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REQUEST OF \_\_\_\_\_

**"AMENDED"**  
**DECLARATION FOR THE**  
**VIEWMONT CONDOMINIUM DEVELOPMENT**

**Covenants, Conditions, Restrictions,**  
**. Reservations & Easements**

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The membership voted under the Provisions of Sections 9, 10, 17 and Under Sections 9, 10, 17 of the previous declaration recorded under Auditor File No. 7909240009, recorded September 24, 1979 to amend the declaration recorded on the above date with the changes set forth herein.

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DECLARATION OF  
COVENANTS, CONDITIONS, RESTRICTIONS, RESERVATIONS AND EASEMENTS

**9808170136**

For the Viewmont Condominium Association

**SECTION 1 -- DEFINITIONS**

In this declaration, unless the context requires otherwise:

1.1 "The Act" means the Horizontal Property Regimes act (Revised Code of Washington, Chapter 64.32), as amended from time to time.

1.2 "Condominium" means a unit together with its appurtenant percentage of interest in common areas and rights to the exclusive use of certain limited common areas.

1.3 "Land" means the material of the earth, whatever may be the ingredients of which it is composed, whether soil, rock, or other substance, and includes free or occupied space for an indefinite distance upward as well as downward, subject to the provisions or limitations contained in Section 2 of this declaration, and subject to limitations upon the use of airspace imposed, and rights in the use of the airspace granted, by the laws of the State of Washington or of the United States.

1.4 "Property" means the land, the buildings, all improvements and structures thereon, all easements, rights and appurtenances belonging thereto, and all articles of personality intended for use in connection therewith, which have been, or are intended to be, submitted to the provisions of the act as this condominium project.

1.5 "Buildings" means the buildings containing the apartment units and related facilities comprising a part of the property.

1.6 "Unit" means a part of the property intended for residential or commercial use and occupancy, as provided herein, referred to as an "apartment" in the act. The boundaries of a unit are the unfinished interior surfaces of the perimeter walls, floors, ceilings, windows and doors thereof. The unit includes the outlets of utility service lines, but not the lines themselves. Any hot water heaters, heating equipment or lighting or plumbing fixtures, or appliances are part of the unit. The unit includes both the portions of the building so described and the airspace so encompassed. The existing physical boundaries of the unit as they actually exist, either as originally constructed or as reconstructed in substantial accordance with the original plans, and recognizing and allowing the effect of settling or lateral movement of the building, and recognizing and allowing minor variances from the boundaries shown in the declaration, survey map and plans, shall be conclusively presumed to be the unit's boundaries rather than metes and bounds expressed or depicted in this declaration, or the boundaries as so described or as depicted in the survey map and plans. Each unit has inseparably appurtenant to it an undivided percentage interest in all common areas, plus certain limited common areas which are for its exclusive use.

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1.7 "Common Area and Facilities" and "Common Areas" means the portions of the property in which each owner of a unit has an undivided percentage interest, including, without limiting this definition, the areas described as such in this declaration.

1.8 "Limited Common Areas and Facilities" and "Limited Common Areas" means those common areas and facilities described in this declaration which are reserved for use by owners of a certain unit or units to this exclusion of the owners of the other units.

1.9 "Unit Number" means the number, letter, or combination thereof, designating the unit in this declaration as it is recorded or as it may be amended.

1.10 "Unit Owner" means the person or persons owning a unit, in fee simple absolute or qualified, as purchaser under a real estate contract, by way of leasehold (that is, by way of a partial interest in a leasehold of all or of a portion of the property or land) or by way of a periodic estate, or in any other manner in which real property may be owned, leased or possessed in the State of Washington. This ownership carries with it an undivided interest in a like estate of the common areas and facilities in the percentage specified and established in this declaration. This definition shall not, however, include persons who, on a month-to-month or other basis rent or lease their units from a unit owner.

1.11 "Owner' Association" or "Association" means all of the condominium owners as a group of co-owners of property operating in accordance with the act, the bylaws and with this declaration as it is recorded, or as either may be amended.

1.12 "Board of Directors" and "Board" means the individuals elected by the association to manage and administer the property in accordance with the bylaws of the association, this declaration and the act.

1.13 "Person" includes an individual, corporation, partnership, association, trust or other legal entity.

1.14 "Majority" or "Majority of Unit Owners" means the unit owners with fifty-one percent (51%) or more of the votes in accordance with the percentages assigned to the units by this declaration.

1.15 "Mortgagee" means the secured party under a mortgage, deed of trust, or other real property security interest covering a unit or other portion, or all, of the property. Similarly, "mortgage" includes a deed of trust or such security instrument, and "mortgagor" includes the grantor under a deed of trust and the debtor under such instrument.

For purposes only of assuring certain rights to the vendor under a real property sale contract, as hereinafter provided in Section 19, the vendor, the contract itself, and the vendee (purchaser) are included in the definition of mortgage, and mortgagor, respectively, otherwise they are not so included.

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1.16 "Institutional Lender" means a mortgagee which is a bank, savings and loan association, insurance company, mortgage lender recognized by a governmental agency for participation in governmentally related programs, mortgage lender recognized as a seller of mortgage loans by a person providing any recognized market for mortgage loans, or any other established mortgage lender.

1.17 "Mortgage Insurer" means any private company or governmental agency or governmentally sponsored or related company which insures payments of all or any portion of the obligation secured by a mortgage on any unit.

1.18 "Declaration" means this instrument, as amended from time to time, by which the property is submitted to provisions of the act.

1.19 "Bylaws" means the bylaws of the association as initially promulgated by the declarant, and as amended from time to time which, with this declaration, provide for the organization of the homeowners' association and for the administration of the property.

1.20 "Survey Map and Plans" means the survey map and the set of plans to be filed simultaneously with this declaration showing the location, boundaries and other information relating to the land, the buildings and the units, as required by the act.

1.21 "Common Expenses" include: (a) all sums assessed from time to time against the unit owners by the association as provided for or permitted herein; (b) expenses of administration, maintenance, repair, or replacement of the common areas and facilities; (c) expenses agreed upon as common expenses by the association; (d) expenses declared common expenses by the provisions of the act, or by this declaration, or by the bylaws.

1.22 "Administration" means all forms of activities in the managing, operating or administering of any affairs or functions relating to the condominium project or property which are allocated to board or association authority, including maintenance, repair, replacement, restoration, rebuilding, or reconstruction, or the making of alterations, improvements or additions, and all aspects of operations.

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**SECTION 2 - DESCRIPTION OF LAND**

2.1 Land Described. the land on which the buildings and improvements are or are to be located is described as follows:

Lots 1 through 9 inclusive, Block 9 of the Map of the Eastern Addition to Mt. Vernon, Skagit County, Washington, as per plat recorded in Volume 2 of Plats, page 100, records of Skagit County; also, Tract 9, Dale and Shea's Addition to the City of Mt. Vernon, as per plat recorded in Volume 3 of Plats, page 68, records of Skagit County, Washington.

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### SECTION 3 - DESCRIPTION OF BUILDINGS AND UNITS

3.1 Description of the Buildings. There is one (1) building on the land. It is a two story building, structured as a square around an open court, of wood frame construction on concrete footings, with horizontal cedar siding and composition pitched roof. The building has twenty-four (24) living units. There are twenty-four (24) storage spaces, and twenty-four (24) parking spaces, with two extra parking spaces.

3.2 Description of Units. The following schedule states the number, general location, approximate square footage and number of rooms for each unit. The first digit of the unit number identifies the apartment floor on which the unit is located. Combined living and dining room areas are counted as two (2) rooms. Units without fireplaces are noted below as "No Fp." The upper units have "lanais" or decks, the lower units have patios. Unit 201 has two lanais or decks.

Unit	Location on Bldg.	No. of Rooms	Approx. Square Footage
101	Center of Building, S side	6 1/2	908
201	Center of Building, S side	8	1100
102, 202	Southeast corner of Bldg.	6 1/2	908
103, 203	Next N, E side of Bldg.	6 1/2, No fp	908
104	Next N, E side of Bldg.	5	650
204	Next N, E side of Bldg.	5 1/2	908
106, 206	Northeast corner of Bldg.	6 1/2, No fp	908
107	N side of Bldg, W of Recreation Room	6 1/2	908
207	N side of Bldg, W of Unit 206	8	1100
108, 208	Northwest corner of Bldg.	6 1/2	908
109, 209	Next S, W side of Bldg.	6 1/2, No fp	908
110	Next S, W side of Bldg.	5	650
210	Next S, W side of Bldg.	5 1/2	650
111, 211	Next S, W side of Bldg.	6 1/2	908
112, 212	Southwest corner of Bldg.	6 1/2, No fp	908

The approximate square footage figures above are calculated to interior dimensions, i.e. to boundaries of units as herein defined.

3.3 Access. Each unit has access from its entry to the exterior of the structure, directly or by stairs, and thence to walkways or driveways leading to Carpenter or Montgomery Streets, or 11th Street, all public streets of the City of Mt. Vernon. The first floor units also have access to the central common area, thence to the courtyard entrance and to public streets.

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## SECTION 4 - COMMON AREAS AND FACILITIES

The common areas and facilities consist of:

4.1 Land. The land or real property interests as described and limited in Section 2 hereof.

4.2 Structural Elements. The foundations, and/or columns, girders, beams, supports, main walls (excluding non-bearing interior partitions of the units) and roofs of the building to the boundaries of the units. Interior bearing walls and utility or equipment chases or ducts in walls, and plumbing and wiring, shall be considered common area unless identified (or defined) as part of the unit or limited common area.

4.3 Access Features. The stairways and entrance -- exit area of the building courtyard.

4.4 Landscaped Areas. The main courtyard, side and rear yards, gardens and landscaped areas which surround the building, and any planters built into or adjacent to the building or placed in common areas.

4.5 Walkways; Driveways; & Parking. The walkways and driveways, including all parking spaces; parking spaces will be permanently assigned to units for their exclusive use.

4.6 Areas for Storage; For Equipment; The Equipment. Any rooms or areas for storage, machinery, electrical or other building equipment, and any such machinery or equipment itself; storage spaces within the storage rooms are permanently assigned to units for their exclusive use.

4.7 Recreation Room. The recreation room on the first floor at the north end of the building.

4.8 Systems. The common area electrical signs, and systems, common area mechanical systems, if any, and cable T.V. system.

4.9 Refuse Disposal. The containers and equipment for refuse disposal, and the areas where located, are common areas or facilities.

4.10 Laundries. The laundry rooms located on the first floor on the east and west sides of the building.

4.11 Other. All other parts of the property necessary or convenient to its existence, operation, maintenance and safety, and for or normally in common use.

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## **SECTION 5 - LIMITED COMMON AREAS AND FACILITIES**

The limited common areas and facilities are reserved for the exclusive use of units to which they are assigned. Easements for this exclusive use are hereby established. The limited common areas and facilities consist of:

5.1 Patios, "Lanais" or Decks. the patios (first floor units), "lanais" or decks accessible" from each unit are assigned as limited common areas of that unit, including the storage closet accessible from the patio or "lanai"-deck.

5.2 Parking Spaces. The parking space or spaces assigned to each unit.

5.3 Storage Spaces. The storage space assigned to each unit. Note: Storage space is subject to an easement for the location therein of any hot water tank, pipes, wiring or other equipment which may be located therein for the benefit of the unit to which such equipment is connected, or for the owner's association if the same services any part of the common area.

5.4 Mail Boxes. The mail box with the same number as the unit.

5.5 Flues. The interior of the fireplace, firebox and flue serving any unit.

5.6 Special Items. Certain items which could ordinarily be considered common or limited common areas, such as but not limited to screen doors, window screens, other screens, awnings, storm windows, planter boxes, antennae, and the like may pursuant to the decisions of the owners and specification in the bylaws, or by rule or regulation of the board, be designated limited common areas and as items to be furnished and/or maintained entirely at individual expense of the unit owner using them and in good order and according to standards and requirements established by the board by rule or regulation, or the in the bylaws.

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## SECTION 6 - PARKING SPACES AND STORAGE FACILITIES

There are a total of twenty-four (24) parking spaces for the condominium. there are a total of twenty-four (24) storage room spaces. All of the parking spaces and storage spaces are shown on the survey map and plans.

6.1 Assignment of Parking and Storage Spaces. the assignment of the right to exclusive use of one parking space to each unit, and one storage space to each unit will be indicated of record.

6.1.1 Right to Exclusive Use. The right to exclusive use is in the nature of an easement, and the spaces so assigned shall be, or be treated as, the limited common area of the unit to which they are assigned.

6.1.2 Designation as Common Area. The two spaces immediately in front of the building shall be so designated and may be used, leased or rented in accordance with board rules and regulations or decisions free from the provisions of Section 6.2 hereof.

6.2 Rental or Lease of Spaces. Unit parking spaces or storage spaces may be leased or rented by the owner of the unit to which they are permanently assigned to residents of this condominium upon written board approval. All rentals or leases of such spaces shall be conditioned to terminate immediately upon the termination or transfer of the interest in a unit (including any tenancy or contract of sale) of either the lessor or lessee of the space. Even if this condition is not expressly imposed in the lease or rental arrangements, nevertheless, by the effect of this covenant, the spaces will revert at such time to the exclusive use of the unit to which they are assigned of record.

6.3 Transfer of Spaces. After initial assignment, parking and storage spaces may be temporarily or permanently transferred among units by the owners of the units to which they area assigned by recorded deed which must first be approved by the board; provided however, that each unit must at all times retain at least on parking space. Spaces cannot be transferred in violation of this provision. Board approval is required for such transfers to assure existence of a deed, to assure compliance herewith, and to avoid speculation in acquiring spaces. Any mortgagee or contract vendor of a unit involved must also agree to any such transfer. No amendment under Sections 16 or 17 will be required for this purpose. Any such transfer takes effect only when a deed (with the approval of an association officer for the board, plus the approval of the holder of any security in the unit, endorsed thereon) is placed of record.

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**SECTION 7 - VALUES AND PERCENTAGES**

The value of the property and of each unit, and the percentage of undivided interest in the common areas and facilities appertaining to each unit and its owner is stated in the schedule in this section. The values are assigned and scheduled to establish the percentages required by the act and do not reflect, necessarily, the market value or the amount for which a unit will be sold, from time to time. The established percentage interests are not separate from the unit, and shall be deemed to be conveyed and encumbered with the unit, although not mentioned in the instrument evidencing the encumbrance or conveyance. In some instances, percentages have been established by rounding up or down, or allocating hundredths or thousandths of a percentage point to assure a 100% total.

Unit No.	Value in 1979	Percentage of Interest
101	\$36,500	4.227
102	36,750	4.256
103	36,000	4.170
104	27,000	3.127
105	36,250	4.199
106	36,250	4.199
107	27,000	3.127
108	36,750	4.256
109	36,000	4.170
110	27,000	3.127
111	36,250	4.199
112	36,250	4.199
201	44,000	5.097
202	36,950	4.280
203	36,500	4.227
204	36,750	4.256
205	36,750	4.256
206	36,750	4.256
207	44,000	5.097
208	36,950	4.280
209	36,500	4.227
210	36,750	4.256
211	36,750	4.256
212	36,750	4.256
TOTAL	\$863,400	100.00%

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**SECTION 8 - USES, MAINTENANCE, ALTERATIONS - COVENANTS, CONDITIONS AND RESTRICTIONS**

8.1 Uses. The building or buildings are restricted in use to permit only the uses accorded each unit in this declaration. The residential units shall be used only as residences for single families, and for social, recreation or other reasonable purposes normally incident to such uses.

8.2 Parking. Parking spaces are restricted to use for parking of operative automobiles; other items and equipment may be parked or kept therein only subject to the rules and regulations of the association. The board of directors may require removal of any inoperative or unsightly vehicle, and any other equipment or items not stored in parking spaces in accordance with this provision. If the same is not removed, the board may cause removal at the risk and expenses of the owner thereof. The use of all parking areas is also subject to rules and regulations adopted for the association.

8.3 Driveways, Walkways, etc. Driveways, walks, walkways, halls, lobbies, corridors, stairways and other portions of the common areas and facilities used for access shall be used exclusively for normal ingress and egress and no obstructions shall be placed therein unless permitted by the board of directors or rules and regulations adopted for the association.

8.4 Maintenance and Modification of Units and Limited Common Areas.

8.4.1 Maintenance of Unit. Each unit owner shall, at his sole expense, keep the interior of his unit, all parts of its related limited common or exclusive use areas, and the equipment, appliances, and appurtenances relating thereto, in good order, condition, repair and appearance. Each unit owner shall be responsible for the maintenance, repair or replacement of any plumbing fixtures, water heaters, fans, heating or other equipment, fireplaces and flues, electrical fixtures or appliances which may be in, or are part of, this unit or assigned to his unit as a limited common area. And, respecting any such items which may be connected with a unit, or the unit itself, board rules and regulation may permit, require, or prohibit actions by an owner to assure compliance with this section. All unit radiant heating equipment is part of the unit owner's responsibility.

8.4.2 Right to Modify Unit. Without limiting the generality of the foregoing each unit owner may, at his sole cost and expense, maintain, repair, paint or finish, refinish or change surfacing of the interior surfaces of the ceilings, floors, window frames, (but not the windows), doors, trim, and the perimeter walls of this unit, provided that hard surface flooring not originally installed may not be installed without the prior written approval of the board of directors. Each unit owner may later, substitute, add or remove any fixtures attached to said ceilings, floors or walls. This section shall not be construed to permit interference with or damage to the structural integrity of the buildings or interference with the use and enjoyment of the common areas and facilities, or of the other units, or to authorize without board of directors' approval, and approval in accordance with law, intrusion into the common or limited common areas, or any waste. Any modification must conform to applicable codes.

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8.4.3 Restriction as to Limited Common Areas. Unit owners may not modify, paint or otherwise decorate, or in any way alter their respective limited common areas and facilities without prior approval of the board of directors and in all events must act pursuant to the rules and regulations adopted for the association and in accordance with all applicable codes. The board may in whole or in part assume the maintenance of limited common areas. No doors may be placed on the open carports without the prior written consent of the board.

8.5 Architectural Control of Appearance of Buildings and Units - Maintenance. In order to preserve the uniform appearance of the buildings, and the common and limited common areas and facilities, particularly those visible to the public, the board may require and provide for the painting and finishing of the buildings, balconies, or other common or limited common areas and facilities, and prescribe the type and color of the surfaces and finishes. It may prohibit, require or regulate any modification or decoration of the buildings, balconies, or other common or limited common areas and facilities, including any such items as screens, doors, awnings, rails or other portions of each unit and the building visible from the exterior. The board of directors may regulate and control the items stored in or used on the limited common areas in order to preserve the good appearance and condition of the entire development. In addition, this regulatory power extends to the control of the color of draperies and under-drapes or drapery linings of each unit. Only glass approved in writing by the board may be installed in any part of the building.

8.6 Uses Affecting Insurance. The unit owners shall not permit anything to be done or kept in the units or in the common or limited common areas and facilities which will increase the insurance premiums for the development or result in the cancellation of insurance on any part of the development without the consent of the board. The board shall not agree to cancellation of the insurance coverage unless substitute coverage as provided for in this declaration is obtained.

8.7 Signs. No signs of any kind shall be displayed to the public view on or from any unit or from the common or limited common areas or facilities without the consent of the board or pursuant to the rules and regulations adopted for the association.

8.8 Offensive Activity. No noxious or offensive activity shall be carried on in any unit or common or limited common areas and facilities nor shall anything be done therein which may be or become an annoyance or nuisance to other unit owners, or which would be in violation of any laws.

8.9 Construction Work - Common and Limited Common Areas. The common and limited common areas and facilities shall not be reconstructed, rebuilt, altered, removed or replaced except by the association acting through the board, or as and in the manner the association acting by the board may authorize, and such action and authorization must also be in accordance with the act, this declaration, and the bylaws. In all events, all such work must comply with all applicable laws and ordinances.

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8.10 Leases. Unit owners may not lease or rent to others less than the entire unit, except for storage and parking spaces. For units or spaces, there must be a written lease or rental agreement, a copy of which must be filed with the board, which must recite that it is subject to the declaration, bylaws, and rules and regulations, and must not be for a term less than thirty (30) days, except that institutional first mortgagees in possession of a unit after any form of mortgage foreclosure or realization on security may lease or rent for shorter periods. All such leases or rental agreements shall provide that compliance with the declaration, bylaws, and rules by the leases or tenant is a condition of the agreement and that the board or any unit owner may enforce this provision of the lease. See Section 6 respecting leases of parking or storage spaces. No lease may be made which would place any unit or the building in violation of any law or ordinance. If the leases or rental agreements do not initially contain all provisions of this Section 8.10 or relevant provisions of Section 6, then by operation of this declaration they shall be deemed to include all such provisions as if specifically set forth therein.

8.11 Pets. Pets are generally prohibited. However, the Board of Directors may grant approval on an individual case by case basis. On approval the occupant shall abide by the regulations as provided annually by the Association.

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## SECTION 9 - OWNERS ASSOCIATION - VOTING - BYLAWS

9.1 Owners' Association. The following provisions govern membership in the owners' association, voting, and bylaws for the association. The condominium development shall be administered by the association, through actions of its board and its officers. The association is a not-for-profit, unincorporated association, formed or to be formed under the provisions of this declaration and the act. The association shall initially use a name which is the name of the development followed by the words "owners association", and may use such other name as may from time to time be selected by the board. It may be incorporated upon a majority vote at a meeting of members, if incorporation is proposed by the board.

9.2 Membership. All the unit owners shall be association members so long as they retain any interest in a unit and may not resign or withdraw from the association or avoid the assessments or responsibilities imposed under law, this declaration, the bylaws and rules. Where a unit is sold under contract, the contract purchaser, only, shall be entitled to have and exercise all privileges of membership, including voting or designating the voting representative or giving proxies; provided, that the contract may reserve the latter rights regarding voting to the vendor up to the time the contract is paid.

### 9.3 Voting.

9.3.1 Number of Votes. For purposes of determining voting rights of association members, the total voting power of all units shall be 100 votes. A unit owner is entitled to a number of votes equal to the percentage of undivided interest in the common areas and facilities assigned to his unit in this declaration. Except for Section 17.1, whenever the approval of a stated percentage of the unit owners is required in this declaration or the bylaws, or where a percentage vote is required, unless expressly stated otherwise, the percentage shall be determined by reference to the voting power of the units as defined above.

9.3.2 Person Authorized to Vote. there shall be one voting representative for each unit. The voting representative shall be designated by the owner or owners of each unit by written notice to the board and need not be a unit owner. The designation may be changed or revoked at any time by the unit owner or owners by written notice to the board. The death or judicially declared incompetence of the unit owner shall revoke the designation, provided that such revocation shall not be effective until the board has received notice of such death or incompetence. The powers of designation and revocation may be exercised by the guardian, trustee, administrator or personal representative of a unit owner or his estate. Where no designation is made, or where a designation has been made but is revoked, the voting representative of each unit shall be the group composed of all of its owners. The association may recognize the vote of any one or more of such owners present in person or by proxy at any meetings of the association as the vote of all such owners. If there is more than one such owner present at any meeting or if there are disputed claimants to voting rights, and they do not agree to vote the unit's vote unanimously, the majority of said owners or claimants shall prevail and the vote allocated

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to said unit cast accordingly. In the event that a majority of co-owners cannot be obtained on any issue, the chairman may decide to divide the vote in accordance with their respective interests, if the co-owners shall agree thereon, otherwise, the unit vote may be entirely disregarded.

9.3.3 Pledge of Power to Designate Voting Representative. The power to designate a voting representative may be pledged to the holder of a security interest in a unit. If the power is so pledged, and if a copy of the instrument is filed with the board, and if the secured party's designee attends the meeting and requests to exercise the vote, then the vote of such designee shall be recognized as to the issues respecting which the pledge was given.

9.3.4 Pledge of Votes for or Ownership of More Than One Unit - Voting. A person who owns more than one unit (including any mortgagee) or to whom voting rights have been pledged for more than one unit is entitled to exercise the combined total voting power of all such units.

9.3.5 Quorum - Majority for Action. A quorum of unit owners at any annual or special meeting of the association shall be the presence, in person or by proxy, of persons holding fifty-one percent (51%) or more of the total votes, unless otherwise expressly provided herein or in the bylaws. If a quorum is present at any such meeting, any action may be taken by an affirmative vote of a majority of the total votes present at the meeting, except as otherwise expressly provided in the act, this declaration or the bylaws. The bylaws may provide different quorum requirements for subsequent meetings where a quorum could not be obtained at the initial meeting.

9.4 Bylaws. the association shall adopt the initial bylaws of the Association. The bylaws shall specify the procedures for timing and the holding of annual and special meetings of the association and may include any other matters or specify other procedures applicable to the organization and administration of the association not inconsistent with this declaration. The bylaws may be amended by the association at any time. the bylaws may be amended, in whole or in part, by a sixty-seven percent (67%) vote of the unit owners at a meeting of the association held for that purpose or in such other manner as the bylaws themselves may prescribe.

9.5 Administration - Election of a Board of Directors. Annually in September there shall be a meeting of the Owner's Association. At said meeting the unit owners shall elect a Board of Directors consisting of five individuals.

9.5.1 Term. The term of office of directors shall be two years. After the initial election, three directors shall be elected at each annual meeting during even numbered years, and two directors shall be elected at each annual meeting during odd numbered years. Any director may be elected to serve for an additional term or terms. Except in cases of removal, where terms and powers cease immediately, directors hold office until their successors are chosen and commence to act.

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**9.5.2 Vacancies - Removal of Directors.** Provisions defining vacancies, means of filling vacancies, and provisions for removal and replacement of directors shall be set forth in the bylaws.

**9.6 Quorum for Board Action.** A majority of the board shall constitute a quorum. The board shall act by majority vote of those present at its meetings where a quorum is in attendance. Meetings may be called, held and conducted in accordance with the bylaws.

**9.7 Officers.** The board of directors (temporary or elected) shall elect a president of the association from among its members who shall preside over both board meetings and meetings of the association. The board shall also so elect a secretary. Except in the case of removal of officers where terms and powers cease immediately, officers hold office for one year until their successors are chosen and commence to act.

**9.8 Indemnification.** Every director and officer while exercising the authority of the association and powers of the board, shall be indemnified by the association against all expense and liabilities, including attorneys' fees, reasonably incurred or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his holding or having held such a position, whether or not he holds such position at the time such expenses are incurred, except in such cases wherein such person is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that in the vent of a settlement, the indemnification shall apply only when the board of directors has approved such settlement and reimbursement as being in the best interests of the association; provided further that indemnification shall not be available to the extent the expenses or liabilities are reimbursed by any form of insurance coverage to the party claiming indemnification.

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## SECTION 10 - AUTHORITY OF THE ASSOCIATION

The association acting under direction of the board of directors and through its officers, shall have the following powers:

10.1 Common Expenses. After completion of the December financial statement, the board shall estimate the common expenses.

10.2 Rules and Regulations. To adopt reasonable rules and regulations deemed necessary or advisable in administration of the property or association, or to supplement, interpret or apply the act, declaration or bylaws. The rules and regulations may be amended from time to time by the board, or by the members in the same manner as the bylaws, and shall be deemed part of the bylaws. The rules and regulations may provide for penalties to be charged against persons violating provisions of the declaration, bylaws or rules, and for late charges which shall be paid in additions to interest if assessment installments are not paid when due. Each purchaser and owner and resident or guest in this condominium specifically covenants, by virtue of his interest in or use of any portion of the premises, that association rules and regulations may be passed governing any portion of the premises and use of all parking anywhere in adjacent or about the property and that all such parties will comply with all such rules and regulations.

10.3 Enforcement of Declaration, Bylaws, Rules. To enforce the provisions of this declaration, the bylaws and such rules and regulations as may be adopted from time to time.

10.4 Utilities. To arrange for all utility services for the common areas and facilities, and the units (except utility services separately metered and charges to the individual units); and determine formulas for apportioning utility charges, if deemed necessary by the board, where the same are not separately metered, if apportionment is feasible.

10.5 Maintenance - Repairs. To arrange for and supervise the repair and replacement of all common areas and facilities and limited common areas and facilities, the maintenance of common areas, and, to the extent deemed appropriate, the maintenance of limited common areas.

10.6 Maintenance or Repair of Units. To provide maintenance or repair of any unit and its appurtenances, fixtures or appliances, if deemed reasonably necessary to protect the unit, common area, any other unit, or preserve the appearance and value of the property. The unit owner shall first be given notice of the maintenance or repair required and a reasonable time (considering the problems involved) to complete the work. Then the board may direct such action by the officers or manager or their employees or contractors, and levy a special assessment for the cost against the unit and owners of the unit involved.

10.7 Purchasing. To purchase furniture, furnishing, supplies, equipment, goods or other personal property or services which may be necessary or incidental to administration of the common areas and facilities or to any other functions allocated to the board or association.

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10.8 Additions - Improvements. to arrange for and supervise any additions or improvements to the common area or facilities; provided, however, that if the estimated cost of any separate addition or improvement or the total cost of such items to be undertaken in any year shall exceed the sum of 10% of the annual budget of common expenses for such year, the approval of a majority of the unit owners shall be required; and if such expenditure shall exceed \$15,000.00, the approval of not less than seventy-five percent (75%) of the unit owners shall be required. This limitation extends also to purchases of additional personal property for common use or to be affixed to the realty.

10.9 Determine Assessments. To determine the amount of annual and special assessments to the units and owners for the common expenses of the property, to establish reserves, and collect the assessments as authorized by or provided in this declaration, the act or under law. The board may establish at least a working capital fund or "reserve" for contingencies, for acquisitions and improvements, and reserve funds designated specifically for replacement, repair or maintenance of portions of the common area which can be projected to or do require replacement, repair or maintenance.

10.10 Pay Expenses. To pay or provide for the payment of all common expenses out of assessments paid by the unit owners or by such other means as may be permitted by this declaration, the bylaws, the act or under law.

10.11 Discharge Encumbrances. to pay any amount necessary to discharge any lien or encumbrance affecting the entire property or any portion thereof, which is claimed to or may arise or be effective against the property or common area. Where one or more owners are responsible for the existence of such lien or encumbrance they shall be jointly and severally liable for all costs of discharging it, which shall be assessed against the responsible owners and their units to the extent of the owner's responsibility.

10.12 Obtain Insurance. To obtain and maintain the insurance coverage required or authorized by this declaration, the act, or board decision.

10.13 Consultants. to employ attorneys, accountants, real estate firms, consultants, specialists, or such other persons as may be reasonably necessary or convenient to the administration responsibilities herein allocated.

10.14 Suits - Proceedings. To institute or defend proceedings at law, in equity or before administrative bodies in order to further or protect the interests of the association, the unit owners, and the property. to incur such expenses and attorneys' fees as may be reasonable, necessary or convenient in relation thereto.

10.15 General Authority. To exercise and perform all other rights and duties which are authorized or required by the act or are reasonably necessary or incidental to the administration of the condominium development.

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10.16 No Active Business. Nothing herein shall be construed to authorize the association to conduct an active business for profit on behalf of the unit owners.

10.17 Management or Administration - Authority Exclusive. The powers and authorities provided in any part of this declaration shall be exclusive to the elected board.

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## SECTION 11 - COMMON EXPENSES AND ASSESSMENTS

11.1 Annual Budget - Common Expense Assessments. Within thirty (30) days of the beginning of each calendar year, the board shall estimate the common expenses which it anticipates will be incurred during the forthcoming calendar year, and determine the annual assessment and any special assessments to be paid during such year. Provision may be made for funding and maintaining reasonable reserves for contingencies, operations, and maintenance, repair, replacement and improvement or acquisition of common areas and facilities, particularly those which must be replaced on a periodic basis. Account shall be taken of any expected income and any surplus available from the prior year's operations. The determination of assessments for any initial, partial year of operation may be made by the board at any reasonable time. The board may also from time to time impose special assessments for any purposes it determines to be appropriate against one or more units and unit owners. If any sums estimated and budgeted for any purpose at any time prove inadequate for any reason (including nonpayment for any reason of any unit owners assessments), the board may at any time levy a further assessment. The annual budget and proposed common expense assessments or general or special assessments initially determined by the board shall be reviewed and may be revised by the unit owners at the annual meeting of the association or at any special meeting called for such purposes, but if not revised shall be deemed approved.

11.2 Assessments Proportional to Values. Except for special assessments levied against particular units, all regular assessments or general special assessments for common expenses shall be assessed to units and the unit owners equally.

11.3 Omission of Assessment. The omission by the board or the association before the expiration of any calendar year to fix the budget estimate and assessments hereunder for the forthcoming year shall not be deemed a waiver or modification in any respect of the provisions of this declaration or a release of the unit owner from the obligation to pay the assessment or any installment thereof, but the common expenses assessments fixed for the preceding year and any unpaid portions of prior special assessments shall continue until new assessments are fixed.

11.4 Assessments, Debt - Payment by Unit Owners - Installments - Interest. All assessments shall be the joint and several obligation of the owner or owners of the unit for which they are assessed as of the time they are assessed. Each unit owner shall pay annual assessments to the party directed by the board in equal monthly installments on or before the first day of each calendar month, which is the installment "due" date, or in such other reasonable manner as the board directors. Special assessments shall be paid in such installments and on such due dates and to such parties as the board may direct. Any assessment installment unpaid when due shall be delinquent and bear interest from its due date until paid at 12% per annum.

11.5 Lien. The amount of any annual or special assessment, plus interest due on any unpaid installments thereof (or on the entirety thereof if accelerated), and any collection costs including reasonable attorneys fees whether or not suit is actually commenced, shall be a lien upon the unit to which assessed including its appurtenant percentage of interest in common areas plus its limited common areas. This lien shall commence as of the date the assessment is announced by

the board and shall have priority over all other liens and encumbrances, recorded or unrecorded, except that such priority shall be limited as provided herein and in the act. The board may (but is not required to) authorize or direct recording of a notice of any assessment or installments relating to any condominium which may include reference to this lien. Suit to recover a money judgment for unpaid assessments or installments may be maintained without foreclosing or waiving this lien.

**11.6 Certificate Stating Assessments.** A certificate signed and acknowledged by the treasurer or president, or other agent authorized by the board, which may state the amount of the current total assessments, installments, and any delinquencies shall be furnished on request to any unit owner, prospective purchaser, mortgagee or prospective mortgagee, or any escrow or closing agent, regarding any unit with which they are directly concerned. This certificate shall be furnished within a reasonable time, in recordable form, for a reasonable fee, and shall be conclusive upon the board and association in favor of all persons who rely thereon in good faith to establish the amount of the current assessments, installments, or any installments unpaid.

**11.7 Purpose.** All funds collected hereunder shall be expended for the purpose designated in or permitted by this declaration, the bylaws, or the act. All such funds are the common property of the unit owners administered by the board as trustee to benefit the realty or personally owned by the unit owners in co-ownership.

**11.8 Commencement of Assessments.** The first monthly installments of common expense assessments shall be payable in the first full month after the declaration is recorded. The amount of the annual assessment collectible in that year shall be the fraction of the annual assessment equal to the months remaining in the year, commencing with such month, over twelve.

## SECTION 12 - ENFORCEMENT, COLLECTION OF ASSESSMENTS

12.1 Acceleration of Assessment. In the event that any installment of an annual or special assessment is more than 60 days over due, the board may declare the entire annual or special assessment due immediately and interest shall thereafter accrue on the entire assessment at 12% per annum. Proceedings may then be initiated to collect the entire assessment or foreclosure the lien thereof. This remedy does not preclude suit to collect or foreclose the lien of any installment of an assessment.

12.2 Foreclosure of Assessment Lien - Rental Value of Unit. An officer of the association, acting for and as directed by the board on behalf of the association may commence and complete an action to foreclose the lien of any assessments or installments thereof due and unpaid. From the time of commencement of such action, the unit owner shall pay to the association the reasonable rental value of the unit, to be fixed by the board, and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the rental, who may, if the rental is not paid, obtain possession of the unit, refurbish it to a reasonable standard for rental units in the building, and rent the unit or permit its rental to others. Rentals collected therefrom shall be applied: First, to pay the expenses of the receivership (including reasonable attorney's fees); second, to reimburse the costs of refurbishing the unit; third to costs, fees and charges incurred by the plaintiff in the foreclosure action; and fourth, to the payment of the assessments due and any interest accrued thereon. Any judgment rendered against the unit owner in such foreclosure action or receivership proceeding shall include a reasonable sum for attorney's fees, and also all costs and expenses reasonably incurred in preparation for or in the prosecution of said action, in addition to taxable costs permitted by law.

12.3 Assessments - Rented Apartments. If a unit is rented or leased to others by the unit owner, the board may collect and the tenant shall pay over to the board so much of the rent for such unit as is required to pay any amounts due for assessments or installments thereof, plus interest and costs as previously defined, if the same are in default over thirty (30) days. The renter or lessee shall not have the right to question payment to the board, and such payment will discharge the lessee's or renter's duty of payment to the unit owner for rent, to the extent such rent is paid to the association, but will not discharge the liability of the unit owner under this declaration for assessments, or operate as an approval of the lease or tenancy. The board shall not exercise this power where a receiver has been appointed and is collecting such rental.

12.4 Security Deposit. To provide for circumstances where an owner's assessments are frequently late, a unit owner may be required by the board from time to time to make and maintain a security deposit not in excess of three months estimated assessment installments. This deposit may be collected as are other assessments due. Such deposit shall be held in a separate fund, credited to such unit owner, and resort may be had thereto at any time when such owner is ten (10) days or more delinquent in paying his assessments or installments thereof. This deposit is the property of the unit owner. It is not the contribution to working capital made by the initial purchaser of each unit, but is a different deposit for the specific purpose here stated.

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12.5 Termination of Utility Service. In addition to and not by way of limitation upon other methods of collecting assessments or installments thereof, the board shall have the right (but shall have no obligation), after having given ten (10) days' notice to any unit owner who is delinquent in paying any portion of his assessments, to cut off any or all utility services to the delinquent owner's unit until such assessments are paid.

12.6 Remedies Cumulative. The remedies provided are cumulative and the board may pursue them concurrently, as well as any other remedies which may be available under law although not expressed herein.

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## SECTION 13 - INSURANCE

13.1 Insurance Coverage. The board shall maintain at common expense a policy or policies of insurance, and bonds as required, to provide, to the extent the board is reasonably able at reasonable expense to obtain the same, the following coverages:

13.1.1 Property Insurance. A "master" or "blanket" policy of property insurance in an amount equal to the full replacement value (i.e., 100% of current "replacement cost" exclusive of land, foundation, excavation and other items normally excluded from such coverage) of the condominium property (including all building service equipment and the like and any fixtures or equipment within the condominium units which are financed under the mortgage), and if deemed appropriate by the board or requested by any mortgagee (and if the same is reasonably available), an "Agreed Amount Endorsement" or its equivalent, a "Demolition Endorsement" or its equivalent, and an "Increased Cost of Construction Endorsement" or "Contingent Liability from Operation of Building Laws Endorsement" or the equivalent, such insurance to afford protection against at least loss or damage by fire and other hazards covered by the standard extended coverage endorsement and by sprinkler endorsement and by sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm, and water damage.

13.1.2 Liability Coverage. A comprehensive policy of public liability insurance covering all of the common areas and any commercial spaces of the condominium development with a "Severability of Interest Endorsement" or equivalent coverage or provisions which would preclude the company from denying the claims of a unit owner because of the negligent acts of the association or another unit owner, or owners, with such limits as may be considered acceptable; but not less than \$1,000,000.00 per occurrence or \$1,000,000.00 single limit coverage; such coverage to include protection against water damage liability, liability for non-owned and hired automobile, liability for property of others, and, if applicable, elevator collision, garage-keeper's liability, host liquor liability.

13.1.3 Other. Coverage may also be obtained for such other risks as shall, in the sole determination of the board, customarily be covered with respect to projects similar in construction, location, and use, or as may be required to facilitate lending by mortgagees, or which may be required under law or by government programs or agencies.

13.2 Additional Policy Provisions. any insurance obtained pursuant hereto shall be subject to the following provisions and limitations if and to the extent the board (as determined in the board's discretion) is reasonably able to purchase policies and endorsements effecting such provisions and limitations.

13.2.1 Named Insured. The named insured under any such policies shall be the board as a trustee for the unit owners in accordance with the percentages established in this declaration, or the authorized representative thereof, including any trustee with which there has been established any insurance trust agreement, or any successor trustee, each of

which shall be herein elsewhere referred to as the "Insurance Trustee" who shall have exclusive authority to negotiate settlement of losses under said policies.

13.2.2 Contribution. In no event shall the insurance coverage obtained and maintained pursuant to the requirements hereof be brought into contribution with insurance purchased by unit owners or their mortgagees.

13.2.3 Matters Association Cannot Control. Such policies shall provide that coverage shall not be prejudiced by (a) any act or neglect of unit owners when such act or neglect is not within the control of the association, or (b) by failure of the association to comply with any warranty or condition with regard to any portion of the premises over which the association has not control.

13.2.4 Cancellation. All policies shall provide that coverage may not be canceled or substantially modified (including cancellation for non-payment of premium) without at least thirty (30) days prior written notice to any and all insured named thereon, including the services on behalf of mortgage insuring companies or agencies, or corporations or agencies administering programs creating any form of market for mortgages.

13.2.5 Waiver of Subrogation, Co-insurance, and Acts of Insured. All such policies shall contain a waiver of subrogation by the insurer as to any and all claims against the association, or any unit owner or owners and/or their respective agents, employees or tenants, and of any defenses based upon co-insurance or upon invalidity arising from the acts of the insured.

13.2.6 Company Restoration Limited. All policies of property insurance shall provide that, notwithstanding any provisions thereof which give the carrier the right to elect to restore damage in lieu of making a cash settlement, such option shall not be exercisable without the prior written approval of the association (or any insurance trustee) or when in conflict with the provisions of any insurance trust agreement to which the association may be a party, or any requirement of law.

13.3 Mortgagee Clause. The policy should contain a standard mortgagee clause which should:

13.3.1 Define Mortgagee. Provide that any reference to a mortgagee in such policy shall mean and include all holders of mortgages of a unit or unit lease or sublease, in their respective order and preference, whether or not named therein.

13.3.2 Protect Mortgagee. Provide that such insurance as to the interest of any mortgagee shall not be invalidated by any act or neglect of the board, the unit owners or any persons acting under authority of any of them.

13.3.3 Waive Certain Requirements. Waive any provision invalidating such mortgage clause by reason of the failure of any mortgages to notify the insurer of any

hazardous sue or vacancy, any requirement that the mortgagee pay any premium thereon, and any contribution clause.

13.3.4 Recognize Named Insured. Provide that without affecting any protection afforded by such mortgages clause, any proceeds payable under such policy shall be payable as required herein.

13.4 Fidelity Bond Coverage. The association shall be required to maintain adequate fidelity coverage to protect against dishonest acts on the part of officers, directors, trustees and employees of such association and all others who handle, or are responsible for handling funds of the association. Such fidelity coverage shall, to the extent reasonably obtainable in the board's discretion, meet the following requirements:

13.4.1 Obligee. All fidelity bonds shall name the association or appropriate representatives thereof as the obligee.

13.4.2 Amount. Such fidelity bonds shall be written in an amount equal to at least 50% of the estimated annual operating expenses of the condominium project, including reserves, unless a greater amount is required or a lesser amount permitted by mortgage insuring companies or agencies or corporations or agencies administering programs creating a market for mortgages.

13.4.3 Waiver of Defense - Non Compensated Parties. Such fidelity bonds shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expressions.

13.4.4 Cancellation. Such bonds shall provide that they may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least 30 days' prior written notice to the service on behalf of any mortgage insuring company or agencies, or agencies or corporations administering programs creating a market for mortgages.

13.5 Insurance Proceeds. Insurance proceeds for damage or destruction to any part of the property shall be paid to the board as trustee for the unit owners and purchasers and the mortgagees of condominium units. The association acting through its board shall have the authority to settle and compromise any claim under insurance obtained by the association, and the insurer may accept a release and discharge of liability made by the board on behalf of the named insured under the policy. The

13.6 Unit Owners Policies. Each unit owner may obtain additional insurance respecting his unit, to the extent permitted by law, at his own expense; no unit owner shall, however, be entitled to exercise his right to maintain insurance coverage in any manner which would decrease the amount which the board or any trustee for the board, on behalf of all of the owners, will realize under any insurance policy which the board may have in force for the development at any particular time. Each unit owner is required to and agrees to notify the board of all improvements

by the owner to his unit the value of which is an excess of one thousand dollars (\$1,000.00). Any unit owner who obtains individual insurance policies covering any portion of the condominium development (other than personal property belonging to such owner) is hereby required to file a copy of such policy or policies with the board within thirty (30) days after purchase of such insurance, and the board shall immediately review its effect with the board's insurance broker, agent or carrier. Each unit owner shall be responsible for his own insurance on the contents of his unit, his additions and improvements to his unit, his decorating and furnishing thereof, and his personal property anywhere on the property, as well as for insurance coverage protecting him, from his individual standpoint, from liability for injury or damage to persons or property.

13.7 Mortgage Market Agency Requirements. Notwithstanding any other provisions herein, the association shall continuously maintain in effect such casualty, flood and liability insurance and fidelity bonding meeting the insurance and fidelity bond requirements for the condominium project established by Federal National Mortgage Association and Government National Mortgage Association, so long as either is a mortgagee or owner of a condominium unit within the project, except to the extent such coverage is not available or has been waived in writing by Federal National Mortgage Association or Government National Mortgage Association.

## SECTION 14 -- DAMAGE OR DESTRUCTION - RECONSTRUCTION

14.1 Initial Board Determination. In case of any fire or other casualty loss causing damage or destruction to any unit or common or limited common area, the board or its designee shall attempt immediately to inventory the affected property, obtain estimates and bids (to the extent possible) for the repair, restoration, or rebuilding and reconstruction of the damaged or destroyed portions of the property, and also after adjustment of the loss, and determine the amount, if any, by which the estimated cost of rebuilding and reconstruction, or repair or restoration will exceed anticipated insurance proceeds, and the amount of any special assessment which will be necessary to proceed, computed both with and without use of any reserves, if use of reserves is proposed.

14.2 Unit Owners Meeting. Prior to the expiration of forty-five (45) days from the date of such damage or destruction, a meeting for all unit owners shall be called by the board at which meeting the available information on costs of repair, restoration or rebuilding and reconstruction, and on insurance proceeds probably available, shall be presented to the unit owners. At such meeting, or at an adjourned or subsequent meeting, which late meeting must be held prior to the expiration of ninety (90) day from the date of such damage or destruction, a vote shall be taken as to whether or not to repair, restore or rebuild and reconstruct the property, or to terminate the condominium and sell the property, or to do otherwise.

14.3 Vote Required. A vote of a majority of the unit owners shall be sufficient to require that the property be restored, repaired, or rebuilt and reconstructed.

14.4 Effect if Vote to Restore Fails. Upon either failure to obtain or lack of such majority vote, together with the lack of or failure to obtain a unanimous vote of all owners to do otherwise than repair, restore, rebuild or reconstruct, then the condominium status of the property shall, at the expiration of ninety days from the date of damage or destruction, be terminated. All the property, insurance proceeds, and reserves shall be held in common among the owners in accordance with their percentage of interest in the common areas, the liens of mortgages or other encumbrances shall be transferred to the percentage shares of the units to which the liens formerly attached, and the property insurance proceeds and reserves shall be subject to partition.

14.5 Authority to Proceed to Repair, Restore, or Reconstruct. If it is determined to repair, restore or rebuild and reconstruct the property then such work shall proceed as expeditiously as possible under the authority of the board or its designee to bring the property to the condition in which it existed prior to the fire or other occurrence, with each unit and the common area having substantially the same vertical and horizontal boundaries as before. Modifications may be made to conform to then applicable governmental rules and regulations, or to account for required structural changes or unavailability of materials or different construction methods. The board or its designee shall have the authority to employ architects, advertise for bids and let contracts to contractors and others as required to effect the repair, restoration, or rebuilding and reconstruction. The board may authorize the insurance company to proceed with the work upon satisfaction of the board that such work will be appropriately carried out.

14.6 Authority to do Emergency Work. In all events and at all times the board shall have the authority to proceed immediately with any emergency work, that is, work which the board deems reasonably necessary to avoid further damage or substantial diminution in value to the property, and to protect the unit owners from any liability from the condition of the site.

14.7 Proceeding Without Assembled Meeting or Vote. In the event the majority of the board decides to repair, restore, rebuild or reconstruct the damage or destruction, then, notwithstanding any other or prior provisions of this declaration, no actual assembly and vote of the unit owners will be required, and, because there is no unanimous vote to terminate and sell the condominium development or to do otherwise, the terminate and sell the condominium development or to do otherwise, the condominium status of the project will not terminate, will continue, and: (a) The board or an affected unit owner for his unit, as authorized by the board as its designee, may proceed to repair, restore, rebuild or reconstruct as provided in and subject to the other limitations in this declaration, particularly Section 14.5. Alternatively, (b), the board may prepare a written report covering the items specified in Section 14.1, submit the report to all unit owners as required for other notices in this declaration, and receive, rely on and proceed upon the affirmative written authorization of a majority of the unit owners. The board may act in this Section 14.7 provided, unless:

14.7.1 Meeting Called. Within five (5) working days from the date of such damage or destruction, or prior to commencement of work or letting of any contract therefore, at least twenty percent (20%) of the unit owners have by signed letter or other statement submitted to the board, either together or independently, requested the meeting provided for in prior portions of this section; or

14.7.2 Substantial Assessment Required. A special assessment to owners for costs of such repair, restoration, rebuilding or restoration in excess of \$200.00 per owner would be required if no reserve funds of the association were used; or

14.7.3 Damage Substantial. The damage or destruction is substantial in its affect on two or more units, or significantly impairs the structural integrity of any building or significant portion of the common areas or facilities.

## SECTION 15 - CONDEMNATION

15.1 Special Nature of Provisions for Condemnation. Because the Washington Horizontal Property Regimes Act does not expressly deal with condemnation, extraordinary powers are accorded the board to deal with such situations. If at any time or times during the continuance of the condominium regime all or any part of the property shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu of or in advance thereof, the provisions of this section shall apply. All compensation, damages, or other proceeds therefrom, the sum of which is hereinafter called the "condemnation award", shall be payable to the association as trustee to hold and apply the funds as herein provided. Provision may be made for any insurance trustee named to act in the event of damage and destruction to act also in the event of condemnation, and in accordance herewith.

15.2 Complete Taking. 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 status shall terminate. The condemnation award shall be apportioned among the unit owners in proportion to the respective percentage of undivided interest in the common area appurtenant to each unit provided, that if a standard different from the value of the property as a whole is employed to measure the condemnation award in the negotiation, judicial decree, or otherwise, then in determining such shares in same standard shall be employed to the extent it is relevant and applicable. On the basis of the foregoing principle, the board shall as soon as practicable determine the share of the condemnation award to which each owner is entitled. After first paying out the respective share of each owner, to the extent sufficient for the purpose, all mortgages and liens on the interest of such owner, the balance remaining in each share shall then be distributed to each owner respectively.

15.3 Partial Taking. In the event that less than the entire property is taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership hereunder shall not terminate except upon a unanimous agreement to terminate the condominium status. Each owner shall be entitled to a share of the condemnation award to be determined in the following manner:

15.3.1 Allocation of Award. As soon as practicable the board shall, reasonably and in good faith, allocate the condemnation award between compensation, damages, or other proceeds.

15.3.2 Allocation for Common Areas. The board shall apportion the proper part of the amounts so allocated to the taking of or injury to the common areas which in turn shall be apportioned among owners in the proportion to their respective undivided percentage interests in the common areas.

15.3.3 Allocation for Severance Damages. The total amount allocated to severance damages shall be apportioned to those units which were not taken or condemned.

15.3.4 Allocation for Taking of Unit. The respective amounts allocated to the taking of or injury to a particular unit and/or improvements an owner had made within his own unit shall be apportioned to the particular unit involved.

15.3.5 Consequential Damages. The amount allocated to consequential damages and any other takings or injuries shall be apportioned as the board determines to be equitable in the circumstances.

15.3.6 Follow Formula Established. If an allocation of the condemnation award is already established in negotiation, judicial decree, or otherwise, then in allocating the condemnation award the board shall employ such allocation to the extent it is relevant and applicable.

15.3.7 Distribution of Proceeds. Distribution of apportioned proceeds shall be made to the respective unit owners and their respective mortgagees in the manner provided above.

15.4 Reduction of Condominium Project Upon Partial Taking. In the event that (a) a partial taking occurs which does not result in a termination of condominium ownership hereunder, and (b) at least one (1) unit is taken or condemned and (c) the condemning authority elects not to hold, use and own said unit as a condominium unit owner subject to and in accordance with the declaration, then the provisions of this Section 15.4 shall take effect immediately upon the condemning authority taking possession of the unit or units so taken or condemned:

15.4.1 The units subject to this declaration shall be reduced to those units not taken or condemned (or not sold or otherwise disposed of in lieu of or in avoidance thereof).

15.4.2 The general common areas subject to this declaration shall be reduced to that common area not so taken or condemned.

15.4.3 The limited common areas, which were not taken or condemned, but which were appurtenant to units that were taken or condemned, shall be deemed part of the general common areas remaining subject to this declaration.

15.4.4 The percentage of undivided interest in the common areas appurtenant to each unit not so taken or condemned shall be recalculated on the basis that the value of each of said units shall remain the same as set forth herein and the value of the entire property not so taken or condemned shall be the aggregate of said values of said units.

15.4.5 Except with respect to the share of proceeds proportioned pursuant to Section 15.3 no owner or mortgagee of a unit so taken or condemned shall have, nor shall there be appurtenant to any unit so taken or condemned, any right, title, interest, privilege, duty or obligation in, to or with respect to the association or any unit, common area or

limited common area which remains subject to this declaration and which is not so taken or condemned.

15.4.6 Except as otherwise expressly provided in this section 15.4, the rights, title interests, privileges, duties and obligations of an owner and mortgagee in, to or with respect to a unit not so taken or condemned (and in, to or with respect to the association and the common areas and limited common areas appurtenant to said unit) shall continue in full force and effect as provided in this declaration.

15.4.7 The provision of Section 15.4 shall be binding upon and inure to the benefit of all owners and mortgagees of (and other persons having or claiming to have any interest in) all units which are, as well as all units which are not, so taken or condemned. All such owners, mortgagees and other persons covenant to execute and deliver any documents, agreements or instruments (including, but not limited to, appropriate amendments to the declaration, survey map and plans) as are reasonably necessary to effectuate these provisions.

15.5 Repair, Reconstruction. Any repair or reconstruction necessitated by condemnation may be carried out as provided in Section 14.5 and 14.6 of this declaration. The board may retain such portion of condemnation award proceeds due to each owner and apply the same or the required portion thereof as necessary to discharge the owner's liability, if any, for contribution to the repair or reconstruction or for any special assessment arising therefrom.

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**SECTION 16 - PROCEDURES FOR SUBDIVIDING OR COMBINING**

The subdivision and/or combining of any unit or units, common areas and facilities or limited common areas and facilities, is authorized only as follows:

16.1 Submission of Proposed Plan of Subdivision or Combination. Any unit owner or owners desiring to combine or subdivide any unit or units, common areas, or limited common areas, shall submit to the board a written request for approval of the proposed plan of subdivision or combination, which request shall be accompanied by plans and proposed amendments to the declaration, survey map and plans to accomplish the same.

16.2 Approval of Proposed Plan. The board shall then notify all other unit owners of the requested subdivision or combination and, upon written approval of such proposal by sixty-seven percent (67%) of the unit owners, or approval by a sixty-seven percent (67%) vote at a meeting of unit owners called upon due notice, the unit owner or owners submitting the proposed plan of subdivision or combination may proceed to accomplish the same according to such plans; provided, that the board may in its discretion (but it shall not be required to) require that the board, its designees, or one or more of the officers administer the work or that reasonable conditions for the protection of other units or common areas and facilities be included in any contracts for the work.

16.3 Amendment of Declaration, Survey Map and Plans to Show Subdividing or Combining. 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 appropriate documents before the subdivision or combining shall be deemed complete. These amendments must be signed by the president and attested by the secretary prior to recording.

16.4 Subdividing or Combining Affecting a Unit. No subdividing or combining which modifies any unit or its limited common area, or immediately and substantially affects any unit or its limited common areas, may be completed without the consent of the unit owner and any mortgagee of the unit.

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**SECTION 17 - AMENDMENT OF DECLARATION, SURVEY MAP AND PLANS**

This declaration and the survey map and plans may be amended as follows:

17.1 Amendments by Unit Owners. The declaration and the survey map and plans may be amended at any annual meeting of the association, or at a special meeting called for such purpose, if sixty-seven percent (67%) or more of the unit owners vote for such amendment, or without such meeting if all unit owners are notified in writing and sixty-seven percent (67%) or more approve the amendment in writing; provided, that any amendment changing the value of the property and of each of the units and each of their percentages of undivided interest in the common areas and facilities shall require the unanimous consent of the unit owners. Notice of any proposed amendment shall be given to all unit owners not less than ten (10) days prior to the date of the meeting at which the proposed amendment will be considered. Any proposed amendment must be first submitted to the board and approved prior to its adoption by a majority of the board. Copies of any proposed amendment to the declaration or to the survey map and plans shall be furnished to or made available for the examination of each unit owner form and after the time the notice of the proposed amendment is given to the unit owners, and prior to any written approvals being obtained.

17.2 Amendments by President of Association. In addition to and notwithstanding the foregoing, the President may amend this declaration and the survey map and plans, without the consent or approval of the board or of any unit owners, and upon President's sole signature, or the board may authorize amendment by signature of the president alone (attested by the secretary) without the consent of any unit owners, as follows:

17.2.1 To change the name or address of the person authorized to receive service of process.

17.2.2 To correct, clarify or complete assignments of parking and storage spaces.

17.3 Form and Signature - Recording - Effective Date of Amendments. Amendments to this declaration and to the survey map and plans shall be effective when recorded with the appropriate county officer. Amendments to this declaration shall be made in an instrument in writing, which sets forth the entire amendment and which bears the signature of the president of the association, attested by the secretary, and shall be acknowledged by them. Any amendments of the survey map and plans shall be accompanied by declaration amendments explaining the changes made and making any necessary changes in the declaration.

17.4 Amendment Terminating Condominium - Removal of Property From Submission to Act.

17.4.1 Termination or Removal by Amendment. These covenants and the condominium status of the property may be terminated and the property removed from submission to the act by an amendment recorded to this declaration which has the unanimous consent of all unit owners.

17.4.2 Lien Holders Consent. In addition, the mortgagees and holders of all liens affecting any of the units must consent or agree by recorded instrument that their mortgages or liens be transferred to the percentage of undivided interest in the property of the owner of the unit.

17.4.3 Effect of Termination or Removal. Upon termination or removal of the property from the provisions of the act, the property shall be deemed to be owned in common by the unit owners. The undivided interest in the property owned in common which appertains to each unit owner shall be their percentage of interest previously owned by such owner in the common areas.

Termination may also occur in accordance with applicable provisions of the act and provisions of sections 14 and 15 of this declaration.

## SECTION 18 - EASEMENTS - ENTRY FOR REPAIRS

This declaration establishes the following easements:

18.1 In General. In addition to the rights and easements reserved or provided for under the act (which shall be accorded whether this declaration is recognized under the act or as real covenants or equitable servitude) each unit has an easement for ingress and egress to its original entries through the common area, and is granted easements as required through common area and other units for: Location of all heating equipment, vents, flues, chimneys, pipes, wiring and plumbing and for all structural or service elements necessary or convenient for the occupation of the unit for its intended use. All such easements shall be located as such features are located in the buildings as built, or as they may become located due to settling or repair or reconstruction. The easements extend to reasonable access for purposes of repair, replacement or maintenance so long as the areas where they are located are restored after completion of such work. The easements here created are intended for implementing and maintaining the original plans as effected in the buildings as built, not to authorize features not contemplated in the original plans unless such new features are authorized by board action and do not materially and adversely affect the common area or any unit.

18.2 Easements for Association Functions. There are hereby reserved to the association such easements as are necessary to perform the duties and obligations of the association set forth in this declaration, the bylaws and the act.

18.3 Easements for Encroachments. Each unit and all common and limited common areas and facilities are hereby declared to have easements over all adjoining units and common and limited common areas and facilities for the purpose of accommodating and maintaining any encroachment due to engineering errors, errors in original construction, settlement or shifting of any buildings, or any other similar cause, and any encroachment due to building overhang or projection; provided, that in no event shall a valid easement for encroachment be created in favor of a unit owner if said encroachment occurred due to willful acts or acts with knowledge by said unit owner. In the event a unit or common or limited common area is partially or totally destroyed, and subsequently repaired or rebuilt, resulting minor encroachments over adjoining units and common and limited common areas and facilities shall be permitted, and there shall be valid easements for the maintenance of said encroachments so long as they shall exist. Said encroachments, if any, and resulting easements, shall not be construed to be encumbrances affecting the marketability of title to any unit.

18.4 Easement for Construction. There is retained an easement for the purpose of completing construction of the condominium development and all its units, common areas, or any other portion thereof. This easement affects all portions of the entire property as required, but portions of the property which have been completed and must be disturbed for other work shall be restored.

18.5 Easement For Use of Common Areas. There is reserved to each owner and member of his immediate family, and to his guests, licensees, and tenants (such uses may be regulated by

board rules) a non-exclusive easement for the right to reasonable use of the common areas (but not limited common areas) for their normal purposes. For this section, "owner" does not include the vendor under a real estate contract.

**18.6 Right of Entry For Maintenance, Repairs, Emergencies, or Improvements.** The association shall have the right to have access to each unit from time to time as may reasonably be necessary for maintenance, repair, or replacement or improvement of any of the common areas and facilities accessible therefrom, or for making repairs necessary to prevent damage to the common areas and facilities or to other units, or for any emergency situations. This right of entry prohibits unit owners from changing or adding locks or devices in order to hinder entry by representatives of the association. The association may, by rule, require that the manager maintain a key to each unit.

## SECTION 19 - MISCELLANEOUS PROVISIONS

19.1 Service of Process. The person designated for service of process for purposes specified in the act is \_\_\_\_\_. The president of the association upon his sole signature (attested by the secretary) after direction so to act by the board, may amend this declaration to designate a new person to receive such service. If the person named is no longer available at the specified address, then the service may be made upon the president of the association if a president has been selected.

19.2 Notices. The term "Notice" includes letters or other communications other than legal process. Any notices permitted or required to be delivered under the provisions of this declaration, the bylaws, or the act may be delivered either personally or by mail. If delivery is by mail, any such notice shall be deemed to have been delivered forty-eight (48) 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 address of such person, or in the case of items sent by the association at the most recent address given in writing by such person to the association. Notice to a unit owner or owners shall be sufficient if delivered or addressed to the unit if no other name or mailing address has been given the association. Notice to be given to the association may be given to the person named for service of process until the board has been elected, and thereafter shall be given to the president or secretary of the association. Acceptable proof of delivery shall include, but shall not be limited to, registered mail receipt, or post office validated or signed receipt for certified mail, or return receipt signed by party to whom the item was sent or his agent.

19.3 Records. The board shall cause to be kept complete and accurate books and records of the receipts and expenditures of the association, itemizing the expenses incurred. Such books and records and the directives authorizing payments shall be available for examine by the unit owners, their agents or attorneys, at any reasonable time or times. All books and records shall be kept in accordance with good accounting procedures and processed according to law. At least one copy of any annual financial statement and report of the association shall be furnished to each unit owner and any mortgagee requesting the same within sixty (60) days following the end of the fiscal year covered thereby or as soon as completed.

19.4 Accounts. The association shall maintain separate accounts for current operations, any reserves maintained, and a special separate insurance reserve account for payment of insurance and bond premiums. Each month the board shall assure that there is first deposited to the insurance reserve account that portion of the common expense assessments necessary to pay at least one-twelfth (1/12) of the total cost of all of the insurance and bond coverage.

19.5 Enforcement - Remedies. Each unit owner shall comply strictly with the provisions of this declaration and the bylaws, as amended from time to time. Failure to comply shall be grounds for an action to recover sums due, or for damages, or injunctive relief, or for any appropriate remedy, maintainable by the board or officers of the association on behalf of the unit owners, or in a proper case, by an aggrieved unit owner against the association, or other units owners. Failure to comply shall also entitle the association to collect reasonable attorney's fees incurred by reason of such failure, irrespective of whether any suit or other judicial proceeding is

commenced, and if suit is brought because of such failure, all costs of suite may be recovered in addition to reasonable attorney's fees by the prevailing party. No right or remedy provided or reserved by this declaration is exclusive of any other right or remedy, and in addition to the foregoing, the association shall have such rights and remedies as may be provided in this declaration, the bylaws, the act or otherwise existing at law, in equity or by statute.

19.6 Waiver. The failure of the association, the board, the association officers or agents, to require, in any one or more instances, strict performance of or compliance with any of the terms, covenants, conditions or restrictions contained in this declaration, the bylaws, or the act, or to serve any notice or to institute any action or proceeding shall not be construed as a waiver or a release thereof, but the same shall continue and remain in full force and effect; and the receipt by any of the said parties of any sum paid by a unit owner with or without the knowledge of the breach of or failure to comply with any such provision, shall not be deemed a waiver thereof; and no waiver, express or implied, of any such provision shall be effective unless made in writing pursuant to procedures specified herein or in the bylaws or in the act, or if no such procedures are specified, then in writing and signed by the president of the association pursuant to the authority contained in a resolution of the board, or by the managing authority.

19.7 Limitations of Liability.

19.7.1 Certain Exceptions from Liability. The board, association, and owners individually or as a group shall not be liable for any failure of any utility or other service, or for injury or damage to person or property caused by such failure, or by the elements, or by another unit owner or person, or resulting from electricity, water, rain, dust or sand which may lead or flow from outside or from any parts of the building, or from any pipes, drains, conduits, appliance, or equipment, including the sprinkler system, or from any other place, or resulting from loss, damage, or theft of articles used or stored by unit owners on the property in the units, or arising from compliance with any law, ordinance, regulation, or order of a governmental authority. no diminution or abatement of common expense assessment shall be claimed or allowed for losses or inconveniences or discomfort arising from any of the above causes or from the making of repairs or improvements to the common areas. This section shall not be interpreted to extend or impose any form of liability by any implication. This section extends to the protection of the

19.7.2 No Personal Liability. So long as a board member, or association committee member, or association officer has acted in pursuit of association affairs in good faith, without willful or intentional misconduct, upon the basis of such information as is then possessed by such person, then no such person shall be personally liable to any owner or group of owners or to the board or association, for any damage, loss, or prejudice suffered or claimed on account of any act, omission, error, or negligence of such person.

19.7.3 Administration - Responsibility Continues. Nothing in this section 19.7 shall eliminate the responsibilities allocated in this declaration to carry forward the administration of the condominium, association, or property.

19.8 Association Property. The board may, from common funds of the association, acquire and hold by nominee, in trust, or in the name of the association, for the benefit of the owners, tangible and intangible personal property and real property and interests therein, and may dispose of the same by sale or otherwise. The beneficial interest in such property shall be owned by the owners in the same proportion as their respective interest in the common areas, and such property shall thereafter be held, sold, leased, rented, mortgaged or otherwise dealt with for the benefit of the association as the board may direct.

19.9 Future Easements May Be Granted. In order that unit owners may be assured that in the future easements to permit installation of new or supplementary utilities may be established, it is hereby covenanted that by a vote of a majority of the voting power of unit owners, the officers may, on approval of the board, sign any easement required to add or supplement utility service for any unit and such action shall be valid for, on behalf of and as against the claims or interests of all unit owners and as against each condominium unit.

19.10 Interpretation.

19.10.1 Liberal Construction. The provisions of this declaration shall be liberally construed to effectuate its purpose of creating a plan for the development and operation of this Horizontal Property Regime. It is intended also that, insofar as it affects this declaration, bylaws and condominium development, the provisions of the act referenced herein under which this declaration is operative, shall be liberally construed to effect the intent of this declaration and the bylaws insofar as reasonably possible.

19.10.2 Gender and Number. When interpreting this declaration, or the bylaws, or any rules and regulations, the singular may include the plural and the masculine may include the feminine, or vice versa, where the context so admits or requires.

19.10.3 Declaration Effect as Covenants or Servitude. It is intended that the covenants of this declaration, together with any condominium plans attached hereto, and by this reference incorporated herein, or filed simultaneously herewith, and all amendments to the said declaration, plans or to the survey map included therein or which may be hereinafter filed for record as a part of this declaration, shall be operative as covenants running with the land, or equitable servitude, supplements and interpreting the act, and operating independently of the act should the act be, in any respect, inapplicable, to establish the common plan for the condominium development and its operation as indicated herein and in the survey map and plans; provided, however, that the provisions of this declaration shall not be so applied if the property is removed from submission to the act or discontinued in whole or part as a condominium development, unless such continued application of all or a part of the declaration is specifically called for or reasonably implied for all or part of the property.

19.11 Warranties Limited. Except as specifically expressed in any purchase agreement or special warranty document, it is agreed that the association makes no warranty, express or

implied, of fitness, habitability, merchantability or fitness for a particular purpose or of any type or kind, regarding any aspect or condition of the units, common or limited common areas, appliances fixtures or documents, costs or expenses relating to the condominium development. The buildings, units, common areas and documents are part of or relate to an existing structure which is available for the examination of potential unit owners and their mortgagees prior to closing of any sale transaction.

19.12 Severability. The provisions hereto shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion hereof shall not affect the validity or enforceability of any other provision hereof if the remaining portions are sufficient under the act, or as covenants running with the land, or as equitable servitude, to effect the common plan for division into apartment units for individual ownership.

19.13 Effective date. This declaration shall take effect upon recording.

19.14 Reference to Survey Map and Plans. The survey map and plans for the condominium development referred to herein were recorded with the proper county recording authority simultaneously with the recording of this declaration, under No. 7909240003 in Volume 2 of Surveys, page 191-193 in Skagit County. The recording authority, or any title company or escrow company or institutional lender is authorized to insert the correct recording data, or correct the same, above the signatures on this document.

IN WITNESS WHEREOF, the association has signed this declaration on 17 day of August, 1998.

VIEWMONT ASSOCIATES, a Washington Ltd.  
Partnership by Pat Koontz its President

By Pat Koontz President  
Signing as its \_\_\_\_\_

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STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF SKAGIT )

On this 12<sup>th</sup> day of August, 1998, before me the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn personally appeared Pat Koontz to be known to be the President of Viewmont Association, the limited partnership, 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 was authorized to execute the said instrument.

WITNESS my hand and official seal hereto affixed the date and year in this certificate above written.

Karan J. Thorson  
Notary Public in and for the State of Washington,  
residing in Burlington

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