

AFTER RECORDING, RETURN TO:  
Hugh Lewis, Attorney at Law, P.C.  
2200 Rimland Drive # 220  
Bellingham, WA 98226-6643  
(360) 392-2880



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CONDOMINIUM DECLARATION  
CONTAINING  
COVENANTS, CONDITIONS, RESTRICTIONS AND  
RESERVATIONS  
FOR  
FARMINGTON SQUARE CONDOMINIUM

TITLE OF DOCUMENT:

GRANTOR:

GRANTEE:

ABBREV. LEGAL DESCRIPTION:

ADDITIONAL LEGALS:

TAX PARCEL NO.:

CONDOMINIUM DECLARATION FOR  
FARMINGTON SQUARE CONDOMINIUM

FARMINGTON SQUARE, L.L.C.

THE GENERAL PUBLIC

PTN. TRACTS 45 AND 48 "BURLINGTON  
ACREAGE"

APPEAR ON PAGE 38

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## ARTICLE I

### SUBMISSION OF PROPERTY; PURPOSE

#### 1.1. Submission of Property.

FARMINGTON SQUARE, L.L.C., hereinafter referred to as the "Declarant," being the owner in fee simple of the land described in the attached Exhibit "A", hereby submits said land, together with all improvements, easements, rights and appurtenances thereunto belonging, collectively referred to hereinafter as "the Property", to the provisions of the Washington Condominium Act ("the Condominium Act", i.e., Chapter 64.34 of the Revised Code of Washington), and creates from such Property a Condominium which may be expanded, contracted or further subdivided and/or improved under Development Rights reserved hereinafter which shall be known as "Farmington Square Condominium."

#### 1.2. Reference to Survey Map.

Contemporaneously with the recordation of this Declaration, the Declarant has recorded with the Auditor of Skagit County, Washington a certain survey map and Condominium plans, showing the location and dimensions of the land described in Exhibit "A" and the location and dimensions of the improvements thereupon constructed or contemplated to be constructed, together with other information required by the Condominium Act; this survey map and Condominium plans are hereinafter together referred to as the "Survey Map" or the "Survey Map and Plans"; the Survey Map is recorded at Auditor's File No.

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#### 1.3. Purpose.

This Declaration, together with the Survey Map and Plans referred to herein, states covenants, conditions, restrictions and reservations intended by the Declarant to effect a common plan for the Condominium development of the Property mutually beneficial to all of the described Units. The covenants, conditions, restrictions, reservations and plan, including without limitation the statutory lien for Assessments described at Section 10.15 hereof, which may be foreclosed by the Association nonjudicially under the Power of Sale granted herein, are binding upon the entire Property and upon each such Unit as a parcel of realty, and upon its Owners and their heirs, personal representatives, tenants, licensees, successors and assigns, through all successive transfers of any part of the Property, irrespective of whether specifically referred to in deeds, contracts or security instruments, and regardless of any subsequent forfeitures, foreclosures, or sales of Units under security instruments, or of any forfeitures, foreclosures, or sales instituted for nonpayment of government tax, levy or assessment of any kind.

## ARTICLE II

### DEFINITIONS

2.1. "Allocated interest" means the undivided interest in the Common Elements, the Common Expense liability, and votes in the Association allocated to each Unit by the provisions of Section 5.3, 7.4.2 and 10.6 of this Declaration, pursuant to RCW 64.34.224 .



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

2.3. "Association" or "Unit Owners' Association" means the Unit Owners' Association organized under RCW 64.34.300.

2.4. "Board of Directors" means the body with primary authority to manage the affairs of the Association.

2.5. "Common Elements" means all portions of a Condominium other than the Units. The term "General Common Elements" is sometimes used herein to describe Common Elements which are not or have not yet been allocated as Limited Common Elements.

2.6. "Common Expenses" means expenditures made by or financial liabilities of the Association, together with any allocations to reserves. Such expenditures are described with particularity in Schedule 8.3.2 in Exhibit C to this Declaration.

2.7. "Common Expense liability" means the liability for Common Expenses allocated to each Unit pursuant to RCW 64.34.224, and Section 10.6 of this Declaration.

2.8. "Condominium" means real property, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the Owners of those portions. Real property is not a Condominium unless the undivided interests in the Common Elements are vested in the Unit Owners, and unless a Declaration and a Survey Map and Plans have been recorded pursuant to the Condominium Act.

2.9. "Condominium Instruments" means the Declaration, the Survey Map and Plans, the Bylaws of the Association and any Rules and Regulations adopted by the Board of Directors, and any amendments to any such documents.

2.10. "Conversion condominium" generally means a condominium which, prior to its creation, was lawfully occupied wholly or partially by one or more residential tenants or subtenants. This term is specifically defined at RCW 64.34.020(10). This Condominium does not constitute a conversion condominium.

2.11. "Conveyance" means any transfer of the ownership of a Unit, including a transfer by deed or by real estate contract, but shall not include a transfer solely for security.

2.12. "Declarant" means any entity, person or group of persons acting in concert who (a) executes the Condominium Declaration, or (b) reserves or succeeds to any Special Declarant Right under the Declaration.

2.13. "Declarant control" means the right of the Declarant or persons designated by the Declarant to appoint and remove officers and members of the Board of Directors or to veto or approve a proposed





action of the Board or Association pursuant to Sections 8.1 and 16.5 of this Declaration and RCW 64.34.308(4) or (5).

2.14. "Declaration" means the document that creates a Condominium by setting forth the information required by RCW 64.34.216, and any amendments to that document.

2.15. "Development Rights" means any right or combination of rights reserved by the Declarant in the Declaration to: (a) Add real property or improvements to the Condominium; (b) create Units, Common Elements, or Limited Common Elements within real property included or added to the Condominium; (c) subdivide Units or convert Units into Common Elements; (d) withdraw real property from the Condominium; or (e) reallocate Limited Common Elements with respect to Units that have not been conveyed by the Declarant. Development rights are personal to the Declarant and may be exercised, or not exercised, at the sole discretion of the Declarant. In this Condominium, Development rights are described in Section 3.3 hereof.

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

2.17. "Eligible Insurer" means the insurer or guarantor of a mortgage on a Unit that has filed with the secretary of the Association a written request that it be given copies of notices of any action by the Association that requires the consent of mortgagees.

2.18. "Eligible Mortgagee" means the holder of a mortgage on a Unit that has filed with the secretary of the Association a written request that it be given copies of notices of any action by the Association that requires the consent of mortgagees. The term "Eligible Mortgagee" also includes the "servicer" of a mortgage which has been acquired or securitized by secondary mortgage market entities such as the Federal National Mortgage Association ("FNMA" or "Fannie Mac") or the Federal Home Loan Mortgage Corporation ("FHLMC" or "Freddie Mac") or the like.

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

2.20. "Identifying number" means a symbol or address that represents the designation of each Unit or, in some cases, a Common Element component, in the Condominium. A list of identifying numbers for all the Units in the Condominium in existence as of the effective date of this original Declaration, along with other information required by the Condominium Act, is attached as Exhibit B to this Declaration, where such identifying numbers are listed in a column below the words "Unit No."

2.21. "Leasehold Condominium" means a Condominium in which all or a portion of the real property is subject to a lease, the expiration or termination of which will terminate the Condominium or reduce its size. This Condominium is not a leasehold Condominium.

2.22. "Limited Common Element" means a portion of the Common Elements allocated by Article VI of the Declaration or by operation of RCW 64.34.204(2) or (4) for the exclusive use of one or more but fewer than all of the Units.



2.23. "Limited Common Assessment" means a portion of the Common Expenses of the Association which may be specially assessed against one or more but fewer than all of the Units pursuant to Section 10.8 of this Declaration.

2.24. "Master Association" means an organization described in RCW 64.34.276.

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

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

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

2.28. "Reserved Common Element" means a portion of the Common Elements which is designed for temporary storage or other purposes by one or more Owners or occupants, upon payment to the Association of such user fees and upon satisfaction of such other conditions as the Board, by resolution, may deem appropriate; the right to use a Reserved Common Element shall be deemed to be a license rather than an interest in the property so reserved.

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

2.30. "Special Declarant Rights" means rights reserved for the benefit of the Declarant to: (a) Complete improvements indicated on survey maps and plans filed with the Declaration under RCW 64.34.232; (b) exercise any Development Right under RCW 64.34.236; (c) maintain sales offices, management offices, signs advertising the Condominium, and models under RCW 64.34.256; (d) use easements through the Common Elements for the purpose of making improvements within the Condominium or within real property which may be added to the Condominium under RCW 64.34.260; (e) make the Condominium part of a larger Condominium or a development under RCW 64.34.280; (f) make the Condominium subject to a master Association under RCW 64.34.276; or (g) appoint or remove any officer of the Association or any master Association or any member of the Board of Directors, or to veto or approve a proposed action of the Board or Association during any period of Declarant control under RCW 64.34.308(4). In this Condominium, Special Declarant Rights are described in Section 16.5 hereof.

2.31. "Special Limited Common Elements" means those Limited Common Elements which shall be repaired, replaced and subjected to periodic required maintenance by the Association at the expense of the Owner of the Unit to which such Limited Common Element is allocated, under Sections 6.2.3 and 10.8 of this Declaration. In this Condominium, the Special Limited Common Elements consist of: none at the time of recordation of this Declaration, but this term will include any areas or facilities which are constructed and permitted to exist among the Common Elements by or at the request of any Unit Owner(s) after the recordation of this Declaration, and which are designed for use solely by such Owner(s).

2.32. "Timeshare" shall have the same meaning specified in the timeshare act, RCW 64.36.010(11).

2.33. "Unit" means a physical portion of the Condominium designated for separate ownership, the boundaries of which are described pursuant to RCW 64.34.216(1)(d). "Separate ownership" includes leasing



a Unit in a leasehold Condominium under a lease that expires contemporaneously with any lease, the expiration or termination of which will remove the Unit from the Condominium.

2.34. "Unit Owner" means the Declarant or any other person who owns a Unit or leases a Unit in a leasehold Condominium under a lease that expires simultaneously with any lease, the expiration or termination of which will remove the Unit from the Condominium, but does not include a person who has an interest in a Unit solely as security for an obligation. "Unit Owner" means the vendee and not the vendor of a Unit under a real estate contract.

2.35. "Upkeep" means any care, inspection, maintenance, operation, repair, repainting, remodeling, restoration, improvement, renovation, alteration, replacement and reconstruction that is required to maintain property in a decent, safe and sanitary condition, in keeping with the standards of the Condominium Community.

### ARTICLE III

#### DESCRIPTION OF LAND, SCHEME OF DEVELOPMENT, AND DEVELOPMENT RIGHTS

##### 3.1. Land and Street Addresses.

The land on which the buildings and improvements of this Condominium are located is situated in Burlington, Skagit County, Washington, and is more particularly described in Exhibit "A" which is attached hereto and incorporated herein. Street addresses of the Units are listed in Exhibit B to this Declaration.

##### 3.2. Scheme of Development.

This Condominium is a "land condominium" where the Units consist of large blocks of earth and air which are depicted on the Survey Map. The project is designed to be similar to a "detached Planned Unit Development", which permits the Condominium to qualify for limited project review under Part XII, Section 104, Fannie Mae Selling Guide [Rev. 04/12/02]. In such projects, property owners share ownership of common facilities in some fashion, but commonly will separately insure their own dwellings. Because this project is generally restricted for use by persons over the age of 55 years, under the provisions of Section 9.1.2 hereof, the Association will maintain various structural portions of the dwellings in the project.

##### 3.3. Development Rights.

###### 3.3.1. Description.

Pursuant to RCW 64.34.216(1)(j), the Declarant has reserved Development rights which are personal to the Declarant and may be exercised, or not exercised, at the sole discretion of the Declarant. These include the rights to construct improvements within the Units and Common Elements in the project. Dwelling structures and accessory structures within the Units will be constructed in "construction phases" in which substantially completed Units will be offered for sale in groups. The size of each "construction phase" will be market-driven, in consultation with Declarant's construction lenders. No Unit will be offered for sale until the dwelling structure within the Unit is substantially completed. See Section 4.1.2 hereof for further details. Declarant may also create an entry gate facility.

###### 3.3.2. Procedure for Exercise.



To confirm the exercise of any Development Right reserved under Section 3.3.1 of this Declaration, the Declarant shall prepare, execute, and record an amendment to the Declaration which describes the conversion of Development Units into Residential Units and completes appropriate portions of Exhibit B to this Declaration to conform that Exhibit to the type and size of dwelling constructed therein and, if applicable, which street address is appropriate for the type of Unit so constructed.

3.3.3. Time Limits on Development Rights.

The Declarant may exercise the Development Rights described in Section 3.3.1 of this Declaration within seven years from the date of the conveyance by the Declarant of the first Unit in the Condominium to a person other than the Declarant. Declarant may commence construction of any improvements relating to such Development Rights at any time prior thereto, under the Easement Rights and Special Declarant Rights reserved in Sections 16.3 and 16.5 of this Declaration.

3.3.4. Sequence of Exercise of Rights.

The Declarant declares, pursuant to RCW 64.34.216(1)(k), that subject to the time limitations stated in Section 3.3.3 hereof, the Development Rights described in Section 3.3.1 of this Declaration may be exercised at any time, at different times and in any order, without further assurances or limitation of any sort.

3.3.5. Declarant's Liability for Expenses.

In addition to the liability that the Declarant as a Unit Owner has under this Declaration, the Declarant alone is liable for all expenses in connection with real property subject to Development Rights. No other Unit Owner and no other portion of the Condominium is subject to a claim for payment of those expenses. Any income or proceeds from real property subject to Development Rights shall inure to the Declarant.

ARTICLE IV

UNITS

4.1. Number and Location.

4.1.1. In General.

The Condominium contains forty-nine (49) Units which are depicted on the Survey Map and Plans. The location of existing Units within the buildings and the dimensions of those Units are shown on the Survey Map and Plans. Exhibit B hereto contains a list of all Units, their identifying numbers, size, type, the Allocated Interests appurtenant to each Unit, and other information required by the Condominium Act.

4.1.2. Residential Units and Development Units.

Units in the Condominium in which dwelling structures have been substantially completed are known herein as "Residential Units"; such Units will be offered for sale by the Developer. Units in the Condominium which are unimproved and lack substantially completed dwelling structures are known herein

as "Development Units". Initially, all Units in the Condominium are Development Units; such Units are designed to support and contain the construction of approved dwelling structures, and to provide security for construction lenders in the project. Each Development Unit shall be deemed to have been converted to a Residential Unit upon the issuance of a Certificate of Occupancy for such Unit by the City of Burlington. Such conversion will permit the sale of a Unit to a residential purchaser, but such conversion will not in any way affect the rights of a lender secured in such Unit.

#### 4.1.3. Assurances Connected with Phased Development.

When the Declarant exercises a Development Right to complete dwelling structures and related improvements within Development Units in the Condominium, such improvements shall be constructed using materials of quality and appearance comparable to those used in the earlier phases of development, employing an architecturally compatible design so as to preserve harmonious appearance relative to the initial phases of development, and shall be painted and landscaped appropriately.

#### 4.2. Unit Boundaries.

The boundaries of each Unit are as follows:

##### 4.2.1. Upper and Lower (horizontal) Boundaries.

The upper and lower boundaries of the Unit shall be the following boundaries extended to an intersection with the vertical (perimetric) boundaries.

(a) Upper Boundary: A plane lying eighty (80) feet above an elevation benchmark identified on the Survey Map and Plans.

(b) Lower Boundary: A plane lying twenty (20) feet below an elevation benchmark identified on the Survey Map and Plans.

##### 4.2.2. Vertical (perimetric) Boundaries.

The vertical boundaries of the Unit shall consist of planes extending vertically from the location of those boundaries for the Unit depicted on the Survey Map and Plans, to the intersections of those planes with the upper and lower boundaries of the Unit.

##### 4.2.3. Boundaries Independent of Improvements

Neither the exterior nor interior walls of any building or appurtenant structure shall constitute a boundary of the Unit. All such structures shall be maintained within the boundaries of the Unit.

#### 4.3. Additional Items Included in Units.

Each Unit contains earth and portions of airspace as described above. In addition, the Unit shall include, as an appurtenance to such property, any Dwelling or accessory structure placed or erected within the Unit, along with any driveway improvements, interior fixtures, appliances, mechanical, electrical and other systems and equipment, and any heating and/or air-conditioning units installed for the sole and exclusive use of the Unit.



#### 4.4. Items Excluded from a Unit.

A Unit shall be deemed not to include: pipes, wires, conduits and other public utility lines which are utilized for or serve more than one Unit or the Common Elements.

#### 4.5. Upkeep of Units.

##### 4.5.1. Association's Responsibility.

Except as provided hereinafter with respect to Units 1 and 2, the Association shall have primary responsibility for all yard and landscape maintenance within the Units, and for Upkeep of the roofs and exterior painting of the Dwellings within the Units, and for Upkeep of any other portions of the exterior portions of Dwellings that the Association, by resolution, may hereafter elect to maintain. With respect to Units 1 and 2, the Declarant alone shall be responsible for all necessary Upkeep and insurance of the older dwelling structure located on such Units, until such time as new dwelling structure(s) are constructed therein.

##### 4.5.2. Owners' Responsibility.

Each Owner shall, at his or her sole expense, have the right and the duty to keep the interior portions of the Dwelling erected within his or her Unit and any equipment, appliances, and fixtures contained therein in good order, condition and repair and shall do all interior redecorating and painting at any time necessary to maintain the good interior appearance and condition of his or her Dwelling. Each Owner shall also be responsible for the Upkeep of exterior windows and doors, decks and other exterior portions of the Dwelling, along with individual heating, ventilating or air-conditioning equipment, wherever located, installed for the sole and exclusive use of the Unit, and of any hot tub or other device or equipment lying outside the Dwelling but lying within the Unit. This Section shall not be construed as permitting any interference with or damage to the structural integrity of a building or interference with the use and enjoyment of the Common Areas or of any other Unit(s), nor shall it be construed to limit the powers or obligations of the Board hereunder. See also Section 8.4 hereof.

#### 4.6. Alterations of Units.

Subject to the provisions of this Declaration and other provisions of law, a Unit Owner:

4.6.1. May make any improvements or alterations to the interior portions of a dwelling constructed within an Owner's Unit that do not affect the structural integrity or mechanical or electrical systems of any other Unit or the Common Elements, or lessen the support of any portion of the Condominium;

4.6.2. May not change the appearance of the Common Elements or the exterior appearance of any building constructed within the Unit, nor construct or erect any additional improvements within the Unit without permission of the Association;

#### 4.7. Construction of Dwellings and Other Improvements Within Units.

Dwelling Units will be constructed within the Units by or under the direction of the Declarant, according to a common design scheme established by the Declarant. No person other than the Declarant shall



make any addition, alteration or improvement in or to any Unit, other than for normal Upkeep or natural landscaping, which is visible from the exterior of the Unit (excluding areas within a dwelling's building envelope which are visible from the exterior only because of the transparency of glass doors, walls or windows), without the prior written consent of the Board of Directors. No person other than the Declarant shall paint or otherwise alter the exterior of any improvement, including the doors and windows, if such exterior is visible from another Unit or the Common Elements, without the prior written consent of the Board of Directors. Any addition, alteration or improvement upon any Unit existing in violation of the Condominium Instruments shall be removed or altered to conform to the Condominium Instruments (including any Design Guidelines adopted by the Declarant or the Board of Directors) within thirty days after notice from the Board of Directors of the violation.

4.8. Combining Units and Relocation of Unit Boundaries.

4.8.1. Subject to the provisions of any applicable building, zoning or other applicable regulations, and with the consent of any Eligible Mortgagees holding mortgages in the affected Units pursuant to Schedule 15.3 in Exhibit C to this Declaration, the boundaries between adjoining Units may be relocated, or Units may be combined, but only by an amendment to the Condominium Instruments as provided in Article XVII hereof, following application to the Association by the Owners of those Units. If the Owners of the adjoining Units have specified a reallocation between their Units of their Allocated Interests, the application must state the proposed reallocations. Where two or more entire Units are combined, the Allocated Interests allocated to the resulting Unit shall equal the sum of the Allocated Interests formerly allocated to each of the Units which were combined. Unless the Board of Directors determines within thirty days that the reallocations are unreasonable, the Association shall prepare an amendment to the Declaration that identifies the Units involved, states the reallocations, is executed by those Unit Owners, contains words of conveyance between them, and is recorded in the name of the grantor and the grantee in the Office of the County Auditor.

4.8.2. The Association shall obtain and record Survey Maps or Plans complying with the requirements of RCW 64.34.232(4) necessary to show the altered boundaries between adjoining Units and their dimensions and identifying numbers.

4.8.3. The reasonable costs incurred in preparing and recording amendments to the Condominium Instruments shall be paid by the Owners of the adjoining Units to the Association prior to recordation of such amendments.

4.9. Damaged Improvements.

If a Dwelling or other major improvement located upon a Unit is damaged or destroyed, the Owner thereof shall promptly repair or rebuild such Dwelling or improvements, under the supervision of the Board of Directors as provided in Section 9.2 hereof. Unless the Board of Directors permits a longer time period, such work must be commenced within four months after the casualty and be substantially completed within twelve months after the casualty. The four-month period may be extended for a reasonable period thereafter in the event that repairs or reconstruction have not commenced because of factors beyond the control of the Owner, provided that the Owner has exercised and does thereafter continue to exercise due diligence in an effort to commence required work.. All work must be performed by licensed, bonded contractors following issuance of all required permits. See also Section 8.3.2(g) of Exhibit C hereto.



## ARTICLE V

### COMMON ELEMENTS

#### 5.1. Common Elements.

Except as otherwise specifically reserved, assigned or limited by the provisions of Article VI hereof, the Common Elements of the Condominium, which may also be referred to as "General Common Elements," consist of the following:

5.1.1. The land above described, exclusive of those portions of the land included within the Units, but including the open space areas depicted on the Survey Map.

5.1.2. Installations of services for common use such as main power lines, exterior lighting, main water or sewer lines, pipes, conduits, and wires, wherever they may be located, any common mailbox facilities, and in general any and all apparatus and installations existing for common use rather than for any one Unit.

5.1.3. The Community Building.

5.1.4. The private roadways providing access to the Units and the storm-water detention and transport system..

5.1.5. The RV Parking Area and, if constructed by the Declarant, the entrance gate and its related equipment.

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

#### 5.2. Partition, Conveyance, or Encumbrance.

5.2.1. Except as permitted by this Declaration or the Condominium Act, the Common Elements shall remain undivided and shall not be abandoned by act or omission, and no Unit Owner or other person may bring any action for partition or division of the Common Elements, except as provided in Section 6.3 hereof. Portions of the Common Elements which are not necessary for the habitability of a Unit may be conveyed or subjected to a security interest by the Association, subject to RCW 64.34.348, if the Owners of Units to which at least eighty percent of the votes in the Association are allocated, including eighty percent of the votes allocated to Units not owned by the Declarant or an affiliate of the Declarant, along with that percentage of Eligible Mortgagees specified in Article XV of this Declaration consent to this action; but all the Owners of Units to which any Limited Common Element is allocated must agree in order to convey that Limited Common Element or subject it to a security interest. Proceeds of the sale or financing of General Common Elements are an asset of the Association. Proceeds of the sale or financing of a Limited Common Element may be allocated between the Association and the Unit(s) to which it was formerly appurtenant, in such reasonable proportion as the Association and Unit Owner(s) may agree, subject to Section 5.2.2 hereof.

5.2.2. An agreement to convey Common Elements or subject them to a security interest must be evidenced by the execution of an agreement, or ratifications thereof, in the same manner as required for deeds, by the requisite number of Unit Owners. The agreement must specify a date after which the





agreement will be void unless recorded before that date. The agreement and all ratifications thereof must be recorded in every county in which a portion of the Condominium is situated and is effective only upon recording.

5.2.3. Any purported conveyance, encumbrance, or other voluntary transfer of Common Elements, unless made pursuant to this section, is void. A conveyance or encumbrance of Common Elements pursuant to this section shall not deprive any Unit of its rights of access and support, nor shall it affect the priority or validity of preexisting encumbrances.

5.3. Allocated Interests.

Pursuant to RCW 64.34.224(1), the Declarant has allocated to each Unit in the Condominium an equal undivided interest in the Common Elements of the Condominium, which is known as the Unit's Allocated Interest in the Common Elements. Each Unit's Allocated Interest in the Common Elements is expressed as a percentage and is stated with particularity on the attached Exhibit B.

5.4. Maintenance, Repair and Replacement.

The Association is responsible for maintenance, repair, and replacement of the Common Elements, including the Reserved Common Elements.

5.5. Right of Access.

Each Unit Owner shall afford to the Association and the other Unit Owners, and to their agents or employees, access through the Owner's Unit and any Reserved Common Elements reserved by the Owner as may be reasonably necessary for the purposes of maintenance, repair and replacement. If damage is inflicted on the Common Elements, or on any Unit through which access is taken, the Unit Owner responsible for the damage, or the Association if it is responsible, shall be liable for the repair thereof, as provided in Section 8.4 hereof.

5.6. Schedules for Routine Maintenance and Reserves.

The Board, with the assistance of the Association's Manager or other competent professionals, should develop a schedule of routine maintenance for all components of the Common Elements which require same, establishing appropriate times during each year when such maintenance should occur. The Board should also periodically undertake an analysis of the adequacy of the Association's reserve fund; such analysis should (i) ascertain the probable remaining useful life of each component of the Common Elements which will require replacement or major repairs, (ii) estimate the probable cost of such replacement or repair for each such component, (iii) establish an annual reserve budget which would, when funded, minimize the necessity for the imposition of a special assessment upon the Owners within the foreseeable future.

5.7. Maintenance of Storm-water Detention Facilities.

No construction, clearing, grading, filling, landscaping, mowing, burning or chemical maintenance of plants shall occur within any areas identified on the Survey Map and Plans for use in storm-water detention or transport. The Board is charged with responsibility to maintain such areas in a condition suitable for such purposes. The engineered portions of the storm-water detention and transport system shall



be maintained by the Board in accordance with the Operations and Maintenance Manual prepared for such facilities for the Declarant by Summit Engineering.

5.8. Parking Spaces.

The parking spaces available for use by occupants of the Condominium are depicted on the Survey Map and Plans. Use of all parking spaces shall be governed by the provisions of Section 9.1.3 hereof.

ARTICLE VI

LIMITED COMMON ELEMENTS AND RESERVED COMMON ELEMENTS

6.1. Limited Common Elements.

Limited Common Elements are those portions of the Common Elements allocated to and reserved for the exclusive use of one or more, but fewer than all of the Units. This Condominium presently has no Limited Common Elements.

6.2. Reserved Common Elements.

Parking spaces in the RV parking area shall constitute Reserved Common Elements which will become available for rental from the Association on a non-discriminatory basis at such rates and subject to such other appropriate terms and conditions as may be determined from time to time by the Board of Directors.

ARTICLE VII

UNIT OWNERS ASSOCIATION

7.1. Name and Form of Association.

The name of the Association shall be the "Farmington Square Owners' Association." The Association has been or will be incorporated by the Declarant prior to the first conveyance of a Unit in the Condominium as a non-profit corporation under the laws of the State of Washington. The rights and duties of the members and of said corporation shall be governed by the provisions of the Condominium Act and of this Declaration. The Association shall remain organized as a profit or nonprofit corporation. In case of any conflict between Chapter 24.06 RCW, the Nonprofit Miscellaneous and Mutual Corporations Act, and the Condominium Act, the Condominium Act shall control.

7.2. Powers of Association.

The Association shall, through its Board of Directors, all powers available to condominium associations under the Condominium Act, including the power to assign its right to future income (including the right to receive common expense assessments), provided that such assignment is approved by a majority of the voting power of the membership of the Association. Such powers are set forth with particularity in the Bylaws of the Association.



7.3. Membership.

Membership rights are specified in the Bylaws of the Association

7.4. Voting.

7.4.1. Voting Rights.

The manner of voting shall be as prescribed in the Bylaws.

7.4.2. Allocated Interests.

Pursuant to RCW 64.34.224(1), the Declarant has allocated to each Unit in the Condominium an equal vote in the Association which is known as the Unit's Allocated Interest for voting, or "vote". Each Unit's Allocated Interest for voting is expressed as a percentage of the total voting power and is stated with particularity on the attached Exhibit B. In the event that the Declarant exercises a Development Right to create additional Units in the Condominium, these initial Allocated Interests shall be reallocated pursuant to Section 3.3.2 hereof.

7.5. Bylaws of Association.

Bylaws for the administration of the Association and the Property, and for other purposes not inconsistent with the Condominium Act and this Declaration have been or will be prepared by the Declarant, subject to the approval of the initial Board of Directors of the Association.

ARTICLE VIII

MANAGEMENT OF CONDOMINIUM ASSOCIATION

8.1. Management by Declarant.

The Declarant, pursuant to RCW 64.34.308, has reserved the rights to (a) appoint and remove the Officers and members of the Board of Directors of the Association, and (b) veto or approve a proposed action of the Board or the Association, for a period of time known as the "Declarant Control Period". Limitations on the Declarant Control Period are specified in Section 5.1 of the Bylaws. At the termination of the Declarant Control Period, the Declarant shall provide the Association with all documents and things required under RCW 64.34.312.

8.2. Professional Management.

Standards for professional management of the Association are specified in Section 8.2 of the Bylaws.

8.3. Authority of the Board.

8.3.1. General Authority.



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The Board, for the benefit of the Condominium and the Owners, shall enforce the provisions of the Condominium Instruments and shall have all powers and authority granted to the Board or the Association under the Condominium Act and this Declaration which are not expressly subject to the approval of Unit Owners.

8.3.2. Common Expenses.

The Board shall acquire and shall pay for, as Common Expenses, all goods and services requisite for the proper functioning of the Condominium, including, but not limited to, the items described in Schedule 8.3.2 in Exhibit C to this Declaration.

8.3.3. Liens or Encumbrances.

The Board may also pay any amount necessary to discharge any lien or encumbrance levied against the entire Property or any part thereof which is claimed to or may, in the opinion of the Board, constitute a lien against the Property or against the Common Elements, rather than merely against the interest therein of particular Owners. Where one or more Owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it, and any costs and expenses incurred by the Board by reason of such lien or liens shall constitute Special Assessments against the Units responsible, to the extent of their responsibility.

8.3.4. Acquisition of Property.

The Board may acquire and hold 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. 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.

8.3.5. No Business Authority.

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

8.4. Right of Entry.

The Board and its agents or employees may enter any Unit when necessary in connection with any maintenance, landscaping or construction for which the Board is responsible, or in the event of emergencies. Except in the case of an emergency, reasonable advance notice shall be given to the Unit Owner and, if applicable, to any lawful tenant or subtenant in the Unit. Such entry shall be made with as little inconvenience to the Owners and/or occupants as practicable, and any damage caused thereby shall be repaired by the Association out of the Common Expense fund if the entry was due to an emergency (unless the emergency was caused by the Owner or lawful occupant of the Unit entered, in which case the cost shall be specially assessed to the Unit entered) or for the purpose of maintenance, or repairs, to Common or Limited Common Elements where the repairs were undertaken by or under the direction or authority of the Board. If the repairs or maintenance were necessitated by or for the Unit entered or its Owners or lawful occupants, or requested by its Owners, the costs thereof shall be specially assessed to such Unit. See also Schedule 8.3.2(g) of Exhibit C to this Declaration.



8.5. Board as Attorney in Fact.

Each Owner, by the act of becoming an Owner of a Unit, shall be deemed to have irrevocably appointed the Board of Directors as his or her attorney-in-fact, with full power of substitution, to take such actions as are reasonably necessary to perform the duties of the Association and Board hereunder, including, but not limited to, the duties to maintain, repair and improve the Property, to deal with the Unit upon damage or destruction, to grant licenses and easements, and to secure and distribute condemnation awards and/or insurance proceeds.

8.6. Limitations on Power of Board.

The Board of Directors shall not act on behalf of the Association to amend the Declaration in any manner that requires the vote or approval of the Unit Owners pursuant to RCW 64.34.264, to terminate the Condominium pursuant to RCW 64.34.268, or to elect members of the Board of Directors or determine the qualifications, powers, and duties, or terms of office of members of the Board of Directors pursuant to Section 8.2 hereof; but the Board of Directors may fill vacancies in its membership for the unexpired portion of any term.

ARTICLE IX

PERMITTED USES; ARCHITECTURAL UNIFORMITY

9.1. Permitted Uses.

9.1.1. Residential Use.

The Units and buildings shall be used for residential purposes only, whether on an ownership or rental basis, and for common social, recreational or other reasonable uses normally incident to such purposes. The Board may also permit the use of all or part of a Unit for a professional office, provided that such use is consistent with all applicable laws, ordinances and regulations of any governmental authority. As a condition to consenting to such office use, the Board may require the Unit Owner to pay any increase in the rate of insurance for the Condominium which may result from such office use, and to provide proof of adequate personal/business liability insurance coverage.

9.1.2. Housing for Older Persons Requirements.

The Condominium has been designed as housing for older persons, and shall be operated generally for occupancy by persons fifty-five (55) years of age or older, in accordance with the provisions of Title 42 U.S.C. §3607(b)(2)(B), and with regulations later promulgated by the Secretary of HUD thereunder. The Association shall maintain a list of all Occupants and their respective birth dates to assure compliance with this Section, and shall take the steps identified in Subpart (iii) hereof to continually verify the ages of residents. Owners and Occupants shall be subject to the following requirements:

(i) Except as provided immediately below, the Units in this Condominium are intended for the use and occupancy by older persons. At least 80 percent of the Units in the housing shall be occupied by at least one person who is at least fifty-five (55) years of age or older. Visitors under the age of 21 years (hereinafter, "young visitors") shall be allowed to visit Owners or Occupants of Units, but only for periods of time not to exceed thirty (30) nights out of any six (6) month period as to each visitor. The Board may



adopt additional rules regarding such visitations, and may require that any visitor found to be unreasonably disturbing other Owners be required to leave the premises, and may exercise its authority for specific visitors even though other visitors are permitted to remain.

(ii) No Unit shall be sold, rented or leased to any person or persons unless the standards established in this paragraph are complied with. Without limiting the authority of the Board described in the Bylaws, the Association shall have the specific legal right to seek injunctive relief from the Superior Court of the State of Washington for Skagit County with respect to any Owner or Occupant found to be not in compliance with this Section 9.1.2. Noncomplying Occupants may be evicted. The prevailing party in such an action shall be entitled to reasonable attorneys' fees and costs of suit.

(iii) The Association shall maintain permanent records substantiating its continuing compliance with the policies and age limitations described herein, and shall regularly update such records, through surveys or other means. Such updates must take place at least once every two years. A survey may include information regarding whether any units are occupied by persons who are (a) employees of the Association who perform substantial management or maintenance functions for the Condominium Community, (b) persons who are necessary to provide a reasonable accommodation to disabled residents; or (c) family members residing in Units with their older relatives. Any of the following documents are considered reliable documentation of the age of the Occupants of the Condominium Community: Driver's license; Birth certificate; Passport; Immigration card; Military identification; Any other state, local, national, or international official documents containing a birth date of comparable reliability; A certification in a lease, application, affidavit, or other document signed by any member of the household age 18 or older asserting that at least one person in the unit is 55 years of age or older; or forms or applications previously submitted by or on behalf of such Occupant.

(iv) A summary of occupancy surveys undertaken under Subpart (iii) above shall be available for inspection upon reasonable notice and request by any person.

(v) The Association shall post in the Common Elements of the Condominium notices describing the Condominium as housing for persons 55 years of age or older. Phrases such as "adult living", "adult community", or similar statements are not consistent with an intent that this Condominium intends to operate as housing for persons 55 years of age or older.

#### 9.1.3. Vehicle Parking.

Parking areas in the Common Elements and in unenclosed portions of the Units are restricted to use for parking of operable, properly registered automobiles, light trucks and family vans; other items and equipment may be parked or kept therein only if expressly permitted by Rules and Regulations and only in such parking areas, if any, as may be designated for such purpose by the Board of Directors. Garage parking areas within Units are restricted to use for parking of automobiles, motorcycles, light trucks, family vans and other similar vehicles, and for storage of such other items that pose no unreasonable health, safety or fire risks to persons or property. Vehicle repairs other than ordinary light maintenance are not permitted on the Property. The Board may require removal of any inoperative or unregistered vehicle, and any other equipment or item improperly stored in parking spaces. If the same is not removed, the Board may cause removal at the risk and expense of the owner thereof, under such reasonable procedures as may be provided by Rules and Regulations adopted by the Association. Any designated visitors parking areas shall be left open for use by visitors, guests, invitees and licensees of Unit Owners and their tenants. Handicapped spaces shall remain open for use by vehicles properly designated for handicapped use. Use of Garage areas is



further governed by Section 8.4 hereof. Parking of operable, properly registered automobiles, light trucks and family vans is permitted in driveway areas in front of dwellings within the Units. On-street parking in front of the Units is prohibited.

9.1.4. RV Parking.

Except as hereinafter provided, junk vehicles (as defined in RCW 46.55.010), Recreational Vehicles (including without limitation camper-trailers, mobile homes, motor homes, "fifth-wheels", off-road vehicles, boats, airplanes or etc.), large commercial-style vehicles (including without limitation trucks, tractors, large vans or other types of vehicles or equipment which either require a commercial vehicle operator's license or which exceed 6,000 lbs in gross vehicle weight) or any other type of vehicle or equipment which exceeds 20 feet in length may not be stored, kept or maintained anywhere within the Condominium, except in the RV parking area, subject to the provisions of Section 6.2 hereof. Recreational Vehicles may also be parked in driveway areas for up to a maximum of three consecutive nights to facilitate loading and unloading thereof. The Board may require removal of any vehicle or equipment not authorized by this Section; if it is not removed from the Condominium Property, the Board may cause its removal at the risk and expense of the owner thereof, under such reasonable procedures as may be consistent with the provisions of RCW 46.55. Failure of an Owner or other occupant to remove such a vehicle or equipment from a Unit or the Common Elements may result in any or all remedies available to the Association under the Condominium Instruments.

9.1.5. Interference with Common Elements.

No Unit Owner shall obstruct any of the Common Elements nor shall any Unit Owner place or cause or permit anything to be placed on or in any of the Common Elements (except those areas designated for storage by the Condominium Instruments) without the approval of the Board. Nothing shall be damaged, altered, constructed in or removed from the Common Elements except with the prior written consent of the Board of Directors.

9.1.6. Effect on Insurance.

Nothing shall be done or maintained in any Unit or in the Common Elements which will increase the rate of insurance on the Common Elements or Units without the prior written consent of the Board. No Owner shall permit anything to be done or maintained in his or her Unit or in the Common Elements which will result in the cancellation of insurance on any Unit or any part of the Common Elements.

9.1.7. Signs.

No sign of any kind shall be displayed to the public view on or from any Unit or Common Elements without the prior consent of the Board; provided that this section shall not apply to Declarant or Declarant's agents, nor shall it be deemed to prohibit the Owner of a Unit from displaying a sign for a period of time in which the Owner's Unit is for sale or rent. The Board may by resolution establish further policies regarding signs.

9.1.8. Animals.

The maintenance, keeping, boarding and/or raising of animals, livestock, poultry, or reptiles of any kind, regardless of number, shall be and is prohibited within any Unit or upon the Common Elements,



except that the keeping of small birds, aquarium fish, well-behaved dogs and/or cats and other well-behaved animals which do not normally leave the Unit or its adjacent Limited Common Elements is permitted, subject to Rules and Regulations adopted by the Board of Directors. The owner of any animal maintained on the Property shall exercise appropriate control over the animal, and shall clean up after such animal and shall not permit deposits of fecal matter, urinary residue or foodstuffs from or for such animal to remain anywhere on the Common Elements. Any Unit Owner who keeps or maintains any animal upon any portion of the Property shall be deemed to have indemnified and agreed to hold the Unit Owners Association, each Unit Owner and the Declarant free and harmless from any loss, claim or liability of any kind or character whatever arising by reason of keeping or maintaining such animal within the Condominium. All animals shall be registered and inoculated as required by law. The Board of Directors may establish reasonable fees not to exceed the additional costs incurred by the Unit Owners Association resulting from the presence of such animals. The Board may at any time require the removal of any animal which it finds is or has become an unreasonable source of annoyance, and may exercise this authority for specific animals even though other animals are permitted to remain.

9.1.9. Offensive or Illegal Activity.

No noxious, offensive, smelly, or illegal activity shall be carried on in any Unit or the Common Elements, nor shall anything be done therein which is or may become a nuisance or an unreasonable source of annoyance to other Owners or other lawful occupants of the Property.

9.1.10. Hazardous Substances.

A person shall maintain or store on or in the Property only such property and materials which may be legally possessed by such person. No person shall improperly store within or release from a Unit or into the Common Elements any petroleum distillates, liquid or aromatic hydrocarbons, medical wastes or infectious biological agents, acids, caustics, carcinogens, mutagens, heavy metals, or any other inflammable, toxic, explosive, radioactive, or other type of substance which may be hazardous to either the Condominium Property or to the public health or safety, or the health or safety of any lawful occupants of the Condominium community, any and all such substances being known herein as Hazardous Substances.

9.1.11. Noise.

No person shall cause any unreasonably loud noise anywhere on the Property, nor shall any person permit or engage in any activity, practice or behavior for the purpose of causing annoyance, discomfort or disturbance to any person lawfully present on any portion of the Property.

9.1.12. Television and Radio Antennas, Dishes.

Satellite TV antennas/dishes 1 meter or less (approximately 36") in diameter may be installed within a Unit. Larger satellite dishes and other types of reception or transmission antennas may be installed within a Unit only if reasonably screened from view from other Units and the Common Elements. Ham radio and "citizens band" antennas may be used for transmission purposes only so long as they do not cause interference with electronic equipment of neighboring property owners. No reception or transmission devices may be located within the Common Elements unless expressly permitted by the Board of Directors.

9.1.13. Security Systems.



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In the event that either the Declarant or the Association shall install a central security system within the Condominium, no Owner shall install or maintain any alternative security system which shall interfere with the proper operation of the central system, nor shall any Unit's individual security system be connected in any way with any such central system without the advance written approval of the Board of Directors.

9.1.14. Private Yard Areas Within Units.

In the event that portions of the yard areas of a Unit are not maintained by the Association, each such area shall be maintained by the Owner of the Unit to which it is allocated in a neat and tidy manner, consistent with such reasonable rules and regulations as the Board of Directors may promulgate with respect thereto.

9.1.15. Lease Restrictions.

Any lease agreement shall be required and deemed to provide that the terms of the lease shall be subject in all respects to the provisions of the Condominium Instruments, and that any failure by the Lessee to comply with such provisions shall be a default under the lease, entitling the Association to enforce such provisions as a real party in interest. To ensure that legally-required percentages of occupancy by older persons, as established in Section 9.1.2 (i) hereof, are continually met in this Condominium, tenants will be required to provide birth certificates, drivers' licenses, marriage certificates, or other forms of evidence of their age to permit the Association to meet its obligations under Section 9.1.2 (iii) hereof. All leases shall be in writing. A lease, as defined herein, shall include month-to-month rentals. Other than the foregoing, there is no restriction on the right of any Unit Owner to lease his or her Unit. Any tenant or subtenant of any portion of a Unit shall be deemed to have assumed all the responsibilities of an Owner under Article IX of the Declaration.

9.1.16. Assignment or Subletting.

The assignment or subleasing of a Unit shall be subject to the same limitations as are applicable to the leasing or renting thereof. An Owner or tenant may not exempt himself or herself from any liability under the Condominium Instruments by assigning or subleasing the occupancy rights to his or her Unit.

9.1.17. Timesharing.

Timesharing is not permitted in this Condominium, and no Unit in the Condominium may be conveyed or held pursuant to any timeshare plan.

9.2. Architectural Uniformity - Power to Supervise Construction.

9.2.1. Architectural Uniformity.

In order to preserve a uniform exterior appearance to the buildings, the Board shall provide for the painting and other decorative finish of the buildings, decks, or other structures placed within the Units, and may prohibit or regulate any modification or decoration of such structures undertaken or proposed by any Owner. This power of the Board extends to screens, doors, awnings, rails or other visible portions



of the improvements constructed within the Units. The Board may also require use of a uniform color of draperies, blinds, under-draperies or drapery lining for all Units.

**9.2.2. Power to Supervise Construction.**

Following completion of the Declarant's sale period, the Board shall have the power to supervise construction of all improvements within the Condominium, including restoration of damaged improvements after substantial casualty, as provided in Section 4.9 hereof.

**ARTICLE X**

**COMMON EXPENSES AND ASSESSMENTS**

**10.1. Budget for Common Expenses.**

Within thirty (30) days following the Annual meeting of the Association, or at such other time as may be deemed necessary or desirable by the Board of Directors or the Association's accountant, the Board shall prepare an Annual Budget which shall estimate the Common Expenses, described generally in Section 2.6 of this Declaration, to be paid during such year. The Budget shall make provision for creating, funding and maintaining reserves required by Section 10.3 hereof, and shall take into account any expected income and any surplus available from the prior year's operating fund. The Declarant or the initial Board may at any suitable time establish the first such estimate. If deemed necessary by the Board of Directors, any annual budget may be revised prior to the end of its budget year, subject to the provisions of Section 10.2 hereof.

**10.2. Meeting of Association to Ratify Budget.**

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

**10.3. Reserves for Capital Improvements, Replacements, Major Repairs, & Insurance Deductibles.**

**10.3.1. General Provisions.**

The Board of Directors shall establish and maintain reasonable reserves for capital improvements, replacements, major repairs and the amount(s) of any deductible from insurance policies obtained by the Association pursuant to Article XI hereof, by providing for such reserves in the Annual Budget, segregating such reserves on the books of the Condominium, and allocating and paying monthly to such reserves one-twelfth of the total amount budgeted for such reserves for the current fiscal year. The Board may also establish and maintain reserve funds for operations and for such other purposes as may appear advisable. The portion of the Units' Assessments paid into such reserves shall be conclusively deemed to be non-refundable contributions to the capital of the Association by the Unit Owners. Such



reserves may be expended only for the purposes for which they were established unless the Unit Owners, at a duly-constituted meeting of the Association, otherwise decide.

#### 10.3.2. Working Capital Fund.

To facilitate project approval by institutional lenders, the Declarant may also require that an initial Working Capital Fund be established and maintained by the Association to insure that the Association will have the funds to meet unforeseen expenditures or to purchase any additional equipment or services. Unless otherwise agreed between affected lenders and the Declarant, if such fund is established, each purchaser of a Unit in the Condominium shall be required to pay at closing of the sale of the Unit a nonrefundable sum equal to two months of the regular Common Expense Assessment then allocated to such Unit, plus a *pro rata* portion of such Assessment for the month in which closing occurs. These funds are not to be considered as advance payments of regular Assessments. During the Declarant Control Period described in Section 8.1 hereof, the Declarant may not use any of these working capital funds to defray its expenses, its reserve contribution requirements, its construction costs, or any Association budget deficits. When unsold Units are sold, the Declarant may use funds collected at closing to reimburse itself for funds it may have paid the Association for each unsold Unit's share of the Working Capital Fund.

#### 10.4. Assessments for Common Expenses.

##### 10.4.1. Liability of Units.

Except as provided in Sections 10.4.2 and 10.8 below, the total amount of the estimated funds required to pay the Common Expenses of the Condominium set forth in the Annual Budget adopted by the Board of Directors for the fiscal year shall be assessed against the Units in proportion to their respective Allocated Interests for Common Expense liability described in Section 10.6 hereof.

##### 10.4.2. No Assessment of Development Units.

Development Units described in Section 4.1.2 hereof shall have no assessment liability because, pursuant to RCW 64.34.328(2), the Declarant alone is liable for all expenses, including insurance, in connection with a Development Unit. Upon Declarant's conversion of a Development Unit into a Residential Unit in this Condominium, such Units shall become subject to assessment as of the date of the issuance of the Certificate of Occupancy for such Unit by the City of Burlington.

##### 10.4.3. Payable in Installments.

Unless otherwise determined by the Board of Directors, with the written approval of all Eligible Mortgagees, the annual Assessment against each Unit for its proportionate share of the Common Expenses shall be payable in 12 equal, monthly installments, and each installment shall be payable in advance on the first day of the month.

#### 10.5. Assessments to Pay Judgment Against Association.

Assessments to pay a judgment against the Association pursuant to RCW 64.34.368(1) may be made only against the Units in the Condominium at the time the judgment was entered in proportion to their Allocated Interests for Common Expense Liability at the time the judgment was entered.



#### 10.6. Allocated Interests.

Pursuant to RCW 64.34.224(1), the Declarant has allocated to each Unit in the Condominium a liability for payment of the Common Expenses of the Association which is known as the Unit's Allocated Interest for Common Expense Liability. The allocation of these liabilities among the Units has been determined on the basis of equality, for Common Expenses relating to budget items which provide substantially equal benefit to all Owners. Each Unit's Allocated Interest for Common Expense Liability is expressed as a percentage and is stated with particularity on the attached Exhibit B. However, a Unit's liability for Common Expense Assessments under such Allocated Interests shall be subject to adjustment under the provisions of Sections 10.4.1 and 10.8 hereof, with the result that monthly assessments by the Association against the Units will differ somewhat, depending on the size and other attributes of the Dwelling constructed within the Unit.

##### 10.6.1. Reallocation.

Subject to the provisions of Sections 10.6.1 and 15.3 hereof, if Common Expense liabilities are reallocated, Common Expense Assessments or any installment thereof not yet due under the prevailing budget shall be recalculated by the Board in accordance with the reallocated Common Expense liabilities, and each Unit shall thereafter be liable for the revised Assessments due upon such recalculation.

#### 10.7. Special Assessments.

The Board of Directors may levy a Special Assessment for the purpose of defraying the cost of any unexpected repair or other nonrecurring contingency, or to meet any other deficiencies in operations or reserves occurring from time to time. The Board of Directors shall give notice to the Unit Owners of any such Special Assessment by a statement in writing giving the amount and reasons therefor, along with a date for a Special Meeting of the Association to be held not less than 14 days following such notice, for approval of the Special Assessment. Subject to the provisions of Section 10.2 hereof, such Special Assessments shall become due and payable, unless otherwise specified in the notice, with the next monthly Assessment payment which is due more than thirty days after the delivery or mailing of such notice. All Unit Owners shall be obligated to pay the adjusted monthly amount or, if the Special Assessment is not payable in installments, the full amount of such Special Assessment, in proportion to their Allocated Interests for Common Expense Liability.

#### 10.8. Limited Common Assessments.

10.8.1 To the extent that any Common Expense is caused by the negligence or misconduct of any Unit Owner, the Association may, subject to the provisions of Section 7.10 of the Bylaws, levy a Limited Common Assessment for that expense against the Owner's Unit. In addition and without limitation, the liability of a Unit Owner to pay for expenses associated with Special Limited Common Elements, or any other costs, fees, charges, insurance deductibles or fines imposed or incurred by the Association, along with the costs and attorney's fees described in RCW 64.34.364(14), and interest on any delinquent account shall be deemed a Limited Common Assessment which, unless otherwise directed by the Board, shall be due and payable within thirty (30) days following their imposition.

10.8.2 If one or more Units or the Common Elements are not separately metered, the utility service shall be paid as a Common Expense, and the Board may either allocate, by reasonable formula, a



portion of such expense to each such Unit involved as a Limited Common Expense, or reimburse any Unit Owner who pays, in whole or in part for utilities serving the Common Elements, as appropriate.

10.8.3 Any Common Expense or portion thereof which is designed to benefit fewer than all of the Units shall be assessed exclusively against the Units so benefitted.

10.8.4 Any portions of the Common Expenses which vary among the Units based upon the relative size of the Units, usage or other factors, and which justify differential assessment levels, may be assessed differentially among the Units.

10.9. Accounts; Commingling Prohibited.

Amounts collected by the Board of Directors as Assessments against the Units for operating expenses or Reserves shall be kept in accounts in the name of the Association and shall not be commingled with funds of any other Association, nor with the funds of any Managing Agent or any other person responsible for the custody of such funds. Any reserve funds shall be kept in one or more insured, segregated accounts and any transaction affecting such funds, including the issuance of checks, shall require the signature of at least two persons who are officers or Directors of the Association.

10.10. Surplus Funds.

Any surplus funds of the Association remaining after payment of or provision for Common Expenses and any prepayment of reserves may, in the discretion of the Board of Directors, either be paid to the Unit Owners in proportion to their Allocated Interest for Common Expense Liability or credited to them to reduce their future Common Expense Assessments.

10.11. Liability of Unit Owners for Association Obligations.

The liability of any Unit Owner arising out of any contract made by the Board of Directors, or tort of the Association not fully covered by insurance, or arising out of the indemnification of the Board of Directors, shall be limited to that proportion of the total liability thereunder as the Allocated Interest of his or her Unit bears to the aggregate Allocated Interests of all Units.

10.12. Declarant Control Period.

During the Declarant Control Period, until the Association makes a Common Expense Assessment, pursuant to RCW 64.34.360(1), the Declarant shall pay all Common Expenses.

10.13. Owners Personally Liable for Common Expenses.

Each Assessment shall be the joint and several obligation of the Owner or Owners of the Unit to which the same are assessed as of the time the Assessment is due. Suit to recover a personal judgment for any delinquent Assessment shall be maintainable in any court of competent jurisdiction without foreclosing or waiving the lien securing such sums. No Unit Owner may exempt himself or herself from liability with respect to the Common Expenses by waiver of the enjoyment of the right to use any of the Common Elements or by leasing, rental or abandonment of his or her Unit or otherwise. The failure or delay of the Board of Directors to adopt the Annual Budget for any year shall not constitute a waiver or release in any manner of a Unit Owner's obligation to pay his or her allocable share of the Common Expenses as herein provided, and



in the absence of an Annual Budget or adjusted Annual Budget, each Unit Owner shall continue to pay (with or without notice) a monthly Assessment at the rate established for the preceding fiscal year until an Assessment is made under a current Annual Budget or adjusted Annual Budget and notice thereof has been sent to the Unit Owner.

**10.14. Liability Following Conveyance of Unit.**

A selling Unit Owner shall not be liable for the payment of any part of the Common Expenses assessed against his or her Unit subsequent to a sale, transfer or other conveyance by him of such Unit. The purchaser of a Unit shall be jointly and severally liable with the selling Unit Owner for all unpaid Assessments against the Unit up to the time of the conveyance without prejudice to the purchaser's right to recover from the selling Unit Owner the amounts paid by the purchaser therefore. Except as provided in Section 10.18.2 hereof, the holder of a mortgage or other purchaser of a Unit who obtains the right of possession of the Unit through foreclosure shall not be liable for Assessments that became due prior to such right of possession. Such unpaid Assessments shall be deemed to be Common Expenses collectible from all the Unit Owners, including such mortgagee or other purchaser of the Unit. Foreclosure of a mortgage does not relieve the prior Owner of personal liability for Assessments accruing against the Unit prior to the date of such sale as provided above.

**10.15. Statement of Unpaid Assessments.**

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

**10.16. Lien for Assessments and Power of Sale.**

10.16.1. Pursuant to RCW 64.34.364, the Association has a lien on a Unit for any unpaid Assessments levied against a Unit from the time the Assessment is due. If an Assessment is payable in installments, the Association has a lien for the full amount of the Assessment from the time the first installment thereof is due.

10.16.2. Each and every Unit Owner of any Unit in the Condominium, by virtue of his or her acquisition by any means of title to such Unit, shall take such title subject to the Association's lien for Assessments. Pursuant to RCW 64.34.364(9), the Declarant as "Grantor" does hereby grant, bargain, sell and convey to Land Title Company of Skagit County, a corporation, as "Trustee" in trust WITH POWER OF SALE, all the real property in the Condominium described in Exhibit A to this Declaration, which property is not used principally for agricultural purposes, together with all tenements, hereditaments, and appurtenances now or hereafter thereunto belonging or in any manner appertaining, and the rents, issues and profits thereof, to secure the obligations of the Unit Owners to the Association, as "Beneficiary", for the payment of any Assessments lawfully levied under this Declaration. Each and every Unit Owner shall be deemed for all purposes, as of the time of his or her acquisition of title to any Unit in the Condominium, to have joined as an additional "Grantor" in the conveyance in trust above described, and to have at that time bargained, sold and conveyed his or her Unit, along with its undivided Allocated Interest in the Common Elements and any Limited Common Elements assigned thereto, to such Trustee, to secure all obligations imposed by this Declaration on such Unit Owner to pay Assessments to the Association. The Power of Sale



provided and granted herein shall be operative in the case of a default in the obligation to pay Assessments; upon default by such Grantor in the payment of any indebtedness secured hereby, all sums secured hereby shall immediately become due and payable at the option of the Beneficiary. In such event and upon written request of Beneficiary, Trustee shall sell the trust property, in accordance with the Deed of Trust Act of the State of Washington, at public auction to the highest bidder. Any person except Trustee may bid at Trustee's sale. Trustee shall apply the proceeds of the sale as follows: (1) to the expenses of sale, including a reasonable Trustee's fee and attorney's fee; (2) to the obligations secured by this Declaration; (3) the surplus, if any, shall be distributed to the persons entitled thereto.

#### 10.17. Perfection of Lien.

Recording of the Declaration constitutes record notice and perfection of the lien for Assessments. While no further recording of any claim of lien for Assessments shall be required to perfect the Association's lien, the Association may record a notice of claim of lien for Assessments under this section in the real property records of any county in which the Condominium is located. Such recording shall not constitute the written notice of delinquency to a mortgagee referred to in Section 10.18.3 hereof.

#### 10.18. Priority of Lien.

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

10.18.2. Except as provided in Sections 10.18.3 and 10.19.2 hereof, the lien shall also be prior to the mortgages described in subpart (b) of Section 10.18.1 hereof, to the extent of Assessments for Common Expenses, excluding any amounts for capital improvements, based on the annual Budget adopted by the Association which would have become due during the six months immediately preceding the date of a sheriff's sale in an action for judicial foreclosure by either the Association or a mortgagee, the date of a trustee's sale in a nonjudicial foreclosure by a mortgagee, or the date of recording of the declaration of forfeiture in a proceeding by the vendor under a real estate contract.

10.18.3. The priority of the Association's lien against Units encumbered by a mortgage held by an Eligible Mortgagee, or by a first mortgagee which has given the Association a written request for a notice of delinquent Assessments, shall be reduced by up to three months if and to the extent its foreclosure includes delinquencies which relate to a period after such holder becomes an Eligible Mortgagee or has given such notice and before the Association gives the holder a written notice of the delinquency. This Subsection does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other Assessments made by the Association. A lien under this section is not subject to the provisions of chapter 6.13 RCW relating to Homesteads.

#### 10.19. Enforcement of Lien.

10.19.1. The lien arising under this section may be enforced judicially by the Association or its authorized representative in the manner set forth in chapter 61.12 RCW, or nonjudicially in the manner set forth in chapter 61.24 RCW for nonjudicial foreclosure of deeds of trust. The Association or its authorized representative shall have the power to purchase the Unit at the foreclosure sale and to acquire, hold, lease, mortgage, or convey the same. Upon an express waiver in the complaint of any right to a



deficiency judgment in a judicial foreclosure action, the period of redemption shall be eight months. The Association may elect to take a deed in lieu of foreclosure in any such proceeding.

10.19.2. If the Association forecloses its lien nonjudicially pursuant to Chapter 61.24 RCW, the Association shall not be entitled to the lien priority provided for under Section 10.18.2 hereof.

10.20. Limitation of Lien Enforcement.

A lien for unpaid Assessments and the personal liability for payment thereof is extinguished unless proceedings to enforce the lien are instituted within three years after the amount of the Assessments sought to be recovered becomes due.

10.21. Rent Subject to Lien for Assessments.

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

10.22. Remedies Cumulative.

The remedies provided herein are cumulative and the Board may pursue them concurrently, along with any other remedies which may be available under the law although not expressed herein.

ARTICLE XI

INSURANCE, DESTRUCTION AND RESTORATION

11.1. Authority, Name of Insured.

The Board of Directors shall obtain and maintain casualty and liability insurance under such terms and for such amounts as shall be deemed necessary by the Board of Directors. The name of the insured under each required policy shall be stated as follows: "Unit Owners Association of Farmington Square Condominium." Since this is condominium is a "land condominium", designed to create Units which are in many respects the equivalent of lots in a planned unit development, initially there need be no "master" insurance policy providing coverage for all the improvements in the project. Only the Common Elements initially need be insured by the Association, and Unit Owners must obtain their own property and liability insurance for their Units, as provided below.

11.2. Insurance Policies and Coverage.





#### 11.2.1 Basic Coverage.

The insurable Common Elements in this Condominium shall be insured against casualty or physical damage in an amount equal to the maximum insurable replacement value thereof (i.e., 100% of replacement costs based upon the value of replacing all such improvements in the Condominium exclusive of land, excavations and foundations, utilizing contemporary building materials and technology. Level(s) of coverage shall be determined annually by the Board of Directors with assistance of the agent of the insurance company affording such coverage. Such coverage shall afford protection against:

(a) loss or damage by fire, vandalism, malicious mischief, windstorm, and other hazards covered by the standard "broad form" and/or "special" extended coverage endorsements or their equivalent, and such other perils customarily covered by insurance for similar projects. The policy shall also cover other Common property including fixtures, building service equipment and common personal property and supplies owned by the Owners Association or included in the Common Areas.

(b) liability for death, personal injury and property damage arising from the use, ownership or maintenance of any of the Common Areas. The insurance should also cover any commercial spaces that are owned by the Association, even if they are leased to others. Coverage should be afforded under a commercial general liability policy for the entire project, including all areas under the supervision of the Association. Limits of liability shall in no event be less than \$1,000,000 with respect to any single occurrence; and

(c) medical payments coverage, in such amounts as are customarily provided in such policies.

#### 11.2.2 Directors' and Officers' Insurance.

If reasonably available, the Board shall acquire Directors' and Officers' errors and omissions insurance to satisfy the Association's indemnification responsibilities under the Bylaws of the Condominium Association.

#### 11.2.3 Fidelity Insurance.

The Association shall obtain blanket fidelity insurance for any person who either handles (or is responsible for) funds that he or she holds or administers, whether or not that individual receives compensation for services. The policy shall name the Association as the insured and must include a provision that calls for ten days' written notice to the Association before the policy can be canceled or substantially modified for any reason. The policy should cover the maximum funds that will be in the custody of the Association or its Manager at any time while the policy is in force. A Manager that handles funds for the Association shall be covered by its own fidelity insurance policy, which must provide the same coverage required of the Association.

#### 11.2.4 Additional Insurance.

The Board may also acquire such additional insurance coverage as it may deem advisable and appropriate, including Workmen's Compensation insurance, where necessary to meet the requirements of law.



### 11.3. Deductible.

Except as otherwise provided herein, the deductible under any policy of insurance purchased by the Board of Directors shall not exceed the lesser of \$10,000 or 1% of the face amount of the policy. Except as provided herein, the amount of the deductible shall be paid by the Association as a Common Expense. Funds to cover the amount of the deductible shall be included in the Association's reserve accounts. The deductible should be established at a level that is sufficiently high to eliminate minor "nuisance" claims which could cause cancellation of the Association's master policy.

### 11.4. Unavailability, Cancellation or Nonrenewal.

If the insurance described in Section 11.2 hereof is not reasonably available, or is modified, canceled or not renewed, the Association promptly shall cause notice of that fact to be hand-delivered or sent prepaid by first class United States mail to all Unit Owners, and to each Eligible Mortgagee, at their respective last known addresses.

### 11.5. Owners' Individual Policies Required.

#### 11.5.1 Property and Liability Insurance.

Each Owner shall obtain, at such Owner's expense, a policy or policies of insurance providing coverage against personal liability and against fire, casualty or physical damage to the Dwelling and other insurable improvements within the Unit, per Part XII, Section 104, Fannie Mae Selling Guide [Rev. 04/12/02]. Such insurance shall be in an amount equal to the maximum insurable replacement value thereof (i.e., 100% of replacement costs based upon the value of replacing all such improvements exclusive of land, excavations and foundations, utilizing contemporary building materials and technology. Such coverage shall afford protection against:

(a) loss or damage by fire, vandalism, malicious mischief, windstorm, and other hazards covered by the standard "broad form" and/or "special" extended coverage endorsements or their equivalent, and such other perils customarily covered by insurance for Dwellings in similar projects; and

(b) liability for death, personal injury and property damage arising from the use, ownership or maintenance of any part of the Unit.

#### 11.5.2 Special Limitations.

(a) Each policy must contain a standard mortgage clause. The policy shall also designate the Association as an additional insured under its liability coverage and shall further provide, if available, that no loss may be adjusted to provide a cash payment to the Owner in lieu of rebuilding the insurable improvements on the Owners' Unit absent the consent of the Association. This is essential to the common scheme of development in this Condominium, and is designed to underwrite the Owner's obligations under Section 4.9 of this Declaration.

(b) An insurer that has issued an Owner's insurance policy under this Section shall issue a certificate or memorandum of insurance to the Association at the inception of coverage, and for each renewal thereof, and shall also provide the Association with a notice of any cancellation or non-renewal thereof.



11.6. Damage, Destruction and Restoration to Common Elements

11.6.1 General Process.

Immediately after a casualty causing damage to property for which the Board of Directors has the responsibility of maintenance and repair, the Board shall obtain reliable and detailed estimates of the cost to repair or replace the damaged property in a good and workmanlike manner. Such costs may include professional fees and premiums for such bonds as the Board desires or as may be required. The Board shall then commence such repairs as soon as may be practicable, using licensed and bonded contractors.

11.6.2 Assessments if Insurance is Inadequate.

If the proceeds of insurance, coupled with any available reserve funds are not sufficient to defray such estimated costs, a Special Assessment shall be made against all the Units in proportion to their liability for Common Expenses provided in the Declaration, in sufficient amounts to provide funds to pay the estimated costs. If at any time during reconstruction and repair, or upon completion of reconstruction or repair, the funds for payment of the costs thereof are insufficient, Assessments shall be made against all of the Units in proportion to their respective Common Expense liabilities, in sufficient amounts to provide funds for the payment of such costs.

11.7. Damage, Destruction and Restoration to Improvements Within Units

See Sections 4.9 and 9.2 hereof.

11.8. Authority for Association to Acquire Master Policy.

If deemed necessary or desirable by the Board of Directors, and following approval by a vote of at greater than 50% of all possible votes in the Association, the Board may acquire a "master" condominium insurance policy providing coverage for the Units in addition to the Common Elements of the project. In the event such an election is made, then the coverage afforded under such policy shall be equivalent to that provided by quality insurance companies for similar high quality condominium projects, and the provisions of RCW 64.34.352 shall govern all other aspects of insurance, damage and loss.

11.9. Miscellaneous.

The provisions of this Article XI shall constitute the procedure by which a determination is made by the Unit Owners to repair, restore, reconstruct or rebuild the Condominium following casualty thereto. The purpose of this Article XI shall be to provide a fair and equitable method of allocating the costs of repair and restoration and making a determination for repair and restoration if all or a portion of the improvements are damaged or destroyed. The provisions of this Article XI shall be liberally construed to accomplish such purpose.

ARTICLE XII



## CONDEMNATION

Provisions dealing with the effect of condemnation proceedings affecting this Condominium appear in Schedule 12 in Exhibit C to this Declaration.

## ARTICLE XIII

### COMPLIANCE WITH LAW AND COVENANTS

#### 13.1. Compliance by Owners and Occupants.

Each Owner and occupant of a Unit, including Declarant, shall comply strictly with the provisions of the Condominium Act or the Condominium Instruments. All remedies provided the Association in this Article may be enforced against any tenant or other occupant of a Unit.

#### 13.2. Enforcement by Association.

The Board of Directors shall have primary responsibility for maintaining and enforcing compliance with the covenants, conditions and restrictions contained in the Condominium Instruments. Without limiting the authority and powers conferred upon the Board by the Condominium Act, the Board shall have the rights and powers described in Section 7 of the Bylaws.

## ARTICLE XIV

### LIMITATION OF LIABILITY

#### 14.1. No Liability for Utility Failure, Etc.

Except to the extent covered by insurance obtained by the Board pursuant to Article XI, neither the Association nor the Board nor the Declarant shall be liable for any failure of any utility or other service obtained by the Board, or for injury or damage to person or property caused by the elements, or resulting from electricity, water, rain, dust or sand which may lead or flow from outside or from any parts of the buildings, or from any of its pipes, drains, conduits, appliances, or equipment, or from any other place, or for inconvenience or discomfort resulting from any action taken to comply with any law, ordinance or orders of a governmental authority. No diminution or abatement of liability for Common Expense Assessments shall be claimed or allowed for any such utility or service failure, or for such injury or damage, or for such inconvenience or discomfort.

#### 14.2. Liability of Officers and Directors, Indemnification.

The Directors and Officers shall exercise ordinary and reasonable care in discharging their responsibilities and shall not be liable to the Association or to the Unit Owners for mistakes of judgment or for negligence not amounting to gross negligence, willful misconduct or bad faith. The Association shall indemnify and hold harmless each of the Directors and Officers from and against all contractual liability to others arising out of contracts made by the Board of Directors or Officers on behalf of the Association or the Unit Owners unless such contract was made in bad faith or contrary to the provisions of the Condominium



Instruments. The Directors and Officers shall not be personally liable for contracts made by them on behalf of the Association. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding by reason of the fact that (s)he is or was a Director or Officer of the Association, against amounts paid in settlement incurred by him in connection with such action, suit or proceeding if (s)he acted in good faith and in a manner (s)he reasonably believed to be in, or not opposed to, the best interests of the Condominium or the Association, to the fullest extent authorized by RCW 23B.08.510, 520, 530, and 570, and any amendments thereto, whether or not the Association is incorporated under RCW 23B.

14.3. No Bailment.

Neither the Board of Directors, the Association, any Owner nor the Declarant shall be considered a bailee of any personal property stored or placed on the Common Elements (including property located in vehicles parked on the Common Elements), whether or not exclusive possession of the particular area is given to an Owner for parking or otherwise, nor shall they be responsible for the security of such personal property or for any loss or damage thereto, whether or not due to negligence, except to the extent covered by insurance in excess of any applicable deductible.

ARTICLE XV

MORTGAGEE PROTECTION

Mortgagees (lenders) in this Condominium project have various rights which are set forth with particularity in Schedule 15 in Exhibit C to this Declaration.

ARTICLE XVI

EASEMENTS AND SPECIAL DECLARANT RIGHTS

16.1. Easements for Units and Unit Owners, and Association Functions.

Each Unit has an easement in and through each other Unit and the Common and Limited Common Elements for support, and each Unit Owner has an unrestricted, perpetual right of ingress to and egress from his or her Unit over the Common Elements. There is hereby reserved to the Association, or its duly authorized agents and representatives, such easements as are necessary to perform the duties and obligations of the Association as are set forth in the Condominium Instruments. See Section 8.4 hereof for further details.

16.2. Easement for Emergency Access.

A non-exclusive perpetual easement is hereby granted on, over, under and across the Common Elements to all police, fire, ambulance and other rescue personnel for the lawful performance of their functions during *bona fide* emergencies.

16.3. Easements for Declarant.



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Skagit County Auditor

The Declarant reserves an easement through the Common Elements as may be reasonably necessary for the purpose of discharging the Declarant's obligations or for exercising Special Declarant Rights. Without limiting the generality of the foregoing, such easements include the following:

16.3.1. General Reservation.

Declarant reserves non-exclusive easements for ingress, egress and utilities over and across all Common Elements in the Condominium.

16.3.2. Specific Rights.

The easements reserved under this Section shall entitle the Declarant, for the development of each successive phase of the Condominium, to tie into water, sewer, storm sewer, electrical, gas, telephone or other utility conduits, lines, pipes, culverts or other facilities of any nature or description whatsoever, and to travel over and connect with roadways, driveways, walkways, open areas or utility systems developed and employed in any completed phases of the Condominium. The Declarant also reserves the right to grant easements to public utility companies and to convey to such companies utility lines, pipes, wires, ducts, conduits and/or other facilities in furtherance of such grants.

16.3.3. Liability for Costs and Restoration.

Declarant shall bear the cost of tie-ins to such utilities and roads and shall not connect with such utilities in a manner that impairs or significantly reduces the quality of the utility service to any completed phase of the Condominium; provided, that if said tie-ins cause an increase in the cost of delivering affected utility services to any completed phase of the Condominium, that cost shall be borne by the Declarant. Declarant shall properly clean up and restore any Common Elements soiled or damaged through exercise of any of the easement rights reserved herein.

16.4. Easements Shown on Survey Map.

Easements shown on the Survey Map filed concurrently with this Declaration are hereby declared and established. Any easement shown on the Survey Map which benefits one or more Units in the Condominium, or which benefits the general public or any real property not included within the Condominium, confers various rights and benefits upon the general public and/or the owner(s) of such real property, and may also impose obligations upon the Association. Reference should be made to the Survey Map and, if relevant, to Schedule 8.3.2 in Exhibit C to this Declaration.

16.5. Special Declarant Rights.

Pursuant to RCW 64.34.020(29), the Declarant has reserved the following Special Declarant Rights for the purpose of furthering and completing the development of the Condominium: To complete any improvements indicated on the Survey Map and Plans filed with the Declaration; to exercise any Development Right under Section 3.3 hereof; to maintain sales offices, management offices, signs advertising the Condominium, and models on the Condominium Property; to use easements through the Common Elements for the purpose of making improvements within the Condominium, to appoint or remove any officer of the Association or any member of the Board of Directors, or to veto or approve a proposed action of the Board or Association during the Declarant Control Period described in Section 5.1 of the Bylaws. A failure by the Declarant to veto or approve any such proposed action within thirty (30) days after receipt of

written notice of the proposed action shall be deemed to constitute approval thereof by the Declarant. Except with respect to the right to exercise Development Rights, which is governed by Section 3.3.3 hereof, or as limited in Section 5.1 of the Bylaws, Special Declarant Rights shall terminate upon the sale of the last Unit in the Condominium, or seven (7) years from the date of conveyance of a Unit to a purchaser other than the Declarant, whichever is earlier.

## ARTICLE XVII

### AMENDMENT OF DECLARATION, SURVEY MAP, PLANS

#### 17.1. Procedure for Amendment of Declaration.

Amendments to the Declaration shall be made by an instrument in writing entitled "Amendment to Declaration" which sets forth the entire amendment. Except as otherwise specifically provided for in this Declaration, any proposed amendment must be approved by a majority of the Board prior to its adoption by the Owners. Except in cases of amendments that may be adopted by the Declarant unilaterally pursuant to Section 17.6 hereof, by the Association under Section 6.4 hereof or under statutory authority in the case of condemnation or a termination of the condominium, or by certain Unit Owners under Sections 4.8, 4.9 or 6.3 hereof, amendments may be adopted only at a meeting of the Owners if at least sixty-seven percent (67%) of the votes in the Association are cast for such amendment, or without any meeting if all Owners have been duly notified and Owners holding at least sixty-seven percent (67%) of the votes in the Association consent in writing to such amendment. In all cases, the amendment when adopted shall bear the acknowledged signature of the President of the Association.

#### 17.2. Recordation Required.

Every amendment to the Declaration must be recorded with the County Auditor and is effective only upon recording. An amendment shall be indexed in the name of the Condominium and shall contain a cross-reference by recording number to the Declaration and each previously recorded amendment thereto.

#### 17.3. Special Restrictions.

Except to the extent expressly permitted or required by other provisions of this Declaration, or of the Condominium Act, no amendment may create or increase Special Declarant Rights, increase the number of Units, change the boundaries of any Unit, the Allocated Interests of a Unit, or the uses to which any Unit is restricted, in the absence of the vote or agreement of the Owner of each Unit particularly affected and his or her Mortgagee and the Owners of Units to which at least ninety percent (90%) of the votes in the Association are allocated other than the Declarant, and that percentage of Eligible Mortgagees and/or Eligible Insurers specified in Article XV hereof. No amendment may restrict, eliminate, or otherwise modify any Special Declarant Right provided in the Declaration without the consent of the Declarant and any mortgagee of record with a security interest in the Special Declarant Right or in any real property subject thereto, excluding mortgagees of Units owned by persons other than the Declarant.

#### 17.4. Amendment of Survey Map and Plans.



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The Survey Map and Plans may be amended by revised versions referred to and described as to effect in an amendment to the Declaration adopted as required above. Copies of any such proposed amendment to the Survey Map and Plans shall be made available for examination by every Owner. Such amendment to the Survey Map and Plans shall also be effective, once properly adopted, upon recordation in the appropriate county offices, along with the amendment to the Declaration which accompanies it.

17.5. Consent of Mortgagees Required.

The consent of specified percentages of Eligible Mortgagees and/or Eligible Insurers may be required, pursuant to Article XV of this Declaration, prior to recordation of certain amendments to the Condominium Instruments. In certifying that an amendment has been properly adopted, as required by Section 17.1 hereof, the President shall be deemed to have certified that any consents required by Article XV have been obtained or waived pursuant to law.

17.6. Amendments by Declarant.

The Declarant may unilaterally adopt and file amendments to the Declaration and to the Survey Map and Plans for so long as the Declarant is the Owner of any Unit in the Condominium or until the expiration of the time limit for the exercise of any Development Rights reserved by the Declarant, in order to:

- (a) conform them to the actual location, type or dimensions of any of the constructed improvements, and to establish, vacate and relocate utility easements, access road easements and parking areas;
- (b) exercise any Development Right reserved by the Declarant under Section 3.3 of this Declaration, including the right to complete Exhibit B hereto to describe Units as they are completed [such information may be provided in batches to avoid a multiplicity of amendments]; or
- (c) correct any nonmaterial technical errors contained in the Condominium Instruments or clarify provisions of same.

ARTICLE XVIII

TERMINATION OF CONDOMINIUM

The Unit Owners may elect to terminate the Condominium status of the property only in accordance with the provisions of RCW 64.34.268, with the requisite approval of such Mortgagees and other lienholders as may be required by law, or by Article XV hereof.

ARTICLE XIX

MISCELLANEOUS

19.1. Notices for All Purposes, Delivery.

19.1.1. Except as otherwise provided by law, or by Article 15 hereof as to certain notices to Eligible Mortgagees, any notice permitted or required to be delivered under the provisions of the





Declaration or the Bylaws may be delivered either personally or by mail, addressed to the person entitled to such notice at the most recent address given by such person to the Board in writing, or to the most recent address known to the Board. Notice to the Owner of any Unit shall be sufficient if mailed to his or her Unit if no other mailing address has been given to the Board. Mailing addresses may be changed from time to time by notice in writing to the Board. Notice to be given to the Association may be given to the President or Secretary of the Association, or to the Association's Registered Agent.

19.1.2. New Unit Owners must supply their names and addresses, along with the names and addresses of their respective Mortgagees, to the Secretary of the Association promptly after conveyance.

19.2. Severability.

The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision hereof, if the remainder complies with the Condominium Act and furthers the common plan of this Condominium.

19.3. No Right of First Refusal.

There is no right of first refusal in the Association limiting or restricting the right of any Unit Owner to sell, transfer or convey his or her Unit.

19.4. Effective Date.

This Declaration shall take effect upon recording.

ARTICLE XX

CERTIFICATE OF COMPLETION

Declarant hereby certifies, pursuant to RCW 64.34.200(2), that all Units and Common Elements in the Condominium are substantially completed to a degree that facilitates normal excavation and construction activities associated with building dwelling structures within the Units.

DATED this 28<sup>TH</sup> day of January, 2004.

Declarant:  
FARMINGTON SQUARE, L.L.C.

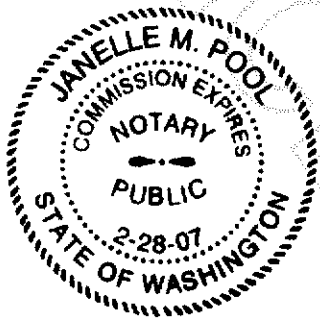
By   
BRIAN GENTRY, Its Manager



STATE OF WASHINGTON                    )  
  ) ss.  
COUNTY OF SKAGIT                    )

I hereby certify that I know or have satisfactory evidence that BRIAN GENTRY is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Manager of the Declarant, FARMINGTON SQUARE, L.L.C., to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: January 28, 2004.



Janelle M. Pool  
NOTARY PUBLIC for the State of  
Washington. My Commission  
expires 02/28/07



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EXHIBIT "A"  
TO DECLARATION FOR  
FARMINGTON SQUARE CONDOMINIUM

LEGAL DESCRIPTION OF LAND WITHIN THE CONDOMINIUM

The legal description of the land on which the buildings and improvements in the Condominium are located is as follows:

PARCEL "E"

LOT 4 OF CITY OF BURLINGTON SHORT PLAT NO. BU-6-01, APPROVED JULY 19, 2001 AND RECORDED JULY 20, 2001 AS AUDITOR'S FILE NO. 200107200120, BEING A PORTION OF TRACT 48 "PLAT OF BURLINGTON ACREAGE PROPERTY" AS PER THE PLAT RECORDED IN VOLUME 1 OF PLATS, PAGE 49, RECORDS OF SKAGIT COUNTY, WASHINGTON.

PARCEL "F"

A 30 FOOT WIDE NON-EXCLUSIVE ACCESS AND UTILITY EASEMENT DELINEATED AS RUNNING EAST AND WEST ACROSS TRACT 4 OF CITY OF BURLINGTON SHORT PLAT NO. BU-5-01, APPROVED JULY 19, 2001 AND RECORDED JULY 20, 2001 AS AUDITOR'S FILE NO. 200107200120, BEING A PORTION OF TRACT 48 "PLAT OF BURLINGTON ACREAGE PROPERTY" AS PER PLAT RECORDED IN VOLUME 1 OF PLATS, PAGE 49, RECORDS OF SKAGIT COUNTY, WASHINGTON.

PARCEL "G"

LOT 4 OF SKAGIT COUNTY SHORT PLAT NO. BU-5-01, APPROVED JULY 19, 2001 AND RECORDED JULY 20, 2001 UNDER AUDITOR'S FILE NO. 200107200121, BEING A PORTION OF THE EAST ½ OF THE EAST ½ OF TRACT 48, "PLAT OF THE BURLINGTON ACREAGE PROPERTY", AS PER PLAT RECORDED IN VOLUME 1 OF PLATS, PAGE 49, RECORDS OF SKAGIT COUNTY, WASHINGTON; EXCEPT THE 30 FOOT SIDE NON-EXCLUSIVE ACCESS AND UTILITY EASEMENT DELINEATED ON SAID SHORT PLAT AS RUNNING EAST AND WEST ACROSS TRACT 4; ALSO EXCEPT THE EAST 94.56 FEET OF THE SOUTH 100.00 FEET OF SAID TRACT 4.

PARCEL "H"

THAT PORTION OF TRACTS 45 AND 48 OF "THE PLAT OF BURLINGTON ACREAGE PROPERTY" AS PER PLAT RECORDED IN VOLUME 1 OF PLATS AT PAGE 49, RECORDS OF SKAGIT COUNTY, BEING A PORTION OF THE SOUTHWEST QUARTER OF SECTION 31, TOWNSHIP 35 NORTH, RANGE 4 EAST W.M., DESCRIBED AS FOLLOWS:



COMMENCING AT THE SOUTHEAST CORNER OF SAID TRACT 45; THENCE NORTH 87°53'18" WEST ALONG THE SOUTH LINE THEREOF, A DISTANCE OF 111.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID SOUTH LINE NORTH 87°53'18" WEST 529.53 FEET TO THE SOUTHWEST CORNER OF THE EAST ½ OF SAID TRACT 45; THENCE CONTINUING NORTH 87°53'18" WEST 20.00 FEET TO THE NORTHWEST CORNER OF THE NORTH 20.00 FEET OF THE EAST 20.00 FEET OF THE WEST ½ OF TRACT 48 OF SAID PLAT, THENCE NORTH 2°06'21" EAST, PARALLEL WITH THE EAST LINE OF SAID TRACT 45, A DISTANCE OF 91.00 FEET; THENCE SOUTH 88°05'49" EAST 549.53 FEET TO A POINT THAT LIES NORTH 2°06'21" EAST FROM THE TRUE POINT OF BEGINNING; THENCE SOUTH 2°06'21" WEST 93.00 FEET TO THE TRUE POINT OF BEGINNING; TOGETHER WITH THE NORTH 20.00 FEET OF THE EAST 20.00 FEET OF THE WEST ½ OF SAID TRACT 48.

PARCEL "I"

THE WEST 7 FEET OF LOT 32, AS MEASURED PARALLEL WITH THE WEST LINE OF LOT 32 "PLAT OF WESTVIEW" AS PER PLAT RECORDED AS AUDITOR'S FILE NO. 200306040117, RECORDS OF SKAGIT COUNTY, WASHINGTON.

PARCEL "J"

TRACT 3 OF BURLINGTON SHORT PLAT NO. 4-79, APPROVED OCTOBER 24, 1979 AND RECORDED OCTOBER 26, 1979 IN VOLUME 3 OF SHORT PLATS, PAGE 201, UNDER AUDITOR'S FILE NO. 7910260042, BEING A PORTION OF THE EAST ½ OF THE EAST ½ OF LOT 48, "PLAT OF THE BURLINGTON ACREAGE PROPERTY", AS PER THE PLAT RECORDED IN VOLUME 1 OF PLATS, PAGE 49, RECORDS OF SKAGIT COUNTY, WASHINGTON.

SITUATE IN THE CITY OF BURLINGTON, COUNTY OF SKAGIT, STATE OF WASHINGTON.

Subject to covenants, conditions, restrictions, reservations, agreements, encumbrances and other matters of record.

LEGAL DESCRIPTION OF LAND SUBJECT TO  
DEVELOPMENT RIGHTS

The legal description of property upon which future phases of development may occur, is as follows:

All Development Units identified in the attached Exhibit "B".

Subject to covenants, conditions, restrictions, reservations, agreements, encumbrances and other matters of record.



EXHIBIT "B"  
TO DECLARATION FOR FARMINGTON SQUARE CONDOMINIUM

Unit No.	Unit Type #	Street Address†	Square Footage ‡	Number of Bedrooms	Number of Bathrooms	Number of Fireplaces	Type of Heat	Allocated Interest*
1		710 Farmington Drive OR 537 Woollen Road						2.0408%
2		551 Woollen Road						2.0408%
3		730 Farmington Drive						2.0408%
4		750 Farmington Drive						2.0408%
5		770 Farmington Drive						2.0408%
6		800 Farmington Drive						2.0408%
7		820 Farmington Drive						2.0408%
8		840 Farmington Drive						2.0408%
9		860 Farmington Drive						2.0408%
10		552 Windmill Lane OR 880 Farmington Drive						2.0408%
11		553 Windmill Lane						2.0408%
12		533 Windmill Lane						2.0408%
13		503 Windmill Lane						2.0408%
14		483 Windmill Lane						2.0408%
15		463 Windmill Lane						2.0408%
16		443 Windmill Lane						2.0408%
17		423 Windmill Lane						2.0408%



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Unit No.	Unit Type #	Street Address†	Square Footage ‡	Number of Bedrooms	Number of Bathrooms	Number of Fireplaces	Type of Heat	Allocated Interest*
18		403 Windmill Lane						2.0408%
19		373 Windmill Lane						2.0408%
20		353 Windmill Lane						2.0408%
21		333 Windmill Lane						2.0408%
22		352 Windmill Lane OR 881 Deere Drive						2.0408%
23		861 Deere Drive						2.0408%
24		841 Deere Drive						2.0408%
25		821 Deere Drive						2.0408%
26		801 Deere Drive						2.0408%
27		771 Deere Drive						2.0408%
28		751 Deere Drive						2.0408%
29		731 Deere Drive						2.0408%
30		874 Deere Drive OR 382 Windmill Lane						2.0408%
31		412 Windmill Lane						2.0408%
32		432 Windmill Lane						2.0408%
33		452 Windmill Lane						2.0408%
34		472 Windmill Lane						2.0408%
35		877 Farmington Drive						2.0408%
36		854 Deere Drive						2.0408%



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Unit No.	Unit Type #	Street Address†	Square Footage ‡	Number of Bedrooms	Number of Bathrooms	Number of Fireplaces	Type of Heat	Allocated Interest*
37		814 Deere Drive OR 385 Garden Lane						2.0408%
38		405 Garden Lane						2.0408%
39		425 Garden Lane						2.0408%
40		445 Garden Lane						2.0408%
41		764 Deere Drive OR 388 Garden Lane						2.0408%
42		408 Garden Lane						2.0408%
43		428 Garden Lane						2.0408%
44		448 Garden Lane						2.0408%
45		468 Garden Lane						2.0408%
46		488 Garden Lane						2.0408%
47		508 Garden Lane OR 767 Farmington Drive						2.0408%
48		727 Farmington Drive						2.0408%
49		705 Deere Drive						2.0408%
Totals			0					100%

Allocated interests are the percentages of undivided interests in the Common Elements, fractional liability for the Common Expenses of the Association allocated to each Unit under Section 5.3, and 10.6 of the Declaration, pursuant to RCW 64.34.224(1). Pursuant to Section 7.4.2 of the Declaration, each unit is allocated an equal portion of the votes in the association. ALL ALLOCATED INTERESTS ARE SUBJECT TO CHANGE UPON AN EXERCISE OF DEVELOPMENT RIGHTS, as described at Section 3.3.2(a) of the Declaration.



# Initially, all Units are Development Units, as described in Section 4.1.2 of the Declaration. Upon conversion of a Development Unit to a Residential Unit by the Declarant, the type of dwelling actually constructed within the Unit will be added to an amendment to this Exhibit B.

† Those Units which list 2 addresses will have one of the listed addresses assigned at such time as the dwelling within the Unit has been completed.

‡ Upon conversion of a Development Unit to a Residential Unit by the Declarant, the square footages of the dwellings actually constructed within the Units will be added to an amendment to this Exhibit B.



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**EXHIBIT "C"**  
**TO DECLARATION FOR FARMINGTON SQUARE CONDOMINIUM**

**SCHEDULE OF MISCELLANEOUS PROVISIONS AFFECTING THE CONDOMINIUM**

**SCHEDULE 8 – MANAGEMENT OF CONDOMINIUM ASSOCIATION**

**8.3.2 Common Expenses.**

Common Expenses of the Association may include if applicable, but are not limited to the following:

(a) Common water and sewer, common electrical and, if deemed necessary or desirable by the Board of Directors, common garbage and/or trash collection, common gas, and any other necessary utility service as required for the Common Elements. If one or more Units or the Common Elements are not separately metered, the utility service may be paid as a Common Expense, and the Board may by reasonable formula allocate a portion of such expense to each such Unit involved as a portion of its Common Expense, or reimburse any Unit Owner who pays, in whole or in part for utilities serving the Common Elements.

(b) Policies of insurance or bonds required by Article XI.

(c) The services of persons or firms as required to properly manage the affairs of the Condominium to the extent deemed advisable by the Board as well as such other personnel as the Board shall determine are necessary or proper for the operation of the Common Elements, whether such personnel are employed directly by the Board or are furnished by a Manager.

(d) The services of attorneys, along with bookkeepers and accountants qualified to maintain Association records in the manner required by Section 8.4 of the Bylaws, and to perform the independent audit required under Section 8.5 of the Bylaws.

(e) Painting, maintenance, repair and replacement of the Common Elements, landscaping and gardening work for the Common Elements, and such furnishings and equipment for the Common Elements as the Board shall determine are necessary and proper.

(f) Any other materials, supplies, labor, services, maintenance, repairs, structural alterations, insurance, taxes or assessments which the Board is required to by law to pay or procure or which in its opinion shall be necessary or proper for the operation of the Condominium, the maintenance, repair or replacement of the Common Elements, or for the enforcement of this Declaration.

(g) Maintenance and repair of certain exterior portions of dwelling structures constructed within the Units in the Condominium as described in Section 4.5.1 of this Declaration, and landscaping and gardening work for those portions of the Units not utilized as private yard areas by their Owner(s). Further, if maintenance or repair to interior portions of any such dwellings or other portions of the Units for which the Owner is responsible is reasonably necessary, in the opinion of the Board, to protect the Common Elements or to preserve the appearance and value of the Condominium development, and the Owner of said Unit has failed or refused to perform said maintenance or repair as required by Section 4.5, 4.7 or 4.9 of the Declaration, within a reasonable time after written notice of the necessity of said maintenance or repair has been delivered by the Board to the Owner. The cost of such maintenance or repair shall constitute a special Assessment against the Unit of such Owner, pursuant to Section 10.8 of the Declaration.

**SCHEDULE 12 – CONDEMNATION.**

**12.1. Condemnation Affecting Whole Unit**

If a Unit is acquired by condemnation, or if part of a Unit is acquired by condemnation leaving the Unit Owner with a remnant of a Unit which may not practically or lawfully be used for any purpose permitted by this Declaration, the award must compensate the Unit Owner for the Owner's Unit and its appurtenant interest in the Common Elements, whether or not any Common Elements are acquired. Upon acquisition, unless the decree otherwise provides, all that Unit's Allocated Interests are automatically reallocated to the remaining Units in proportion to the respective Allocated Interests of those Units before the taking, and the



Association shall promptly prepare, execute, and record an amendment to the Declaration reflecting the reallocations. Any remnant of a Unit remaining after part of a Unit is taken under this Subsection is thereafter a Common Element.

**12.2. Condemnation of Part of Unit.**

Except as provided in Section 12.1 hereof, if part of a Unit is acquired by condemnation, the award must compensate the Unit Owner for the reduction in value of the Unit and its appurtenant interest in the Common Elements, whether or not any Common Elements are acquired. Upon acquisition, unless the decree otherwise provides: (a) that Unit's Allocated Interests are reduced in proportion to the reduction in the size of the Unit; and (b) the portion of the Allocated Interests divested from the partially acquired Unit are automatically reallocated to that Unit and the remaining Units in proportion to the respective Allocated Interests of those Units before the taking, with the partially acquired Unit participating in the reallocation on the basis of its reduced Allocated Interests.

**12.3. Condemnation of Common Elements.**

If part of the Common Elements is acquired by condemnation, the portion of the award attributable to the Common Elements taken shall be paid to the Owners based on their respective Allocated Interests in the Common Elements unless the Association at a special meeting called for such purpose, decides otherwise.

**12.4. Condemnation of Limited Common Elements**

Any portion of an award attributable to the acquisition of a Limited Common Element must be equally divided among the Owners of the Units to which that Limited Common Element was allocated at the time of acquisition.

**12.5. Association Necessary Party to Proceeding.**

The Association, through its Board of Directors, shall be a necessary party to any condemnation proceedings and shall, to the extent feasible, act as a fiduciary on behalf of and in the best interests of any and all Unit Owners affected by such proceedings. Should the Association not act on the Owners' behalf in a condemnation proceeding, the affected Owners may individually or jointly act on their own behalf.

**12.6. Complete Taking.**

In the event of a complete taking of the Condominium, or in the event that the taking by the condemning authority is so substantial as to render the remainder of the Condominium unsuitable or undesirable for use by the remaining Unit Owners, then the Condominium shall (in the case of complete taking) or may (as to a partial taking) be terminated in accordance with the terms and conditions of RCW 64.34.268, and Article XV hereof.

**12.7. Reconstruction and Repair.**

Any reconstruction and repair necessitated by condemnation shall be governed by the procedures specified in Article XI hereof, provided that the Board may retain and apply such portion of each Owner's share of the Condemnation Award as is necessary to discharge said Owner's liability for any special Assessment arising from the operation of said Article XI.

**12.8. Notice to Mortgagees.**

The Board of Directors shall promptly give written notice to all Eligible Mortgagees of the pendency of any condemnation proceedings affecting any portion of the Condominium.

**12.9. Payment of Award**

When a Unit Owner becomes entitled to receipt of a condemnation award, or of any portion of such an award, or of any payment in lieu of such an award, then any such payment shall be made payable jointly to such Unit Owner and to the holders of any Mortgages encumbering such Owner's Unit, as their interests may appear.

**SCHEDULE 15 – PROTECTION OF MORTGAGEES**



This Schedule establishes certain standards and covenants which are for the benefit of the holders, insurers and guarantors of certain mortgages. This Article is supplemental to, and not in substitution for, any other provisions of the Condominium Instruments, but in the case of conflict, this Schedule shall control.

15.1. Percentage of Eligible Mortgagees.

Wherever in this Declaration the approval or consent of a specified percentage of Mortgagees is required, it shall mean, pursuant to RCW 64.34.272, the approval or consent in writing of Eligible Mortgagees holding first lien mortgages on Units, and the percentage shall be based upon the votes attributable to Units with respect to which Eligible Mortgagees have an interest.

15.2. Notice of Actions.

The Association shall give prompt written notice to each Eligible Mortgagee and Eligible Insurer of, and each Unit Owner hereby consents to, and authorizes the giving of notice of:

- (a) Any condemnation loss or any casualty loss which affects a material portion of the Condominium or any Unit in which there is a first mortgage held, insured, or guaranteed by such Eligible Mortgagee or Eligible Insurer, as applicable;
- (b) Any delinquency in the payment of Common Expense Assessments owed by a Unit Owner whose Unit is subject to a first mortgage held, insured, or guaranteed, by such Eligible Mortgagee or Eligible Insurer, as applicable, which remains uncured for a period of sixty (60) days;
- (c) Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; and
- (d) Any proposed action which would require the consent of a specified percentage of Eligible Mortgagees as specified in Section 15.3 of this Schedule (in which case, notice shall be provided by certified or registered mail, "return receipt requested").

15.3. Consent and Notice Required.

15.3.1. Document Changes.

Notwithstanding any lower requirement permitted by this Declaration or the Condominium Act, no amendment of any material provision of the Condominium Instruments by the Association or Unit Owners described in this Subsection may be effective without notice to all Eligible Mortgagees and Eligible Insurers, as required by Section 15.2(d) above, and the approval by Owners of Units to which at least 67% (or any greater Unit Owner vote required in Section 17.3 of this Declaration or the Condominium Act) of the votes in the Association are allocated, and approval in writing by Eligible Mortgagees and/or Eligible Insurers who represent at least 51% (or any greater Eligible Mortgagee approval required by this Declaration) of the votes of Unit estates that are subject to mortgages held by Eligible Mortgagees/Insurers. The foregoing approval requirements do not apply to amendments effected by the exercise of any Development Right. A change to any of the following would be considered material:

- (a) Voting rights;
- (b) Increases in Assessments that raise the previously assessed amount by more than 25%, Assessment liens or priority of Assessment liens;
- (c) Reductions in reserves for maintenance, repair and replacement of Common Elements;
- (d) Responsibility for maintenance and repairs;
- (e) Reallocation of interests in the General Common Elements or Limited Common Elements, or rights to their use, except that when Limited Common Elements are reallocated by agreement between Unit Owners, only those Unit Owners and only the Eligible Mortgagees holding mortgages in such Units need approve such action;
- (f) Redefinitions of boundaries of Units, except that when boundaries of only adjoining Units are involved, or when a Unit is being lawfully subdivided by its Owner pursuant to Section 4.9, then only those Unit Owners and the Eligible Mortgagees holding mortgages in such Unit or Units need must approve such action;



- (g) Convertibility of Units into Common Elements or Common Elements into Units;
- (h) Expansion or contraction of the Condominium, or the addition, annexation or withdrawal of property to or from the Condominium;
- (i) Hazard or fidelity insurance requirements;
- (j) Imposition of any restrictions on the leasing of Units;
- (k) Imposition of any restrictions on a Unit Owner's right to sell or transfer his or her Unit;
- (l) If the Condominium consists of 50 or more Units, a decision by the Association to establish self-management when professional management had been required previously by the Condominium Instruments or by an Eligible Mortgagee;
- (m) Restoration or repair of the project after damage or partial condemnation in a manner other than that specified in the Condominium Instruments;
- (n) Any provision that expressly benefits mortgage holders, insurers, or guarantors.

15.3.2. Actions.

Notwithstanding any lower requirement permitted by this Declaration or the Condominium Act, the Association may not take any of the following actions (other than rights reserved by the Declarant as Development Rights), without notice to all Eligible Mortgagees and eligible Insurers as required by Section 15.2(d) above, approval by Owners of Units to which at least 67% (or the indicated percentage, if different) of the votes in the Association are allocated, and approval in writing by Eligible Mortgagees and/or Eligible Insurers who represent at least 51% (or the percentage indicated below, if different,) of the votes of Unit estates that are subject to mortgages held by Eligible Mortgagees/Insurers:

- (a) Any action to abandon or terminate the legal status of the Condominium after condemnation or substantial destruction.
- (b) Any action to abandon or terminate the legal status of the Condominium for reasons other than substantial destruction or condemnation, as to which a sixty-seven percent (67%) Eligible Mortgagee approval is required.
- (c) Abandon, partition, subdivide, encumber, sell, transfer or convey the Common Elements or any portion thereof, as to which the approval of Owners to which at least eighty percent (80%) of the votes in the Association are allocated is required, and the procedures specified in Section 5.2 hereof must be followed. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements by the Association will not be deemed a transfer within the meaning of this clause;
- (d) Change any of the Allocated Interests allocated to any Unit other than as permitted in Sections 4.8 or 4.9 hereof; in any other case the vote or agreement of the Owner of each Unit particularly affected and his or her Mortgagee and the Owners of Units to which at least ninety percent (90%) of the votes in the Association are allocated other than the Declarant must be obtained, pursuant to Section 17.3 hereof and to RCW 64.34.264 (4).
- (e) Increase the number of Units, change the boundaries of any Unit (other than as provided in Sections 4.8 and 4.9 hereof) or change the uses to which any Unit is restricted, as to which the approval of Owners of Units to which at least ninety percent (90%) of the votes in the Association are allocated must be obtained, pursuant to Section 17.3 hereof and to RCW 64.34.264 (4).
- (f) The assignment of the future income of the Association, including its right to receive Common Expense Assessments.
- (g) The restoration or repair of the Property after hazard damage, as to which the approval of Owners to which at least eighty percent (80%) of the votes in the Association are allocated is required, or after a partial condemnation, in a manner other than specified in the Condominium Instruments.
- (h) The merger of the Condominium with any other common interest community.



15.3.3. Timing of Payment of Assessments

The Association may not change the period for collection of regularly budgeted Common Expense Assessments to other than monthly without the consent of all Eligible Mortgagees.

15.3.4. Implied Approval by Mortgagee

The failure of an Eligible Mortgagee or Insurer to respond within thirty (30) days to any written request of the Association delivered by certified or registered mail, "return receipt requested" for approval of an amendment to the Condominium Instruments, wherever Eligible Mortgagee or Insurer approval is required, shall constitute an implied approval of the addition or amendment.

15.4. Development Rights

No Development Rights may be exercised or voluntarily abandoned or terminated by the Declarant unless all persons holding mortgages in the Development Rights consent to the exercise, abandonment, or termination.

15.5. Inspection of Books

The Association must maintain current copies of the Declaration, Bylaws, Articles of Incorporation, Rules and Regulations, books and records and financial statements. The Association shall permit any Eligible Mortgagee, Eligible Insurer or other first mortgagee of a Unit, to inspect the books and records of the Association during normal business hours.

15.6. Financial Statements

The Association shall provide any Mortgagee or Eligible Insurer who submits a written request, a copy of an annual financial statement within one hundred twenty (120) days following the end of each fiscal year of the Association. Such financial statement shall be audited by an independent certified public accountant if:

- (a) The Condominium contains fifty or more Units, in which case the cost of the audit shall be a Common Expense; or
- (b) The Condominium contains fewer than fifty Units and any Eligible Mortgagee or Eligible Insurer requests it, in which case the Eligible Mortgagee or Eligible Insurer shall bear the cost of the audit.

15.7. Enforcement

The provisions of this Article are for the benefit of Eligible Mortgagees and Eligible Insurers and their successors, and may be enforced by any of them by any available means, at law, or in equity.

15.8. Attendance at Meetings

Any representative of an Eligible Mortgagee or Eligible Insurer may attend and address any meeting which a Unit Owner may attend.

15.9. Appointment of Trustee

In the event of damage or destruction under Article XI or condemnation of all or a portion of the Condominium, any Eligible Mortgagee may require that such proceeds be payable to a Trustee established pursuant to Section 11.7 of this Declaration. Proceeds will thereafter be distributed pursuant to Article XI or pursuant to a condemnation award.

15.10. Limitations on Mortgagees' Rights

No requirement for approval contained in this Article may operate to (1) deny or delegate control over the general administrative affairs of the Association by the Unit Owners or the Board of Directors, or (2) prevent the Association or the Board of Directors from commencing, intervening in, or settling any litigation or proceeding, or receiving and distributing any insurance proceeds except pursuant to RCW 64.34.352.

