENANTS,**  
**CONDITIONS AND RESTRICTIONS**  
**FOR**  
**BAYHILL TOWNHOMES PHASES I AND II, AN AIRSPACE CONDOMINIUM**

**DESCRIPTION OF THE LAND - PHASE I**

PARCELS B, C, AND D OF BOUNDARY LINE  
ADJUSTMENT NO. BLA-0618820L, AS RECORDED  
NOVEMBER 20, 2006 UNDER AUDITOR'S FILE NO.  
3882012, IN THURSTON COUNTY, WASHINGTON.

**DESCRIPTION OF THE LAND - PHASE II**

PARCELS "B" AND "C" OF CITY OF OLYMPIA  
BOUNDARY LINE ADJUSTMENT NO. 06-1884-OL,  
RECORDED NOVEMBER 20<sup>TH</sup>, 2006 UNDER  
RECORDING NO. 3882013, RECORDS OF THURSTON  
COUNTY, WASHINGTON.

Exhibit "C" shall be amended to read as follows:

**EXHIBIT "C"**  
**DESCRIPTION OF UNITS**

Addresses/Unit Numbers	Approximate Square Footage Unit	Allocated Interest
4204 5 <sup>th</sup> Ave., NW, #1	990	1/23rd
4204 5 <sup>th</sup> Ave., NW, #2	990	1/23rd

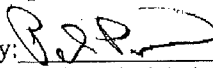


4204 5 <sup>th</sup> Ave., NW, #3	990	1/23rd
4204 5 <sup>th</sup> Ave., NW, #4	990	1/23rd
4212 5 <sup>th</sup> Ave., NW, #5	990	1/23rd
4212 5 <sup>th</sup> Ave., NW, #6	990	1/23rd
4212 5 <sup>th</sup> Ave., NW, #7	990	1/23rd
4212 5 <sup>th</sup> Ave., NW, #8	990	1/23rd
4220 5 <sup>th</sup> Ave., NW, #9	990	1/23rd
4220 5 <sup>th</sup> Ave., NW, #10	990	1/23rd
4220 5 <sup>th</sup> Ave., NW, #11	990	1/23rd
506 Oso Berry St., NW, #12	990	1/23rd
4325 Oso Berry St. NW, #13	880	1/23rd
4325 Oso Berry St. NW, #14	880	1/23rd
4325 Oso Berry St. NW, #15	880	1/23rd
4325 Oso Berry St. NW, #16	880	1/23rd
4325 Oso Berry St. NW, #17	880	1/23rd
4407 Oso Berry St. NW, #18	880	1/23rd
4407 Oso Berry St. NW, #19	880	1/23rd
4407 Oso Berry St. NW, #20	880	1/23rd
4407 Oso Berry St. NW, #21	880	1/23rd
4407 Oso Berry St. NW, #22	880	1/23rd
4407 Oso Berry St. NW, #23	880	1/23rd

5. All other remaining terms and provisions of the Condominium Declaration referred to above, together with the Survey Map and Plans recorded simultaneously therewith, shall remain in full force and effect, except as expressly modified and amended herein.

29<sup>th</sup> IN WITNESS WHEREOF, the parties hereto have set their hands on this day of FEBRUARY, 2008.

Bay Hill, LLC, a Washington limited liability company

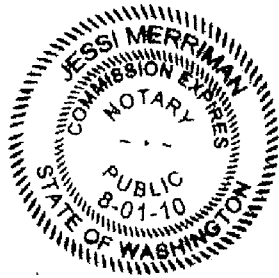
By:   
Paul Pohlreich, Manager



STATE OF WASHINGTON )  
 )§  
COUNTY OF PIERCE )

On this 29<sup>th</sup> day of FEBRUARY, 2008, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Paul Pohlreich, to me known to be the Manager of Bay Hill, LLC, the limited liability company that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said limited liability company, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute the said instrument.

WITNESS my hand and official seal hereto affixed the day and year first above written.



Jessi Merriman  
Printed Name: JESSI MERRIMAN  
NOTARY PUBLIC in and for the State of  
Washington, residing at Puyallup  
My commission expires: 8-01-2010







party shall be entitled to recover reasonable attorney' s fees and costs incurred in enforcing this Arbitration Agreement.

The arbitration shall be conducted by the American Arbitration Association, by Construction Arbitration Services, Inc., or by DeMars & Associates, Ltd., pursuant to their applicable arbitration rules not inconsistent with this Arbitration Agreement. The choice of arbitration service shall be that of the claimant. All administrative fees of the arbitration service and fees of the arbitrator shall be borne equally by the parties to the arbitration, subject to the discretion of the arbitrator to reallocate such fees in the interests of justice.

The parties expressly agree that this Declaration and this Arbitration Agreement involve and concern interstate commerce and are governed by the provisions of the Federal Arbitration Act (9 U.S.C. § 1, et seq.) to the exclusion of any different or inconsistent state or local law, ordinance or judicial rule; and to the extent that any state or local law, ordinance or judicial rule shall be inconsistent with any provision of the rules of the arbitration service under which the arbitration proceeding shall be conducted, the latter rules shall govern the conduct of the proceeding.

No participation by any party in any judicial proceeding or other arbitration proceeding involving a matter which is arbitrable under this Arbitration Agreement shall be deemed a waiver of the right of such party to enforce this Arbitration Agreement. Notwithstanding anything to the contrary, if any claim or dispute that is arbitrable under this Arbitration Agreement has an issue of law or fact in common with a claim or dispute to be arbitrated under the Revised Code of Washington (RCW), Chapter 64.55, then, in such event, any party may elect to require that all such claims and disputes be joined in a single arbitration proceeding conducted in accordance with Chapter 64.55 RCW.

If any provision of this Arbitration Agreement shall be determined by the arbitrator or by any court to be unenforceable or to have been waived, the remaining provisions shall be deemed to be severable therefrom and enforceable according to their terms or, alternatively, the application of any such unenforceable or waived provision shall be limited as necessary to permit this Arbitration Agreement to be enforced to the fullest extent possible.

Limitation Upon Amendments. This Arbitration Agreement is intended to personally benefit, among others, the Declarant, regardless of whether Declarant continues to maintain an ownership interest in any Unit or membership in the Association. Accordingly, no amendment of this Declaration, otherwise permitted by law and the terms of this Declaration, shall modify, alter or delete any provision of the Arbitration Agreement set forth in this Article without the written consent of the Declarant attached to and recorded with such amendment, regardless of whether Declarant continues to maintain an ownership interest in any Unit or membership in the Association.

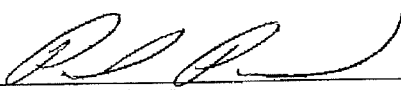
Binding Upon Successors and Assigns. The Declarant, the Association and all Owners hereby acknowledge and agree that, by virtue of the recording of this Declaration, this Arbitration Agreement shall run with the title to the real property subject to this Declaration, and shall be binding on all persons having any right, title or interest in all or any portion of the real property subject to this Declaration, their respective heirs, legal representatives, successors, successors-in-title, and assigns, and shall be for the benefit of the Declarant and all Owners of the property subject to this Declaration, regardless of whether Declarant continues to maintain an ownership interest in any Unit or membership in the Association.

25.2 Warranty Dispute Resolution. If Declarant and the initial purchaser of any Unit have entered into any written agreement prior to the date of recording of the Second Amendment to this Declaration, then, as between Declarant and such purchaser and to the extent permitted by law, any provisions set forth in such agreement governing the making of claims and the resolution of disputes shall control over any inconsistent provisions of this Article 25.

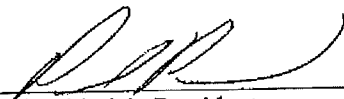
3. All other remaining terms and provisions of the Condominium Declaration referred to above, as amended, shall remain in full force and effect, except as expressly modified and amended herein.

IN WITNESS WHEREOF, the parties hereto have set their hands on this 2 day of October, 2008.

**Bay Hill, LLC, a Washington limited liability company**

By:   
Paul Pohlreich, Manager

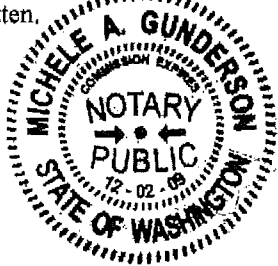
**Bay Hill Townhomes Condominium Association, a Washington non-profit corporation**

By:   
Paul Pohlreich, President

STATE OF WASHINGTON )  
 )§  
COUNTY OF PIERCE )

On this 2<sup>nd</sup> day of OCTOBER, 2008, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Paul Pohlreich, to me known to be the Manager of Bay Hill, LLC, the limited liability company that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said limited liability company, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument.

WITNESS my hand and official seal hereto affixed the day and year first above written.

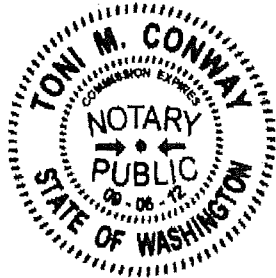


Michele A. Gunderson  
Printed Name: MICHELLE A. GUNDERSON  
NOTARY PUBLIC in and for the State of  
Washington, residing at OPTING  
My commission expires: 12-02-09

STATE OF WASHINGTON )  
 )§  
COUNTY OF PIERCE )

On this 2<sup>nd</sup> day of October, 2008, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Paul Pohlreich, to me known to be the President of Bayhill Townhomes Condominium Association, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument.

WITNESS my hand and official seal hereto affixed the day and year first above written.



Toni M. Conway  
Printed Name: Toni M. Conway  
NOTARY PUBLIC in and for the State of  
Washington, residing at Puyallup  
My commission expires: 9-6-12

