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CONDOMINIUM  
DECLARATION  
FOR  
SKYLINE NO. 24  
A CONDOMINIUM

RECORDED  
REQUEST OF  
FILE  
91 NOV -7 19:14  
GARY MCINTOSH  
SKAGIT COUNTY AUDITOR

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ARTICLE 1. DEFINITIONS.

Section 1.1 - Words Defined. For the purposes of this Declaration and any amendments hereto, the following definitions shall apply.

Allocated Interests means the allocations of Common Expense Liability, interest in Common Elements and voting for each of the Units in the Condominium determined in accordance with the formulas set forth in Section 6.4 and as specified in Schedule B.

Articles means the articles of incorporation for the Association.

Assessment means all sums chargeable by the Association against a Unit, including, without limitation: (a) general 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.

Association means the owners association identified in Article 13.

Board means the board of directors of the Association, as described in Article 15.

Bylaws means the bylaws of the Association as they may from time to time be amended.

Common Elements means all portions of the Condominium other than Units.

Common Expenses means expenditures made by or financial liabilities of the Association including those expenses related to the maintenance, repair and replacement of the Common Elements, including allocations to reserves.

Common Expense Liability means the liability for Common Expenses allocated to each Unit, as set forth in Schedule B.

Condominium means Skyline No. 24, a condominium, created under this Declaration and the Survey Map and Plans.

Condominium Act means the Washington Condominium Act, codified at RCW 64.34, as it may be from time to time amended.



Conveyance means any transfer of the ownership of a Unit, including a transfer by deed or by real estate contract.

Declarant means Skyline Marina, Inc., a Washington corporation, and its representatives, successors, and assigns.

Declarant Control means the right of the Declarant or persons designated by the Declarant to appoint and remove officers and members of the Board pursuant to Article 14.

Declaration means this Condominium Declaration for Skyline No. 24, as it may from time to time be amended.

Foreclosure means a forfeiture or judicial or nonjudicial foreclosure of a mortgage or a deed in lieu thereof.

Identifying Number means the designation of the dock and the number of the Unit as listed in Schedule B and shown on the Survey Map and Plans which identifies each Unit in the Condominium.

Managing Agent means the person designated by the Board under Section 15.3.

Mortgage means a mortgage, deed of trust or real estate contract.

Mortgagee means any holder, insurer or guarantor of a mortgage on a Unit.

Notice and Opportunity to be Heard means the procedure described in Section 15.5.

Owner or Unit Owner means the Declarant or other person who owns a Unit, but does not include any person who has an interest in a Unit solely as security for an obligation.

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

Special Declarant Rights means rights reserved for the benefit of the Declarant as specified in Article 11.

Survey Map and Plans means the survey map and plans filed simultaneously with the recording of this Declaration and any amendments, corrections, and addenda thereto subsequently filed.



Transition Date means the date upon which the period of Declarant Control terminates as determined in Article 14.

Unit means a physical portion of the Condominium designated for separate ownership, the boundaries of which are described in Section 6.2 and shown on the Survey Map and Plans.

Section 1.2 Form of Words. The singular form of words shall include the plural and the plural shall include the singular. Masculine, feminine, and gender-neutral pronouns shall be used interchangeably.

Section 1.3 Statutory Definitions. Some of the terms defined above are also defined in the Condominium Act. The definitions in the Declaration are not intended to limit or contradict the definitions in the Condominium Act. If there is any inconsistency or conflict, the definition in the Condominium Act will prevail.

ARTICLE 2. CONSTRUCTION AND VALIDITY OF DECLARATION.

The Declaration and the Condominium Act provide the framework by which the Condominium is created and operated. In the event of a conflict between the provisions of the Declaration and the Condominium Act, the Condominium Act shall prevail. In the event of a conflict between the provisions of this Declaration and the Bylaws, the Declaration shall prevail except to the extent the Declaration is inconsistent with the Condominium Act. The creation of the Condominium shall not be impaired and title to a Unit and its interest in the Common Elements shall not be rendered unmarketable or otherwise affected by reason of an insignificant failure of this Declaration or the Survey Map and Plans or any amendment thereto to comply with the Condominium Act.

ARTICLE 3. NAME OF CONDOMINIUM.

The name of the Condominium created by this Declaration and the Survey Map and Plans is Skyline No. 24.

ARTICLE 4. DESCRIPTION OF LAND.

The real property included in the Condominium is described in Schedule A.

ARTICLE 5. DESCRIPTION OF CONDOMINIUM.

The Condominium consists of 19 moorage slip Units.

ARTICLE 6. DESCRIPTION OF UNITS; ALLOCATED INTERESTS.

Section 6.1 Number and Identification of Units. Each moorage slip is a unit. All of the 19 Units are open moorage slips. The Identifying Number of each Unit is set forth in Schedule B. The location of the Units are shown on the Survey Map and Plans.

Section 6.2 Unit Boundaries. The horizontal boundaries of the Units are the interior surface of the dock and the lines shown on the Survey Map and Plans. The lower vertical boundary of each Unit is 30 feet below the mean lower low water datum of Flounder Bay. The upper vertical boundary of each Unit is 120 feet above the mean lower low water datum of Flounder Bay, together with an easement for open Units under Section 24.1 to accommodate any vertical encroachments for masts above that level. All space within the boundaries of the Moorage Unit, whether occupied by earth, water or air or floating or fixed objects, is part of the Moorage Unit. Objects located within the boundaries of the Moorage Unit are not part of the Moorage Unit.

Section 6.3 Unit Data. Schedule B sets forth the following data for each Unit:

6.3.1 The approximate length and area of the Unit;

6.3.2 The declared value of the Unit; and

6.3.3 The Common Expense Liability for the Unit, as determined in accordance with the formulas set forth in Section 6.4.

Each Unit is served by electricity and water service. The Units do not contain bedrooms or fireplaces. The location and configuration of each Unit are shown in the Survey Map and Plans.

Section 6.4 Allocated Interests. Schedule B sets forth the Allocated Interests of each of the Units in the Condominium, the purposes of Common Expense Liability, interest in the Common Elements and voting. The formulas for making the allocations are as follows:

Common Expense Liability: relative declared value of Units

Common Interest: relative declared value of Units

Voting: one vote per Unit

ARTICLE 7. COMMON ELEMENTS.

Section 7.1 Description. The Common Elements are all portions of the Condominium other than the Units, including, without limitation, all docks, buildings, piers, pilings, and waterways which are not a part of or within the Unit boundaries provided in Section 6.2. The Common Elements also include any meter devices or service hook-ups, or any other fixture which lies partially within and partially outside the designated boundaries of a Unit which serves more than one Unit or any portion of a Common Element.

Section 7.2 Use. Each Owner shall have the right to use the Common Elements in common with all other Owners, except as otherwise limited in Article 8. The right to use the Common Elements extends not only to each Owner, but also to his agents, servants, tenants, family members, invitees, and licensees. The right to use the Common Elements shall be governed by the provisions of the Condominium Act, this Declaration, the Bylaws, and the rules and regulations of the Association.

Section 7.3 Conveyance or Encumbrance of Common Elements. Portions of the Common Elements not necessary for the habitability of a Unit may be conveyed or subjected to a security interest by the Association of the Owners having at least 80% of the votes in the Association, including 80% of the votes excluding votes held by the Declarant for an affiliate of Declarant (as defined in the Condominium Act).

ARTICLE 8. LIMITED COMMON ELEMENTS.

There are no limited Common Elements in this Condominium.

ARTICLE 9. PARKING.

The Owners of Units have a non-exclusive right to use 5 parking spaces for parking motor vehicles on certain property near the Condominium as a non-exclusive assignee of the Declarant's rights under an Easement Agreement recorded under Skagit County Auditor's No. 8310170064.

ARTICLE 10. PERMITTED USES; CONVEYANCES.

Section 10.1 Use of Units. The Units are intended for and restricted to use as moorage for boats only on an ownership, rental or lease basis, and for other reasonable activities normally incident to such use, except as provided in Article 11.

Section 10.2 Use of Parking Spaces. The parking spaces are to be used for the parking of operable passenger motor vehicles and may be used for parking trucks or recreational vehicles, or for other purposes only to the extent expressly allowed by rules and regulations adopted by the Board. The Board may direct that any vehicle or other thing improperly parked or kept in a parking space be removed, and if it is not removed the Board may cause it to be removed at the risk and cost of the Owner thereof.

Section 10.3 Leases. Any lease or rental agreement of a Unit must provide that its terms shall be subject in all respects to the provisions of the Declaration and the Bylaws and rules and regulations of the Association and that any failure by the tenant to comply with the terms of such documents, rules, and regulations shall be a default under the lease or rental agreement. If any lease under this section does not contain the foregoing provisions, such provisions shall nevertheless be deemed to be part of the lease and binding upon the Owner and the tenant by reason of their being stated in this Declaration. All leases and rental agreements shall be in writing. If any lessee or occupant of a Unit violates or permits the violation by his guests and invitees of any provisions hereof or of the Bylaws or of the rules and regulations of the Association, and the Board determines that such violations have been repeated and that a prior notice to cease has been given, the Board may give notice to the lessee or occupant of the Unit and the Owner thereof to forthwith cease such violations; and if the violation is thereafter repeated, the Board shall have the authority, on behalf 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 attorneys' fees, which may be collected and foreclosed by the Association in the same manner as assessments are collected and foreclosed under Article 17. Other than as stated in this Section, there is no restriction on the right of any Owner to lease or otherwise rent his Unit.

Section 10.4 Maintenance of Units and Common Elements; Dredging. The Association is responsible for maintenance, repair, and replacement of the Common Elements and the finger pier portion of the Units. Each Owner shall, at that Owner's sole expense, be responsible for the maintenance, repair, and replacement of the cleats, rollers, bumpers, and dock boxes, if any, in the Unit and keep the open water portion of the Unit free from obstruction and debris. The Association may, but shall not be required to, conduct such dredging within the Condominium, including the Units, as the Board deems appropriate. An Owner may dredge the Owner's Unit only with the consent of the Board.

Section 10.5 Effect on Insurance. Nothing shall be done or kept in any Unit or in any Common Element that will increase the rate of insurance on the property without the prior written consent of the Board. Nothing shall be done or kept in any Unit or in any Common Element that will result in the cancellation of insurance on any part of the property, or that would be in violation of any laws.

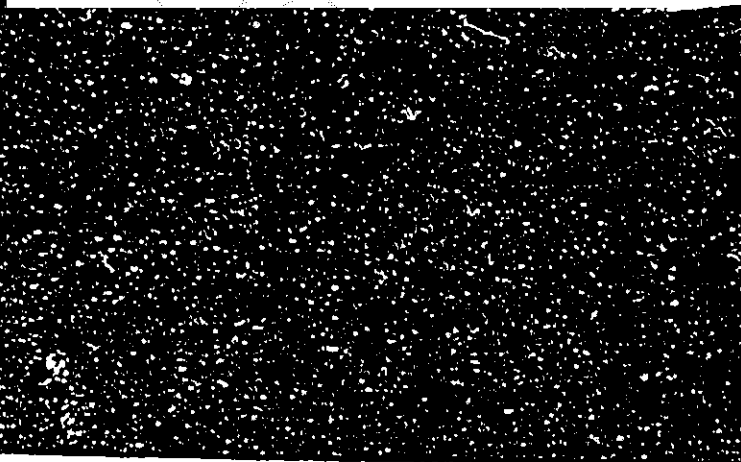

Section 10.6 Alteration of Units and Common Elements. Nothing shall be altered or constructed on or removed from any Unit or Common Element except upon the prior written consent of the Board.

Section 10.7 Signs. No sign of any kind shall be displayed to the public view on or from any Unit or Common Element without the prior consent of the Board. This section shall not apply to the Declarant who may post such signs on the property as it deems necessary or appropriate for the sale of Units in the Condominium as long as the Declarant has a Unit for sale.

Section 10.8 Pets. Domesticated animals, birds or reptiles (herein referred to as "pets") may be kept in the Units subject to rules and regulations adopted by the Board. Dogs will not be allowed on the finger piers or the Common Elements unless they are on a leash and are being walked to or from the Unit to a public road. The Board may at any time require the removal of any pet which it finds is disturbing other Owners unreasonably, and may exercise this authority for specific pets even though other pets are permitted to remain.

Section 10.9 Offensive Activity. No noxious or offensive activity shall be carried on in any Unit or Common Element, nor shall anything be done therein that may be or become an annoyance or nuisance to other Owners.



  
  
Section 10.10 Conveyance by Owners; Notice Required. The right of an Owner to 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 convey a Unit shall deliver a written notice to the Board, at least two weeks before closing, specifying (a) the Unit being sold; (b) the name and address of the purchaser, of the closing agent, and of the title insurance company insuring the purchaser's interest; and (c) 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. Promptly upon the conveyance of a Unit, the new Unit Owner shall notify the Association of the date of the conveyance and the Unit Owner's name and address. At the time of the first conveyance of each Unit, every mortgage, lien or other encumbrance affecting that Unit and any other Unit or Units or real property, other than the percentage of undivided interest of that Unit in the Common Elements, shall be paid and satisfied of record, or the Unit being conveyed and its undivided interest in the Common Elements shall be released therefrom by partial release duly recorded or the purchaser of that Unit shall receive title insurance from a licensed title insurance company against such mortgage, lien or other encumbrance.

ARTICLE 11. SPECIAL DECLARANT RIGHTS.

The Declarant reserves the following Special Declarant Rights: (a) the Development rights specified in Section 11.1; (b) to use easements through the Common Elements for the purpose of making improvements within the Condominium; and (c) to elect, appoint or remove any officer of the Association or any member of the Board during the period of Declarant Control as provided by Article 14. The rights described in this Article shall not be transferred except by instrument evidencing the transfer executed by the Declarant or the Declarant's successor and the transferee and recorded in the county in which the Condominium is located. The rights and liabilities of the parties involved in the such a transfer and of all persons who succeed to any Special Declarant Right, are set out in RCW 64.34.316.

ARTICLE 12. ENTRY FOR REPAIRS OR MAINTENANCE.

The Association and its agents or employees may enter any Unit to effect repairs, improvements, replacements, maintenance or sanitation work deemed by the Board to be necessary in the performance of its duties, to do necessary work that the Owner

has failed to perform, or to prevent damage to the Common Elements or to another Unit. Except in cases of great emergency that preclude advance notice, the Board shall cause the Unit occupant to be given Notice and an Opportunity to be Heard as far in advance of entry as is reasonably practicable. Such entry shall be made with as little inconvenience to the Owners and occupants as practicable. The Board may levy a special assessment against the Owner of the Unit for all or part of the cost of work that the Owner has failed to perform which may be collected and foreclosed by the Association in the same manner as assessments are collected and foreclosed under Article 17.

#### ARTICLE 13. OWNERS ASSOCIATION.

Section 13.1 Form of Association. The Owners of Units shall constitute an owners association to be known as the Skyline No. 24 Owners Association. The Association shall be organized as a nonprofit corporation, no later than the date the first Unit in the Condominium is conveyed. It will be governed by the Board of not fewer than three nor more than five directors. The rights and duties of the Board and of the Association shall be governed by the provisions of the Condominium Act, the Declaration and the Bylaws.

Section 13.2 Bylaws. The Board will adopt Bylaws to supplement the Declaration and to provide for the administration of the Association and the property and for other purposes not inconsistent with the Condominium Act or the Declaration.

Section 13.3 Qualification and Transfer. Each Owner of a Unit (including the Declarant) shall be a member of the Association and shall be entitled to one membership for each Unit owned, which membership shall be considered appurtenant to that member's Unit. Ownership of a Unit shall be the sole qualification for membership in the Association. A membership shall not be transferred in any way except upon the transfer of title to the Unit and then only to the transferee of title to the Unit; provided, that if a Unit has been sold on contract, the contract purchaser shall exercise the rights of the Owner for purposes of the Association, this Declaration, and the Bylaws, except as hereinafter limited, and shall be the voting representative unless otherwise specified. 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 to the new Owner.

Section 13.4 Powers of the Association. In addition to those actions authorized elsewhere in the Declaration, the Association shall have the power to:





13.4.1 Adopt and amend the Bylaws and the rules and regulations;

13.4.2 Adopt and amend budgets for revenues, expenditures, and reserves, and impose and collect Common Expenses and special assessments from Owners;

13.4.3 Hire and discharge or contract with Managing Agents and other employees, agents, and independent contractors;

13.4.4 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;

13.4.5 Make contracts and incur liabilities;

13.4.6 Regulate the use, maintenance, repair, replacement, and modification of Common Elements and Units;

13.4.7 Cause additional improvements to be made as a part of the Common Elements;

13.4.8 Acquire, hold, encumber, convey, and dispose of, in the Association's name, right, title, or interest to real or tangible and intangible personal property, and arrange for and supervise any addition or improvement to the Condominium; provided that:

13.4.8.1 If the estimated cost of any separate property acquisition or addition or improvement to the Condominium exceeds \$5,000 and has not been included in the current year's budget, the approval of the Owners holding a majority of the votes in the Association shall be required; and if such estimated cost exceeds \$25,000 and has not been included in the current year's budget, the approval of the Owners holding 75 percent of the votes in the Association shall be required; and

13.4.8.2 The beneficial interest in any property acquired by the Association pursuant to this section shall be owned by the Owners in the same proportion as their respective interests in the Common Elements and shall thereafter be held, sold, leased, mortgaged or otherwise dealt with as the Board shall determine.

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

13.4.10 Impose and collect any payments, fees, or charges for the use, rental, or operation of the Common Elements, including the leasing of the Common Element docks, and for services provided to Owners;

13.4.11 Adopt rules and regulations concerning the Common Elements and the use and rental of the Moorage Units;

13.4.12 Acquire and pay for all goods and services reasonably necessary or convenient for the efficient and orderly functioning of the Condominium;

13.4.13 Impose and collect charges for late payment of assessments as further provided in Article 17 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 this Declaration, the 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 this Declaration, the Bylaws, and rules and regulations of the Association;

13.4.14 Impose and collect reasonable charges for the preparation and recording of amendments to this Declaration, resale certificates required by RCW 64.34.425 and statements of unpaid assessments;

13.4.15 Provide for the indemnification of its officers and Board and maintain directors' and officers' liability insurance;

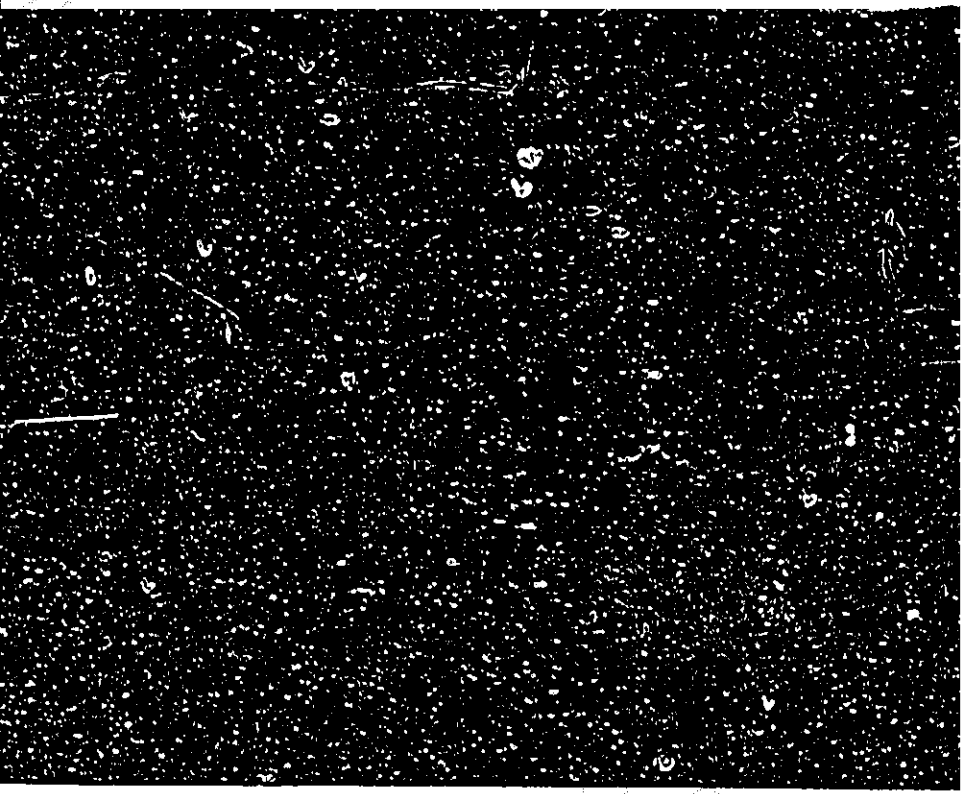
13.4.16 Assign its right to future income, including the right to receive assessments;

13.4.17 Exercise any other powers conferred by this Declaration or the Bylaws;

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

13.4.19 Exercise any other powers necessary and proper for the governance and operation of the Association.

Section 13.5 Financial Statements and Records. The Association shall keep financial records in accordance with generally accepted accounting principles and in sufficient detail to enable the Association to comply with the resale certificate requirements set forth in RCW 64.34.425. All



financial and other records shall be made reasonably available for examination by any Unit Owner and the Owner's authorized 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. The annual financial statement shall be audited at least annually by a certified public accountant who is not a member of the Board or an Owner unless Owners holding at least 60% of the votes, excluding votes held by the Declarant, elect to waive the audit. The financial statement shall be completed in time for the Association's annual meeting and in any event within 90 days following the end of the fiscal year. Any mortgagee will, upon request, be entitled to receive the annual financial statement within 90 days following the end of the fiscal year. The Board, or persons having 35% of the voting power of the Association, may require that an audit of the Association and management books be presented at any special meeting. An Owner, at his expense, may at any reasonable time conduct an audit of the books of the Board and Association. Upon written request of a Mortgagee, the Association shall provide it within a reasonable time the financial statement of the Association for the preceding fiscal year.

Section 13.6 Inspection of Condominium Documents, Books and Records. The Association shall make available to Owners, Mortgagees, prospective purchasers and their prospective Mortgagees, and the agents or attorneys of any of them, current copies of this Declaration, the Articles, the Bylaws, the rules and regulations of the Association, and other books, records, and financial statements of the Association. "Available" shall mean available for inspection upon request, during normal business hours or under other reasonable circumstances. The Association may require the requesting party to pay a reasonable charge to cover the cost of making the copies.

Section 13.7 Membership in Skyline Beach Club, Inc. The owner of each Unit shall be deemed to be a member of Skyline Beach Club, Inc., a nonprofit Washington corporation. Membership in Skyline Beach Club, Inc. shall be inseparably appurtenant to ownership of the Unit. Each Owner shall pay, in addition to all assessments and other charges provided herein, the annual or other dues and assessments as shall be from time to time fixed by Skyline Beach Club, Inc. Transfer of ownership of any Unit shall likewise be deemed to be transfer of membership in Skyline Beach Club, Inc. and the secretary of Skyline Beach Club, Inc. is hereby appointed as attorney-in-fact for each Owner for the purpose of effecting transfer of membership upon such transfer.

ARTICLE 14. DECLARANT CONTROL PERIOD.

Section 14.1 Declarant Control Until Transition Date. Until the Transition Date, the Declarant shall have the right to appoint and remove all members of the Board; provided that (1) not later than 60 days after conveyance of 25 percent of the Units to Owners other than the Declarant, at least one member and not less than 25 percent of the members of the Board must be elected by Owners other than the Declarant; and (2) not later than sixty days after conveyance of 50 percent of the Units to Owners other than the Declarant, not less than one-third of the members of the Board must be elected by Owners other than the Declarant.

Section 14.2 Transition Date. Declarant Control of the Association shall terminate on the Transition Date. The Transition Date shall be no later than the earlier of: (a) 60 days after conveyance of 75 percent of the Units to Owners other than the Declarant; (b) two years after the last conveyance or transfer of record of a Unit except as security for a debt; or (c) the date on which the Declarant records an amendment to the Declaration pursuant to which the Declarant voluntarily surrenders the right to further appoint and remove officers and members of the Board. If the Declarant voluntarily surrenders control pursuant to (c) above, the Declarant may require that for the duration of the period of Declarant Control, specified actions of the Association or the Board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

Section 14.3 Declarant's Transfer of Association Control. Within 60 days after the Transition Date, the Declarant shall deliver to the Association all property of the Owners and of the Association held or controlled by the Declarant including, but not limited to, the following:

14.3.1 The original or a photocopy of the recorded Declaration and each amendment to the Declaration;

14.3.2 The certificate of incorporation and a copy or duplicate original of the Articles as filed with the secretary of state;

14.3.3 The Bylaws;

14.3.4 The minute books, including all minutes and other books and records of the Association;

14.3.5 Any rules and regulations that have been adopted;

14.3.6 Resignations of officers and members of the Board who are required to resign because the Declarant is required to relinquish control of the Association;

14.3.7 The financial records, including cancelled checks, bank statements, and financial statements of the Association, and source documents from the time of incorporation of the Association through the date of transfer or control to the Owners;

14.3.8 Association funds or the control of the funds of the Association;

14.3.9 All tangible personal property of the Association, represented by the Declarant to be the property of the Association and inventory of the property;

14.3.10 Except for alterations to a Unit done by a Unit Owner other than the Declarant, the copy of the Declarant's plans and specifications utilized in the construction or remodeling of the Condominium, with a certificate of the Declarant or a licensed architect or engineer that the plans and specifications represent, to the best of such person's knowledge and belief, the actual plans and specifications utilized by the Declarant in the construction or remodeling of the Condominium;

14.3.11 Insurance policies or copies thereof for the Condominium and the Association;

14.4.12 Copies of any certificates of occupancy that may have been issued for the Condominium;

14.3.13 Any other permits issued by governmental bodies applicable the Condominium in force or issued within one year before the Transition Date;

14.3.14 All original warranties that are still in effect for the Common Elements, or any other areas or facilities which the Association has a responsibility to maintain and repair, from the contractor, subcontractors, suppliers, and manufacturers and all owners manuals or instructions furnished to the Declarant with respect to installed equipment or building systems;

14.3.15 A roster of Unit Owners and Eligible Mortgagees and their addresses and telephone numbers, if known, as shown on the Declarant's records and the date of closing of the first sale of each Unit sold by the Declarant;

14.3.16 Any leases of the Common Elements or areas and other leases to which the Association is a party;



14.3.17 Any employment contracts or service contracts in which the Association is one of the contracting parties or service contracts in which the Association or the Unit Owners have an obligation or a responsibility, directly or indirectly, to pay some or all of the fee or charge of the person performing the services; and

14.3.18 All other contracts to which the Association is a party.

Section 14.4 Audit of Records Upon Transfer. Upon termination of the period of Declarant Control, the records of the Association shall be audited as of the date of transfer by an independent certified public accountant in accordance with generally accepted auditing standards unless the Owners, other than the Declarant, by two-thirds vote, elect to waive the audit. The costs of the audit shall be a Common Expense.

Section 14.5 Termination of Contracts and Leases Made By the Declarant. If entered into before the Board elected pursuant to Section 15.1 takes office, (1) any management contract, employment contract, or lease of recreational or parking areas or facilities or (2) any other contract or lease between the Association and the Declarant or an affiliate of the Declarant, as defined by RCW 64.34.020(1), may be terminated without penalty by the Association at any time after the Board elected pursuant to Section 15.1 takes office upon not less than 90 days' notice to the other party or within such less 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.

#### ARTICLE 15. THE BOARD.

Section 15.1 Selection of the Board and Officers. Prior to the Transition Date, election or appointment of members of the Board shall be governed by Section 14.1. Within 30 days after the Transition Date, the Owners shall elect a Board, a majority of whom must be Unit Owners. The number of Board members and their terms of services shall be specified in the Bylaws. The Board shall elect officers in accordance with the procedures provided in the Bylaws. The members of the Board and officers shall take office upon election. Removal of Board members, and their terms of service shall be as provided in the Bylaws.

Section 15.2 Powers of the Board; Adoption of Budget. Except as provided in this Declaration, the Bylaws or the Condominium Act, the Board shall at all times act on behalf of the Association. The Board may exercise all powers of the Association, except as otherwise provided in the Condominium Act, Declaration or the Bylaws.

Section 15.3 Managing Agent. The Board may contract with an experienced professional Managing Agent to assist the Board in the management and operation of the Condominium and may delegate such of its powers and duties to the Managing Agent as it deems to be appropriate, except as limited herein.

Section 15.4 Limitations on Board Authority. 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 Article 26, to terminate the Condominium pursuant to Article 27, or to elect members of the Board or determine the qualifications, powers, and duties, or terms of office of members of the Board. The Board may, in accordance with the Bylaws, fill vacancies in its membership for the unexpired portion of any term.

Section 15.5 Right to Notice and Opportunity to Be Heard. Whenever this Declaration requires that an action of the Board be taken after "Notice and Opportunity to be Heard," the following procedure shall be observed: The Board shall give written notice of the proposed action to all Owners, tenants or occupants of Units whose interest would be significantly affected by the proposed action. The notice shall include a general statement of the proposed action and the date, time and place of the hearing, which shall be not less than five days from the date notice is delivered to the Board pursuant to Section 15.1. At the hearing, the affected person shall have the right, personally or by a representative, to give testimony orally, in writing or both (as specified in the notice), subject to reasonable rules of procedure established by the Board to assure a prompt and orderly resolution of the issues. Such evidence shall be considered in making the decision but shall not bind the Board. The affected person shall be notified of the decision in the same manner in which notice of the meeting was given.

#### ARTICLE 16. BUDGET AND ASSESSMENTS.

Section 16.1 Fiscal Year. The Board may adopt such fiscal year for the Association as it deems to be convenient. Unless another year is adopted, the fiscal year will be the calendar year.



Section 16.2 Preparation of Budget. Not less than 30 days before the end of the fiscal year the Board shall prepare a budget for the Association for the coming year. In preparing its budget the Board shall estimate the Common Expenses of the Association to be paid during the year, make suitable provision for accumulation of reserves, including amounts reasonably anticipated to be required for maintenance, repair, and replacement of the Common Elements, and shall take into account any surplus or deficit carried over from the preceding year and any expected income to the Association. The Declarant shall prepare the initial budget for the first fiscal year of the Association.

Section 16.3 Ratification of Budget. Within 30 days after adoption of any proposed budget for the Condominium, the Board shall provide a summary of the budget to all the Owners and shall set a date for a meeting of the Owners to consider ratification of the budget not less than 14 nor more than 60 days after mailing of the summary. Unless at that meeting the Owners 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. If the Board proposes a supplemental budget during any fiscal year, such budget shall not take effect unless ratified by the Unit Owners in accordance with this section.

Section 16.4 Supplemental Budget. If during the year the budget proves to be inadequate for any reason, including nonpayment of any Owner's assessment, the Board may prepare a supplemental budget for the remainder of the year. A supplemental budget shall be ratified pursuant to Section 16.3.

Section 16.5 Assessments for Common Expenses. The sums required by the Association for Common Expenses as reflected by the annual budget and any supplemental budgets shall be divided into installments to be paid annually or semi-annually, as determined by the Board, over the period of time covered by the budget or supplemental budget. The Common Expense assessment for each Unit is determined by the Common Expense Liability allocated to each Unit in Schedule B times the total installment for Common Expenses for all Units. Assessments begin accruing for all Units upon the closing of the sale of the first Unit by the Declarant; provided that the Declarant may delay the commencement of assessments and pay all actual Common Expenses. To the extent that any Common Expense is caused by the misconduct of an Owner or tenant of any Unit, the Association may assess that expense against that Unit.

Section 16.6 Special Assessments. For those Common Expenses which cannot reasonably be calculated and paid on a periodic basis, the Board may levy a special assessment for such expenses against the Units, subject to ratification by the Owners pursuant to Section 16.3.

Section 16.7 Creation of Reserves; Assessments. The Board may create reserve accounts for anticipated expenses for repairs, replacements and improvements which will occur in the future when the Board determines that such reserve accounts will facilitate the accumulation of funds to pay such expenses when they occur. The operation of reserve accounts and assessments for reserve accounts shall be further governed by the Bylaws.

Section 16.8 Notice of Assessment. The Board shall notify each Owner in writing of the amount of the periodic general and special assessments for Common Expenses to be paid for the Owner's Unit and shall furnish copies of all budgets with the Common Expense Liability allocations applicable to the Unit on which the general and special assessments are based. The Board shall furnish the same information to an Owner's Mortgagee if so requested.

Section 16.9 Payment of Assessments. On or before the first day of each period in which an installment of an assessment is due, each Owner shall pay or cause to be paid to the treasurer or designated agent of the Association all assessments against the Unit then due. Any assessment not paid by the first day of the period for which it is due shall be delinquent and subject to late charges, interest charges and collection procedures as provided in Article 17.

Section 16.10 Proceeds Belong to Association. All assessments and other receipts received by the Association on behalf of the Condominium shall belong to the Association.

Section 16.11 Failure to Assess. Any failure by the Board or the Association to make the budgets and assessments hereunder before the expiration of any year for the ensuing year shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of the Owners from the obligation to pay assessments during that or any subsequent year, and the assessments established for the preceding year shall continue until new assessments are established.

Section 16.12 Certificate of Unpaid Assessments. Upon the request of any Owner or Mortgagee of a Unit, the Board will furnish a certificate stating the amount, if any, of unpaid assessments charged to the Unit. The certificate shall be conclusive upon the Board and the Association as to the amount

of such indebtedness on the date of the certificate in favor of all purchasers and Mortgagees of the Unit who rely on the certificate in good faith. The Board may establish a reasonable fee to be charged to reimburse it for the cost of preparing the certificate.

Section 16.13 Recalculation of Assessments. If Common Expense Liabilities are reallocated, Common Expense assessments, special assessments, and any installment thereof not yet due shall be recalculated in accordance with the reallocated liabilities.

Section 16.14 Payment for Utilities. The cost of all utilities which are separately metered for each Unit shall be paid by the Owner of that Unit. The cost of utilities which serve more than one Unit, but less than all the Units, shall be paid by the Association and such costs shall be assessed against the Units served in proportion to their relative declared values.

#### ARTICLE 17. LIEN AND COLLECTION OF ASSESSMENTS.

Section 17.1 Assessments Are a Lien; Priority. The Association has a lien on a Unit for any unpaid assessment levied against a Unit from the time the assessment is due. A lien under this article shall be prior to all other liens and encumbrances on a Unit except: (a) liens and encumbrances recorded before the recording of this Declaration; (b) a mortgage on the Unit recorded before the date on which the assessment sought to be enforced became delinquent, EXCEPT to the extent of assessments for Common Expenses, excluding any amounts for capital improvements, based on the periodic budgets adopted by the Association pursuant to Article 16 which would have become due during the six months immediately preceding the date of a sheriff's sale in an action for judicial foreclosure by either the Association or a Mortgagee, or the date of recording of the declaration of forfeiture in a proceeding by the vendor under a real estate contract; PROVIDED that 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 such lien priority includes any delinquencies which relate to a period after such Mortgagee becomes an Eligible Mortgagee or has given such notice and before the Association gives such Mortgagee a written notice of the delinquency; and (c) liens for real property taxes and other governmental assessments or charges against the Unit. Recording of this Declaration constitutes record notice and perfection of the lien for assessments; however, the Association may record a

notice of claim of lien for assessments in the real property records of the county in which the Condominium is located. Such recording shall not constitute the written notice of delinquency to a Mortgagee referred to above.

Section 17.2 Lien May be Foreclosed; Judicial Foreclosure. The lien arising under this article may be enforced judicially by the Association or its authorized representative in the manner set forth in RCW 61.12, or nonjudicially in the manner set forth in Section 17.3. 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 the Association from taking a deed in lieu of foreclosure. Except as provided in the exception to (b) in Section 17.1, the holder of a mortgage or other purchaser of a Unit who obtains the right of possession of a Unit through foreclosure shall not be liable for any 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 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.

Section 17.3 Nonjudicial Foreclosure. A lien arising under this article may be foreclosed nonjudicially in the manner set forth in RCW 61.24 for nonjudicial foreclosure deeds of trust. For the purpose of preserving the Association's nonjudicial foreclosure option, this Declaration shall be considered to create a grant of each Unit in trust to Island Title Insurance Company or its successors or assigns ("Trustee"), to secure the obligations of each Unit Owner ("Grantor") to the Association ("Beneficiary") for the payment of assessments. Grantor shall retain the right to possession of Grantor's Unit so long as Grantor is not in default of an obligation to pay assessments. The Trustee shall have a power of sale with respect to each Unit, which becomes operative in the case of a default in a Grantor's obligation to pay assessments. The Units are not used principally for agricultural or farming purposes. If the Association forecloses its lien nonjudicially pursuant to this section, it shall not be entitled to the lien priority over mortgages provided in exception (b) of Section 17.1.



**Section 17.4 Receiver During Foreclosure.** 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 rent 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 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 90 days after the delinquency. The exercise by the Association of the foregoing rights shall not affect the priority of preexisting liens on the Unit.

**Section 17.5 Assessments Are Personal Obligation.** In addition to constituting a lien on the Unit, all sums assessed by the Association chargeable to any Unit, including all charges provided in this article, shall be the personal obligation of the Owner of the Unit when the assessment is made. Suit to recover personal judgment for any delinquent assessments shall be maintainable without foreclosing or waiving the liens securing them.

**Section 17.6 Extinguishment of Lien and Personal Liability.** 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.

**Section 17.7 Joint and Several 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 grantor 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 therefor. Suit to recover a personal judgment for any delinquent assessment shall be maintainable in any court of competent jurisdiction without foreclosing or waving the lien securing such sums.

Section 17.8 Late Charges and Interest on Delinquent Assessments. 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 nonusurious 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.

Section 17.9 Recovery of Attorneys' Fees and Costs. The Association 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 Association shall be entitled to recover costs and reasonable attorneys' fees if it prevails on appeal and in the enforcement of a judgment.

Section 17.10 Remedies Cumulative. The remedies provided herein are cumulative and the Board may pursue them, and any other remedies which may be available under law although not expressed herein, either concurrently or in any order.

ARTICLE 18. FAILURE OF BOARD TO INSIST ON STRICT PERFORMANCE  
NO WAIVER.

The failure of the Board in any instance to insist upon the strict compliance with this Declaration or the Bylaws or rules and regulations of the Association, or to exercise any right 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 any term, covenant, condition, or restriction. The receipt by the Board of payment of an assessment from an Owner, with knowledge of a breach by the Owner, shall not be a waiver of the breach. No waiver by the Board of any requirement shall be effective unless expressed in writing and signed for the Board. This article also extends to the Declarant.

ARTICLE 19. TORT AND CONTRACT LIABILITY.

Section 19.1 Declarant Liability. Neither the Association nor any Owner except the Declarant is liable for the Declarant's torts in connection with any part of the Condominium which the Declarant has the responsibility to maintain. Otherwise, an action alleging a wrong done by the Association must be brought against the Association and not against any Owner or any officer or director of the Association. If the wrong by the Association

occurred during any period of Declarant Control and the Association gives the Declarant reasonable notice of and an opportunity to defend against the action, the Declarant who then controlled the Association is liable to the Association or to any Owner: (1) for all tort losses not covered by insurance suffered by the Association or that Owner; and (2) for all costs which the Association would not have incurred but for a breach of contract or other wrongful act or omission by the Association. If the Declarant does not defend the action and is determined to be liable to the Association under this section, the Declarant is also liable for all litigation expenses, including reasonable attorneys' fees, incurred by the Association in such defense. Any statute of limitations affecting the Association's right of action under this section is tolled until the period of Declarant Control terminates. An Owner is not precluded from bringing an action contemplated by this section because she is a Unit Owner or a member or officer of the Association.

Section 19.2 Limitation of Liability for Utility Failure, etc. Except to the extent covered by insurance obtained by the Board, neither the Association, the Board, the Managing Agent, nor the Declarant shall be liable for: the failure of any utility or other service to be obtained and paid for by the Board or by any Unit Owner; or for injury or damage to person, property or body of water caused by the elements, or resulting from electricity, water, sewage, rain, dust, or sand which may leak or flow from outside or from any parts of the Unit or any object in or on the Unit, or from any of their pipes, drains, conduits, appliances, or equipment, or from any other place; 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.

Section 19.3 No Personal Liability. So long as a Board member, or Association committee member, or Association officer, or the Declarant or the Managing Agent has acted in good faith, without willful or intentional misconduct, upon the basis of such information as is then possessed by such person, no such person shall be personally liable to any Owner, or to any other person, including the Association, for any damage, loss, or prejudice suffered or claimed on account of any act, omission, error, or negligence of such person; provided, that this section shall not apply where the consequences of such act, omission, error, or negligence is covered by insurance obtained by the Board.



ARTICLE 20. INDEMNIFICATION.

Each Board member, Association committee member, Association officer, the Declarant and the Managing Agent 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 such person may be a party, or in which such person may become involved, by reason of holding or having held such position, or any settlement thereof, whether or not such person holds such position at the time such expenses or liabilities are incurred, except to the extent such expenses and liabilities are covered by any type of insurance and except in such cases wherein such person is adjudged guilty of willful misfeasance in the performance of such person's duties; provided, that in the event of a settlement, the indemnification shall apply only when the Board approves such settlement and reimbursement as being for the best interests of the Association.

ARTICLE 21. INSURANCE.

Section 21.1 General Requirements. Commencing not later than the time of the first conveyance of a Unit to a person other than the Declarant, the Association shall maintain, to the extent reasonably available, a policy or policies and bonds necessary to provide (a) property insurance; (b) commercial general liability insurance; (c) fidelity bonds; (d) worker's compensation insurance to the extent required by applicable laws; (e) directors and officers liability insurance; and (f) such other insurance as the Board deems advisable. The Board shall review at least annually the adequacy of the Association's insurance coverage. All insurance shall be obtained from insurance carriers that are generally acceptable for similar projects, authorized to do business in the state of Washington. All such insurance policies and fidelity bonds shall provide that coverage may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least 30 days' prior written notice to any and all insureds named therein, including Owners, Mortgagees, and designated servicers of Mortgagees.

Section 21.2 Property Insurance. The property insurance shall, at the minimum, provide all risk or special cause of loss coverage in an amount equal to the full replacement cost of the Common Elements. The policy shall provide a separate loss payable endorsement in favor of the Mortgagee of each Unit. The Association or insurance trustee, if any, shall hold insurance proceeds in trust for the Owners and their Mortgagees, as their interests may appear. Each Owner and the Owner's Mortgagee, if

any, shall be beneficiaries of the policy in the percentage of interest in the Common Elements appertaining to the Owner's Unit. Certificates of insurance shall be issued to each Owner and Mortgagee upon request.

Section 21.3 Commercial General Liability Insurance. The liability insurance coverage shall insure the Board, the Association, the Owners, the Declarant, and the Managing Agent, and cover all of the Common Elements in the Condominium with a "Severability of Interest Endorsement" or equivalent coverage which would preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or of another Owner, and shall cover liability of the insureds for property damage and bodily injury and death of persons arising out of the operation, maintenance, and use of the Common Elements, liability in connection with employment contracts of the Association, host liquor liability, employers' liability insurance, automobile liability insurance, and such other risks as are customarily covered with respect to marina condominium projects of similar construction, location and use. The limits of liability shall be in amounts generally required by Mortgagees for projects of similar construction, location and use but shall be at least \$1,000,000 combined single limit for bodily injury and property damage per occurrence and \$2,000,000 general aggregate.

Section 21.4 Insurance Trustee; Power of Attorney. The named insured under the policies referred to in Sections 21.2 and 21.3 shall be the Association, as trustee for each of the Owners in accordance with their Allocated Interests. The insurance proceeds may be made payable to any trustee with which the Association enters into an insurance trust agreement, or any successor trustee, who shall have exclusive authority to negotiate losses under the policies. Subject to the provisions of Section 21.8, 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. Each Owner appoints the Association, or any insurance trustee or successor trustee designated by the Association, as attorney-in-fact for the purpose of purchasing and maintaining such insurance, including the collection and appropriate disposition of the proceeds thereof, the negotiation of losses and execution of releases of liability, the execution of all documents and the performance of all other acts necessary to accomplish such purposes.

Section 21.5 Additional Policy Provisions. The insurance obtained pursuant to Sections 21.2 and 21.3 shall contain the following provisions and limitations:

21.5.1 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.

21.5.2 Such policies shall not include coverage for damage to or loss of objects located within a Unit;

21.5.3 Such policies shall not provide for contribution by or assessment against Mortgagees or become a lien on the property superior to the lien of a first mortgage.

21.5.4 If, at the time of the loss under the policy, there is other insurance in the name of the Unit Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

21.5.5 Coverage shall not be prejudiced by (a) any act, omission or neglect of the Owners of Units when such act or neglect is not within the scope of the Owner's authority on behalf of the Association, or (b) failure of the Association to comply with any warranty or condition with regard to any portion of the premises over which the Association has no control.

21.5.6 A waiver of subrogation by the insurer as to any and all claims against the Association, the Owner of any Unit, and/or their respective agents, members of the Owner's household, employees, or lessees, and of any defenses based upon co-insurance or upon invalidity arising from the acts of the insured.

21.5.7 A standard mortgagee clause which shall:

(a) Provide that any reference to a mortgagee in the policy shall mean and include all Mortgagees of any Unit or Unit lease or sublease in their respective order of 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 Owners or any persons 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; and

(d) Provide that, without affecting any protection afforded by such mortgagee clause, any proceeds payable under such policy shall be payable to the Association or the insurance trustee.

**Section 21.6 Fidelity Bonds.** The required fidelity bonds shall afford coverage to protect against dishonest acts on the part of officers, directors, trustees, and employees of the Association and all other persons who handle or are responsible for handling funds of or administered by, the Association. The Managing Agent shall maintain fidelity bonds for its officers, employees, and agents who handle or who are responsible for handling funds of, or funds administered by the Association. All such fidelity bonds shall name the Association as an obligee and shall be not less than the estimated maximum of funds, including reserve funds, in custody of the Association at any time during the term of each bond, but, in no event shall the aggregate amount of bonds be less than three months' aggregate assessments plus reserve funds. The bonds shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

**Section 21.7 Owners' Individual Insurance.** An insurance policy issued to the Association does not prevent an Owner from obtaining insurance for the Owner's own benefit.

**Section 21.8 Use of Insurance Proceeds.** Any portion of the Condominium for which insurance is required under this Article, which is damaged or destroyed shall be repaired or replaced promptly by the Association pursuant to Article 22 unless: (a) the Condominium is terminated; (b) repair or replacement would be illegal under any state or local health or safety statute or ordinance; or (c) 80% of the Unit Owners, including every Owner of a Unit which will not be rebuilt, vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense. If all of the damaged or destroyed portions of the Condominium are not repaired or replaced: (i) 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; (ii) the insurance proceeds attributable to Units which are not rebuilt shall be distributed to the Owners of those Units, or to lienholders, as their interests may appear; and (iii) the remainder of the proceeds shall be distributed to all the Unit Owners or lienholders, as their interests may appear, in proportion to the Common Expense Liability for each Unit. If the Unit Owners vote not to rebuild any Unit, that Unit's allocated interests are automatically reallocated upon the vote as if the Unit had been condemned under Article 23, and



Section 22.3 Definitions: Damage, Substantial Damage, Repair, Emergency Work. As used in this article:

22.3.1 Damage shall mean all kinds of damage, whether of slight degree or total destruction.

22.3.2 Substantial Damage shall mean that in the judgment of a majority of the Board the estimated assessment determined under Section 22.1.4 for any one Unit exceeds ten percent of the full, fair market value of the Unit before the damage occurred, as determined by the then current assessment for the purpose of real estate taxation.

22.3.3 Repair shall mean restoring the improvements to substantially the condition they were in before they were damaged, with each Unit and the Common Elements having substantially the same boundaries as before. Modifications to conform to applicable governmental rules and regulations or available means of construction may be made.

22.3.4 Emergency Work shall mean work that the Board deems reasonably necessary to avoid further damage or substantial diminution in value to the improvements and to protect the Owners from liability from the condition of the site.

Section 22.4 Execution of Repairs.

22.4.1 The Board shall promptly repair the damage and use the available insurance proceeds therefor as provided in Section 21.8. If the cost of repair exceeds the available insurance proceeds the Board shall impose an assessment against all Units in proportion to their Common Expense Liabilities in an amount sufficient to pay the excess costs.

22.4.2 The Board shall have the authority to employ architects and engineers, advertise for bids, let contracts to contractors and others, and take such other action as is reasonably necessary to make the repairs. Contracts for the repair work shall be awarded when the Board, by means of insurance proceeds and sufficient assessments, has provided for paying the cost. The Board may authorize the insurance carrier to make the repairs if the Board is satisfied that the work will be done satisfactorily, and if such authorization does not contravene any insurance trust agreement or requirement of law.

22.4.3 The Board may enter into a written agreement with a reputable financial institution or trust or escrow company that the institution or company shall act as an insurance trustee to adjust and settle any claim for casualty

the Association promptly shall prepare, execute, and record an amendment to this Declaration reflecting the reallocations. Notwithstanding the provisions of this section, Article 27 governs the distribution of insurance proceeds if the Condominium is terminated.

ARTICLE 22. DAMAGE AND REPAIR OR DAMAGE TO PROPERTY

Section 22.1 Initial Board Determination. In the event of damage to any Common Element, the Board shall promptly, and in all events within 30 days after the date of damage, make the following determinations with respect thereto, employing such advice as the Board deems advisable:

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

22.1.2 A reasonably reliable estimate of the cost to repair the damage, which estimate shall, if reasonably practicable, be based upon two or more firm bids obtained from responsible contractors.

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

22.1.4 The amount, if any, by which the estimated cost of repair exceeds the expected insurance proceeds, and the amount of the assessments that would have to be made against each Unit if the excess cost were to be paid as a maintenance expense and assessed against all the Units in proportion to Common Expense Liabilities.

Section 22.2 Notice of Damage. The Board shall promptly, and in all events within 30 days after the date of damage, file a proof of loss statement with the insurance company if the loss is covered by insurance and abide by all terms and conditions of its insurance policies, unless the Board determines it would not be in the best interest of the Association to file a proof of loss. The Board shall then provide each Owner and each holder of a first mortgage on a Unit with a written notice describing the damage and summarizing the initial Board determinations made under Section 22.1. If the Board fails to do so within the 30-day period, any Owner or Mortgagee may make the determinations required under Section 22.1 and give the notice required under this section.

loss in excess of \$50,000, or for the institution or company to collect the insurance proceeds and carry out the provisions of this article.

Section 22.5 Damage Not Substantial. If the damage as determined under Subsection 22.3.2 is not substantial, the provisions of this section shall apply.

22.5.1 Either the Board or the requisite number of Owners, within 15 days after the notice required under Section 22.2 has been given, may but shall not be required to, call a special Owners' meeting in accordance with Section 13.4 and the Bylaws to decide whether to repair the damage.

22.5.2 Except for emergency work, no repairs shall be commenced until after the 15-day period and until after the conclusion of the special meeting if such a special meeting is called within the 15 days.

22.5.3 A decision to not repair or rebuild may be made in accordance with Section 21.8.

Section 22.6 Substantial Damage. If the damage is determined under Section 22.3.2 to be substantial damage, the provisions of this section shall apply.

22.6.1 The Board shall promptly, and in all events within 30 days after the date of damage, call a special Owners' meeting to consider repairing the damage. If the Board fails to do so within 30 days, then notwithstanding the provisions of Section 13.4 and the Bylaws, any Owner or first mortgagee of a Unit may call and conduct the meeting.

22.6.2 Except for emergency work, no repairs shall be commenced until the conclusion of the special Owners' meeting.

22.6.3 At the special meeting, the following consent requirements will apply:

(a) The Owners shall be deemed to have elected to repair the damage in accordance with the original plan unless the Owners of at least 80% of the total voting power of the Condominium other than that held by the Declarant, including every Owner of a Unit which will not be rebuilt, have given their written consent not to repair the damage.

(b) The unanimous consent of all Owners will be required to elect to rebuild in accordance with a plan that is different from the original plan.



(c) In addition to the consent by the Owners specified above, any election not to repair the damage or not to rebuild substantially in accordance with the original plan will require the approval of eligible holders of first mortgages on Units that have at least 51% of the votes subject to eligible holder mortgages.

(d) Failure to conduct the special meeting provided for under Section 22.6.1 within 90 days after the date of damage shall be deemed a unanimous decision to repair the damage in accordance with the original plan.

Section 22.7 Effect of Decision Not to Repair. In the event of a decision under either Section 22.5.3 or 22.6.3 not to repair the damage, the Board may nevertheless expend so much of the insurance proceeds and common funds as the Board deems reasonably necessary for emergency work (which emergency work may include but is not necessarily limited to removal of the damaged improvements), and the remaining funds, if any, and the property shall thereafter be held and distributed as provided in Section 21.8.

#### ARTICLE 23. CONDEMNATION.

Section 23.1 Consequences of Condemnation; Notices. If any Unit or portion thereof or the Common Elements or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, notice of the proceeding or proposed acquisition shall promptly be given to each Owner and to each holder of a first mortgage and the provisions of this article shall apply.

Section 23.2 Power of Attorney. Each Owner appoints the Association as attorney-in-fact for the purpose of representing the Owners in condemnation proceedings and negotiations, settlements and agreements with the condemning authority for acquisition of Common Elements or any part thereof, from the condemning authority. The Board may appoint a trustee to act on behalf of the Owners in carrying out the foregoing functions in lieu of the Association. Should the Association not act, based on their right to act pursuant to this section, the affected Owners may individually or jointly act on their own behalf.

Section 23.3 Condemnation of a Unit. If a Unit is acquired by condemnation, or if part of a Unit is acquired by condemnation leaving the Unit Owner with a remnant of a Unit which may not practically or lawfully be used for any purpose permitted by this Declaration, the award must compensate the

Owner for the Owner's Unit and its appurtenant interest in the Common Elements, whether or not any Common Elements are acquired. Upon acquisition, unless the decree otherwise provides, that Unit's Allocated Interests are automatically reallocated to the remaining Units in proportion to the respective Allocated Interests of those Units before the taking, and the Association shall promptly prepare, execute, and record an amendment to this Declaration reflecting the reallocations. Any remnant of a Unit remaining after part of a Unit is taken under this section is thereafter a Common Element.

Section 23.4 Condemnation of Part of a Unit. Except as provided in Section 23.1, if part of a Unit is acquired by condemnation, the award must compensate the Unit Owner for the reduction in value of the Unit and its appurtenant interest in the Common Elements, whether or not any Common Elements are acquired. Upon acquisition, unless the decree otherwise provides: (a) that Unit's Allocated Interests are reduced in proportion to the reduction in the size of the Unit; and (b) the portion of the Allocated Interests divested from the partially acquired Unit are automatically reallocated to that Unit and the remaining Units in proportion to the respective Allocated Interests of those Units before the taking, with the partially acquired Unit participating in the reallocation on the basis of its reduced Allocated Interests.

Section 23.5 Condemnation of Common Element. If part of the Common Elements is acquired by condemnation the portion of the award attributable to the Common Elements taken shall be paid to the Owners based on their respective interests in the Common Elements. If the Board determines that a particular Owner's interest in the Common Elements diminished with respect to other Owners, by the acquisition of a Common Element, the Declaration may be amended to adjust that Owner's Common Expense Liability.

Section 23.6 Reconstruction and Repair. Any reconstruction and repair necessitated by condemnation shall be governed by the procedures specified in Article 22.

#### ARTICLE 24. EASEMENTS AND ENCROACHMENTS.

Section 24.1 Easement for Encroachments. To the extent not provided by the definition of "Unit" in the Declaration and in the Condominium Act, each Unit and all Common Elements are hereby declared to have an easement over all adjoining Units and Common Elements for the purpose of accommodating any present or future encroachment as a result of engineering errors, construction, reconstruction, repairs, settlement, shifting, or

movement of any portion of the property, or any other similar cause. There shall be valid easements for the maintenance of the encroaching Units and Common Elements so long as the encroachments shall exist, and the rights and obligations of Owners shall not be altered in any way by the encroachment; provided, however, that in no event shall a valid easement for encroachment be created in favor of a Unit if the encroachment was caused by the willful act with full knowledge of the Owner. Each of the open Units shall have an easement for masts that encroach into the Common Elements above the vertical boundary of the Unit. The encroachments described in this Section shall not be construed to be encumbrances affecting the marketability of title to any Unit.

Section 24.2 Easement for Ingress, Egress and Utilities. The Owners of Units have a non-exclusive easement for ingress, egress and utilities over certain property owned by the Declarant under an Easement for Access and Utilities recorded under Skagit County Recorder's No. 911070007 and a non-exclusive easement to use 5 parking spaces on certain property near the Condominium as a non-exclusive assignee of the Declarant's rights under an Easement Agreement recorded under Skagit County Auditor's No. 8310170064.

Section 24.3 Easement Specifically Reserved by the Declarant. The Declarant reserves an access easement over, across, and through the Common Elements of the Condominium for the purpose of exhibiting and preparing Units for sale, making repairs required pursuant to any contract of sale, and discharging the Declarant's obligations or exercising Special Declarant Rights.

ARTICLE 25. PROCEDURES FOR SUBDIVIDING OR ALTERING UNITS.

Section 25.1 Submission of Proposal to Subdivide Unit. No Unit or Units shall be subdivided either by agreement or legal proceedings, except as provided in this Article. An Owner may propose subdividing a Unit or Units by submitting the proposal in writing to the Board and to all other Owners and Mortgagees of the Unit to be subdivided or combined. Such proposal to subdivide must also be given to every first mortgagee of any Unit in the Condominium. The proposal must include complete plans and specifications for accomplishing the subdivision and proposed amendments of this Declaration and the Survey Map and Plans which amendments shall be executed by the Owner of the Unit to be subdivided upon approval pursuant to Section 25.2, and which amendments assign an identifying number to each Unit created, and reallocate the Allocated Interests and liabilities

formerly allocated to the subdivided Unit to the new Units in any reasonable manner prescribed by the Owner of the subdivided Unit. The Owner of the Unit to be subdivided shall bear all costs of the subdivision.

Section 25.2 Approval Required for Subdivision. A proposal that contemplates subdivision of a Unit will be accepted only if approved in writing by all Owners and Mortgagees of the Unit or Units to be subdivided and the Board.

Section 25.3 Relocation of Boundaries -- Adjoining Units. The boundaries between adjoining Units may only be relocated by an amendment to the Declaration, pursuant to Article 26, upon application to the Board 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 30 days, that the reallocations are unreasonable, the Association shall prepare an amendment that identifies the Units involved, states the reallocations, is executed by the Unit Owners, contains words of conveyance between them, and is recorded in the name of the grantor and the grantee. 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. The Owner or Owners benefited by a reallocation of Unit boundaries shall bear all costs associated therewith in proportion to the relative benefits to each such Unit as determined by the Board.

ARTICLE 26. AMENDMENT OF DECLARATION SURVEY MAP AND PLANS, ARTICLES OR BYLAWS.

Section 26.1 Procedures. Except in cases of amendments that may be executed by the Declarant under the Declaration or the Condominium Act, the Declaration, the Survey Map and Plans, the Articles and the Bylaws may be amended only by vote or agreement of the Owners, as specified in this article. An Owner may propose amendments to this Declaration or the Survey Map and Plans, the Articles or the Bylaws to the Board. A majority of the members of the Board may cause a proposed amendment to be submitted to the members of the Association for their consideration. If an amendment is proposed by Owners with 20% or more of the votes in the Association, then, irrespective of whether the Board concurs in the proposed amendment, it shall be submitted to the members of the Association for their consideration at their next regular or special meeting for which timely notice must be given. Notice of a meeting at which an amendment is to be considered shall include the text of the



proposed amendment. Amendments may be adopted at a meeting of the Association or by written consent of the requisite number of persons entitled to vote, after notice has been given to all persons entitled to receive notices. Upon the adoption of an amendment to the Declaration or the Survey Map and Plans will become effective when it is recorded or filed in the real property records in the county in which the Condominium is located. The 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. Such amendments 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. 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. An amendment to the Articles shall be effective upon filing the amendment with the Secretary of State. An amendment to the Bylaws shall be effective upon adoption.

Section 26.2 Percentages of Consent Required. Except as provided in Articles 22 and 23 in the case of damage or condemnation of the property, the percentages of consent of Owners and Mortgagees required for adoption of amendments to the Declaration, the Survey Map and Plans, the Articles and the Bylaws are as follows:

26.2.1 The consent of Owners holding at least 67% of the votes in the Association shall be required to materially amend any provisions of the Declaration, the Survey Map and Plans, the Articles or the Bylaws.

26.2.2 Except as provided in Section 11.2. an amendment that creates or increases Special Declarant Rights, increases the number of Units, changes the boundaries of any Unit, the Allocated Interests of a Unit, or the uses to which any Unit is restricted, shall require the vote or agreement of the Owner of each Unit particularly affected and the Owners having at least 90% of the votes in the Association other than the Declarant.

Section 26.2.3. No amendment may restrict, eliminate, or otherwise modify any Special Declarant Right provided in the Declaration without the consent of the Declarant and any mortgagee of record with a security interest in the Special Declarant Right or in any real property subject thereto, excluding Mortgagees of Units owned by persons other than the Declarant.



ARTICLE 27. TERMINATION OF CONDOMINIUM.

Except as provided in Articles 4, 21 and 22, the Condominium may be terminated only by agreement of Owners of Units to which at least 80% of the votes in the Association are allocated and with the consent of Eligible Mortgagees of Units to which at least 67% of the votes in the Association are allocated and in accordance with the Condominium Act. An Eligible Mortgagee who receives a written request to consent to termination who does not deliver or post to the requesting party a negative response within 30 days shall be deemed to have consented to such request, provided the request was delivered by certified or registered mail, return receipt requested.

ARTICLE 28. NOTICES.

Unless provided otherwise in this Declaration, all notices given under the provisions of this Declaration or the Bylaws or rules or regulations of the Association shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, the notice shall be deemed to have been delivered upon being deposited in the United States mail, first class, postage prepaid, addressed to the person entitled to such notice at the most recent address known to the Board. Mailing addresses may be changed by notice in writing to the Board. Notices to the Board shall be given to the Declarant until the Transition Date, and thereafter shall be given to the president or secretary of the Association.

ARTICLE 29. SEVERABILITY.

The provisions of this Declaration shall be independent and severable, and the unenforceability of any one provision shall not affect the enforceability of any other provision, if the remaining provision or provisions comply with the Condominium Act.

ARTICLE 30. EFFECTIVE DATE.

This Declaration shall take effect upon recording.

ARTICLE 31. REFERENCE TO SURVEY MAP AND PLANS.

The Survey Map and Plans were filed with the Auditor of Skagit County, Washington, simultaneously with the recording of this Declaration under File No. 9111070005, in Volume 15 of Condominiums, pages 17 through 19.

ARTICLE 32. ASSIGNMENT BY DECLARANT.

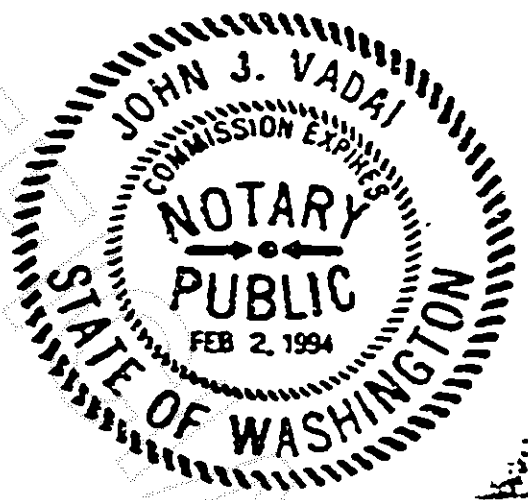
The Declarant reserves the right to assign, transfer, sell, lease, or rent all or a portion of the property then owned by it and reserves the right to assign all or any of its rights, duties, and obligations created under this Declaration.

DATED: Nov. 4, 1991 DECLARANT  
SKYLINE MARINA, INC.

By George C. Wasilewski

STATE OF WASHINGTON )  
COUNTY OF SKAGIT ) ss.

I certify that I know or have satisfactory evidence that GEORGE C. WASILEWSKI signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as President of Skyline Marina, Inc. to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.



John J. Vadai  
Notary Public in and for the State of  
Washington—Res. in ANA CORTES  
My appointment expires FEB. 2, 1994

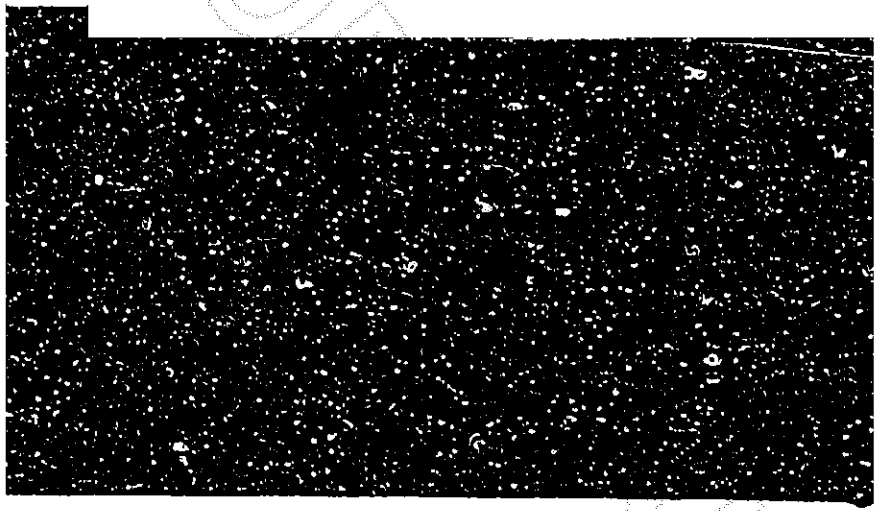
SCHEDULE A

SKYLINE NO. 24

Description of Land

Those portions of Tracts C and D of Skyline Short Plat No. AN-83-004, according to the Short Plat recorded in Volume 6 of Short Plats at Pages 87-90, under Auditor's File No. 8310120030, records of Skagit County, Washington more particularly described as follows:

Commencing at the most northerly corner of said Tract D; thence South  $16^{\circ}18'04''$  West 51.795 feet to the True Point of Beginning of this description; thence South  $75^{\circ}14'15''$  East 20.00 feet; thence South  $16^{\circ}18'04''$  West 44.517 feet; thence North  $75^{\circ}14'15''$  West 6.00 feet; thence South  $16^{\circ}18'04''$  West 46.316 feet to the southerly line of said Tract D; thence North  $73^{\circ}41'56''$  West 274.001 feet; thence North  $16^{\circ}18'04''$  East 15.000 feet to the southerly line of said Tract C. Said point is being the southwest corner of a parcel, shown as "except," according to the plat of Skyline No. 22 recorded in Volume 13 of Plats, at Pages 86-93, under Auditor's File No. 8401240018, records of Skagit County, Washington; thence continuing North  $16^{\circ}18'04''$  East 18.438 feet to the northwest corner of said parcel "except;" thence South  $75^{\circ}14'15''$  East along the north line of said parcel "except" 260.094 feet to its northeast corner; thence North  $16^{\circ}18'04''$  East 50.039 feet to the True Point of Beginning, containing 11,133.00 square feet, more or less, situated in the navigable waters of Flounder Bay, City of Anacortes, Skagit County, Washington.



SCHEDULE B

SKYLINE NO. 24

Unit Data and Allocations

<u>Unit</u>	<u>Length (ft.)</u>	<u>Declared Value (per ft.)</u>	<u>Declared Value (per Unit)</u>	<u>Common Expense Liability and Interest in Common Elements</u>	<u>Approx. Area (Sq. Ft.)</u>
1	15	\$ 2,100	\$31,500	6.210%	450
2	11	2,100	23,100	4.565	330
3	11	2,100	23,100	4.565	334
4	11	2,100	23,100	4.565	338
5	11	2,100	23,100	4.565	343
6	11	2,100	23,100	4.565	347
7	11	2,100	23,100	4.565	352
8	11	2,100	23,100	4.565	356
9	11	2,100	23,100	4.565	360
10	11	2,100	23,100	4.565	363
11	11	2,100	23,100	4.565	368
12	11	2,100	23,100	4.565	374
13	11	2,100	23,100	4.565	378
14	11	2,100	23,100	4.565	382
15	11	2,100	23,100	4.565	387
16	11	2,100	23,100	4.565	392
17	11	2,100	23,100	4.565	540
18	15	2,100	31,500	6.210	693
19	46	1,600	73,600	<u>14.540</u>	991
				100.000%	