



200603140130

Skagit County Auditor

3/14/2006 Page

1 of

43 2:51PM

When Recorded Return To:

Donald W. Black  
OGDEN MURPHY WALLACE, P.L.L.C.  
1601 Fifth Avenue, Suite 2100  
Seattle, Washington 98101-1686

CHICAGO TITLE IC311157

**DECLARATION ESTABLISHING THE  
ISLAND MEDICAL CENTER CONDOMINIUM**

Reference Number(s)  
of Related Documents:

N/A

Additional Reference #s on page: N/A

Grantor (Last, First, M.I.):

SKAGIT COUNTY PUBLIC HOSPITAL DISTRICT NO. 2  
(d/b/a Island Hospital), a Washington municipal corporation,  
CHALLENGE DEVELOPMENTS II, L.L.C., a Washington  
limited liability company

Additional Grantors on page: N/A

Grantee (Last, First, M.I.):

SKAGIT COUNTY PUBLIC HOSPITAL DISTRICT NO. 2  
(d/b/a Island Hospital), a Washington state public hospital  
district, CHALLENGE DEVELOPMENTS II, L.L.C., a  
Washington state limited liability company

Additional Grantees on page: N/A

Legal Description (abbreviated):

That portion of the Southeast Quarter of Section 24, Township 35  
North, Range 1 East of the Willamette Meridian

Additional Legal on page: 43

Assessor's Tax  
Account Number:

350124-0-139-0103

+ P6128 + P100698

**DECLARATION ESTABLISHING THE  
ISLAND MEDICAL CENTER CONDOMINIUM**

THIS DECLARATION (the "Declaration") is made by the SKAGIT COUNTY PUBLIC HOSPITAL DISTRICT NO. 2, a Washington municipal corporation, and CHALLENGE DEVELOPMENTS II, L.L.C., a Washington limited liability company, to submit the property hereinafter described to the Condominium Act of the State of Washington (Revised Code of Washington, Chapter 64.34) as the ISLAND MEDICAL CENTER CONDOMINIUM.

**I. DEFINITION**

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

1.1.1 "the Act" means the Washington condominium act (Revised Code of Washington, Chapter 64.34), as amended from time to time.

1.1.2 "Association" means the association of Unit Owners as defined in RCW 64.34.300 and designated herein as the Island Medical Center Condominium Association.

1.1.3 "Board of Directors" and "Board" means the individuals selected by the Declarants or elected by the Association to manage and administer the Property in accordance with the Bylaws of the Association, this Declaration and the Act, after the Declarants or its managing agent no longer provide such management.

1.1.4 "Building" has the meaning set forth in Section 2.2 below.

1.1.5 "Bylaws" means the Bylaws of the Association as initially promulgated by the Declarants, and as amended from time to time, which with this Declaration provide for the organization of the Association and for the administration of the Property.

1.1.6 "Challenge" means Challenge Developments II, L.L.C..

1.1.7 "Condominium" means the development which is the subject of this Declaration and that is known as the Island Medical Center Condominium.

1.1.8 "Declarants" means the Skagit County Public Hospital District No. 2 and Challenge Developments II, L.L.C..

1.1.9 "District" means Skagit County Public Hospital District No. 2.

1.1.10 "Island Hospital" means the general acute care hospital and related facilities operated by the District and located and 1211 25<sup>th</sup> Street, Anacortes, Washington.



1.1.11 "Island Hospital Building" means the primary building facility of Island Hospital located at 1211 25<sup>th</sup> Street, Anacortes, Washington and physically connected to the Building as described below in Section 2.3.

1.1.12 "Land" has the meaning set forth in Section 2.1 below.

1.1.13 "Mortgagee" means the secured party under a mortgage, deed of trust, or other real property security interest, including a sellers' interest in a real estate contract, covering a Unit or other portion or all of the Property. Mortgagee of the Unit refers to the mortgagee of a Unit pursuant to a mortgage which was recorded simultaneous with or after the recordation of this Declaration.

1.1.14 "Mortgagor" includes the grantor under a mortgage, deed of trust and the purchaser on a real estate contract.

1.1.15 "Property" means the Land and Building and the respective leasehold and fee estates in the same.

1.1.16 "Survey Map and Plans" means the survey map and the set of plans to be filed simultaneously with this Declaration showing the location, boundaries and other information relating to the land, the buildings and the Units, as required by the Act.

1.1.17 "Unit" means "unit" as defined in RCW 64.34.020(31) and the boundaries of a Unit shall be consistent with RCW 60.34.204 except as provided for in Section 4.2.1 below.

1.1.18 "Unit Owner" or "Owner" means "Unit Owner" as defined in RCW 64.34.020(32).

1.2 Form of Words. The singular form of words shall include the plural and the plural shall include the singular. Masculine, feminine, and other neuter pronouns shall be used interchangeably.

1.3 Statutory Definitions. Unless otherwise clear from the context, words defined in the Declaration have the same defined meaning as in the Act. Some of the terms defined above are also defined in RCW 64.34. The definitions in this Declaration are not intended to limit or contradict the definitions in the Act. If there is any inconsistency or conflict, the definition in the Act will prevail.

## II. DESCRIPTION OF LAND, BUILDING AND LEASE

2.1 Description of Land. The "Land" is the land legally described on "Exhibit "A" attached hereto and incorporated herein by this reference.

2.2 Building. The "Building" means the single building owned in fee by the Declarants and located on the Land, containing two floors with two Units on the main level (Units 101 and 102) and one Unit on the lower level (Unit LL1). The location of the Building,



the number and location of the Units, the immediate common elements to which each Unit has access, and the number of stories of the Building are shown on the Survey Map and Plans recorded simultaneously herewith and incorporated herein by reference.

2.3 Connecting Hallways to Island Hospital Building. The main level of the Building is connected to the Island Hospital Building by the two hallways (and related foundation, exterior walls and roof) as depicted on the Survey Map and Plans and further described in the Reciprocal Easement Agreement, recorded of even date herewith. The connections are hallways that allow access to and from the Building and the Island Hospital Building. Pursuant to the Reciprocal Easement Agreement, the Association and the District have addressed responsibilities for maintenance, repair and replacement of the two connections. Any expense incurred by the Association pursuant to said agreement will be a common expense and included as part of the assessments set forth in Article XIII, below.

2.4 Unit 101 Walkway Easement. As identified on the Survey Map and Plans and further described in the Unit 101 Walkway Easement Agreement, recorded of even date herewith, Challenge has granted an easement for walkway access through Unit 101 of approximate four (4) feet in width and total area of approximately nine hundred forty five (945) square feet in favor of the District and the Association. The actual location of the walkway access may be adjusted from time to time as agreed by Challenge, the District and the Association but shall always be (i) of sufficient size to allow for future use in a manner generally consistent with the use as of the time of Declaration, and (ii) in compliance with applicable law, including without limit, the Americans with Disabilities Act.

2.5 Leasehold Condominium. The Land is subject to a Amended and Restated Ground Lease Agreement between the District, as Landlord and the District and Challenge, collectively as Tenants, an entire copy or memorandum of which is recorded of even date herewith at Skagit County Auditor's No. 200603140130 (the "Lease"). The obligations and liabilities of the Tenants under the Lease are based on their respective percentage interests in the Condominium as further described in Section 5.1.

2.5.1 A complete copy of the Lease is available for inspection at the offices of the District located at 1211-24th Street, Anacortes, WA 98221-2590.

2.5.2 The Lease, as revised and restated, has a term that expires on May 31, 2057. The Unit Owners have no right to renew the Lease or to extend the term thereof.

2.5.3 The legal description of the Land is as set forth on Exhibit "A" referenced in Section 2.1, above.

2.5.4 The Unit Owners have no right to redeem the Landlord's reversionary interest under the Lease. Upon the expiration or earlier termination of the Lease, the Condominium shall terminate and all improvements shall belong to and be owned by the District, as Landlord. The Unit Owners shall have no right to remove any improvements upon the expiration or earlier termination of the Lease.



2.5.5 The District, as Landlord, the Unit Owners, and the Association agree that the Association shall collect the proportionate rents and other sums owed pursuant to the Lease from the Unit Owners according to their interests and timely remit to the Landlord all sums collected pursuant to the Lease. In the event any Unit Owner fails to timely remit to the Association all sums owed pursuant to the Lease, the Association and the other Unit Owners shall have no obligation to advance any sums to satisfy the deficiency owed to the District, as Landlord, as a result of the non-paying Unit Owner. If the Association or a Unit Owner advances any sum to the District, as Landlord, as a result of the non-paying Unit Owner, then said sum shall be collectible as set forth in Article XIV, below. The Unit Owners understand and acknowledge that in the event of a default in the payment of any sum owed pursuant to the Lease, the District, as Landlord, may terminate the Lease, which in turn will terminate this Condominium. The District, as Landlord, the Unit Owners, and the Association further agree that the Association shall be the sole representative of the Unit Owners on all matters relating to or involving the Lease.

2.5.6 The interests of the District, as Landlord, are separate and distinct from and shall not merge with the interests of the District as a Unit Owner.

2.5.7 The Declarants and, by virtue of this Declaration, the Unit Owners acknowledge that certain rights are reserved to the District as Landlord in the Lease, including without limit:

2.5.7.1 the right to approve all improvements or alterations to the Property in an amount that exceeds Twenty Five Thousand Dollars (\$25,000);

2.5.7.2 the right to approve all leases or subleases of any portion of the Property, including any portion of a Unit;

2.5.7.3 the right to approve any exceptions to the permitted use and limitations on use of the Building and Land; and

2.5.7.4 the right to approve the imposition of any assignment, deed of trust, mortgage or encumbrance upon or affecting any rights in the Lease or in the Property.

### III. COMMON ELEMENTS

3.1 General. The common elements are all portions of the Property other than the Units and the limited common elements, subject to the limitations and provisions of this Declaration. For example, the common elements generally include landscaping, entry way, floor penetrating columns, structural supports, roof, unfinished structural or load bearing walls, hallways, stair wells, bathrooms, ventilation and air conditioning system, exhaust fans, electrical system, domestic water, wastewater system, sprinkled fire suppression system, security system, telecommunications facilities, and phone until such systems or services enter (a) a Unit or (b) the utility service rooms that are limited common elements designated for each Unit.



3.2 Mechanical Room. The mechanical room located on the lower level and as identified on the Survey Map and Plans is a common element for the benefit of all Units. The Owner of Unit LL1 shall provide reasonable access to said mechanical room to the Declarants, Association and other Unit Owners as reasonably necessary for emergencies or to inspect, repair, replace or maintain common elements.

#### IV. LIMITED COMMON ELEMENTS

4.1 Limited Common Elements. The limited common elements are those described in the Act, those set out on the Survey Map and Plans, and those set forth below, and are reserved for the exclusive use of Units to which they are assigned. Easements for this exclusive use are hereby granted and established. Except as provided in Section 4.3 below, following the recording of this Declaration, the Survey Map and Plans, seventy five percent (75%) of the Unit Owners, including the Owner of the Unit to which the limited common element will be assigned or incorporated, must agree to reallocate a common element as a limited common element or to incorporate a common element or a limited common element into an existing Unit. Such reallocation or incorporation shall be reflected in an amendment to the Declaration, Survey Map, or Plans. The limited common elements are as designated on the Survey Map and Plans, and as established by the Act.

4.2 Specific Limited Common Elements.

4.2.1 Above the Ceiling. The area of the interior of the Building between the ceiling elevations of each Unit as depicted on the Survey Map and Plans and below the concrete separating the floors is a limited common element assigned to the Unit immediately below such space.

4.2.2 Roof Surface. The surface of the roof may be assigned as limited common elements for the purpose of locating telecommunications equipment, if one of the Declarants exercises certain reserved rights, as set out in this Declaration, and the Survey Map and Plans. If one of the Declarants exercises the reserved right set forth herein, no puncturing of any component of the roof shall be allowed for purposes of locating equipment on the surface of the roof as set forth herein, unless unanimously approved by the Board. The Board reserves the right to impose such terms and conditions as it deems appropriate, in its sole discretion, associated with any approval to puncture any component of the roof for the purpose of locating equipment thereon.

4.2.3 Units 101 and 102 Parking. A total of one hundred ten (110) parking spaces in the parking lot identified in the Survey Map and Plans are assigned as limited common elements to Units 101 and 102; provided however that the Declarants, other Unit Owners and the Association shall have access to such parking spaces if necessary for emergencies or to inspect, repair, replace or maintain common elements. Units 101 and 102, on a proportionate basis according to the percentage interests on the main level, are solely responsible for the repair and maintenance of the identified parking spaces.



4.2.4 Unit LL1 Parking. A total of six (6) parking spaces in the parking lot identified in the Survey Map and Plans are assigned as limited common elements to Unit LL1; provided however that the Declarants, other Unit Owners and the Association shall have access to such parking spaces if necessary for emergencies or to inspect, repair, replace or maintain common elements. Unit LL1 is solely responsible for the repair and maintenance of the identified parking spaces.

4.2.5 Elevator and Stairwells. The elevator and stairwells providing access to the lower level of the Condominium are limited common elements assigned to the Unit LL1; provided however that the Declarants, other Unit Owners and the Association shall have reasonable access to the elevator and stairwells if necessary for emergencies or to inspect, repair, replace or maintain common elements. Unit LL1 shall be solely responsible for the repair and maintenance of the elevator and stairwells.

4.2.6 Miscellaneous. Patios, balconies, doors leading to patios, and balconies are limited common elements appurtenant to the Unit with which the limited common element is associated.

4.3 Reallocation. Except for a reallocation made pursuant to development rights reserved by the Declarants, the Board, with the approval of affected Unit Owners if required by the Act, may, as provided in RCW 64.34.228(2), add or reallocate common elements and limited common elements.

## V. UNIT INFORMATION

5.1 Unit Location, Approximate Size and Percentage of Undivided Interest in Common Elements and Expense. Set out below is information for each of the three (3) Units created by this Declaration:

Unit No.	Floor	Approx. Sq. Ft.	Percentage of: Undivided Interest, Voting, and Sharing of Common Expense and of Common Elements
LL1	Lower Level	13580	34.84%
101	Main Level	15750	40.41%
102	Main Level	9650	24.76%
	<b>Total</b>	<b>38980</b>	<b>100.00%</b>

5.2 Undivided Interest. The percent of undivided interest for voting and for sharing of common expenses of the Association is based on the approximate relative square feet of all Units. This percentage applies to all purposes under the Act for which the percentage interest is used as a reference or basis of determination, including the relative percentage of all Units of the total votes, the ownership in the common elements, and the obligation to pay common expenses.

5.3 Owners of Units. Pursuant to the agreement of the Declarants, and following the creation of the Condominium and recordation of deeds transferring fee interests, the Owners of



the Units shall be follows: Unit LL1 shall be owned by the District; and Units 101 and 102 shall be owned by Challenge.

5.4 Unit 102. Unit 102 is created as an airspace unit. The Owner of Unit 102, Challenge, shall have the right to construct improvements in that airspace. Prior to the commencement of construction to complete Unit 102, Challenge shall prepare an amendment to the Declaration, including amendments to the Survey Map and Plans associated with Unit 102, and submit them to the Board for its review and approval. Following construction of Unit 102, the Declaration and the Survey Map and Plans shall be amended to: conform the actual boundaries of Unit 102, consistent with the type of boundaries associated with Units LL1 and 101; and, if necessary, reallocate the interests in Section 5.1 to conform to the actual area of Unit 102. If Unit 102 is not constructed within forty eight (48) months of the date of this Declaration, the Declaration shall be amended to eliminate Unit 102 and revise the allocated interests in Section 5.1 accordingly.

## VI. USAGE

6.1 Office Use. The Property is restricted to the uses set forth in the Lease and not requiring more parking spaces than available under current zoning and building regulations. No portion of the Condominium may be used for residential purposes.

6.2 Parking Area. There are a total of one hundred sixteen (116) parking spaces in the parking areas of the Condominium, as identified on the Survey Map and Plans. Parking areas are restricted to use for daily parking of operative automobiles, pick ups, motorcycles and the like for Unit Owners, employees, patients, business invitees of Unit Owners and the like. Large vehicles and trucks may use the parking area temporarily for loading and unloading. Long-term and overnight parking is not permitted, except as approved in advance by the Board or the Manager. The Board may require removal of any inoperative or unsightly vehicle, and any other equipment or item not parked or stored in accordance with the Declaration or the Bylaws, and if the item (including a vehicle) is not removed after notice to the party reasonably believed responsible for the item (which may include posting the notice on the item) the Board may remove the item at the risk and expense of the owner of that item. The use of all parking areas is also subject to rules and regulations adopted by the (i) Owners of Units 101 and 102 for those parking spaces assigned to such Units as limited common elements pursuant to Section 4.2.3, (ii) Owner of Unit LL1 for those parking spaces assigned to such Unit as a limited common element pursuant to Section 4.2.4, or (iii) the Association.

6.3 Driveways, Walkways, Etc. Driveways, walks, walkways and other portions of the common elements used for access shall be used exclusively for normal ingress and egress and no obstructions shall be placed therein unless permitted by the Board or by rules and regulations adopted for the Association.

6.4 Uses Affecting Insurance. Unless the Board consents in writing, the Unit Owners shall not permit anything to be done or kept in the Units or in the common or limited common elements which will (a) increase the insurance premiums for the Condominium or (b) result in

the cancellation of insurance on any part of the Condominium. The Board shall not agree to cancellation of the Condominium insurance coverage unless substitute coverage as provided for in this Declaration is obtained. In evaluating whether to provide consent, the Board shall consider as one of the factors whether the Unit Owner agrees to reimburse the Association for the increase in insurance costs.

6.5 Offensive Activity. No noxious or offensive activity shall be carried on in any Unit or common or limited common elements nor shall anything be done therein which may be or become an annoyance or nuisance to the Unit Owners, or which would be in violation of any laws.

6.6 Signs. All signs shall comply with this Declaration and with the rules and regulations adopted by the Board, which may require all signs be (a) part of a common entry-way structure, and (b) of similar size, shape, and color.

6.7 Leasing Units. Any lease or rental agreement of a Unit, or any portion thereof, must be in writing and be subject to the requirements of the Lease, Declaration, Bylaws, rules, regulations or decisions of the Board. No Unit, or any portion thereof, may be leased or rented for less than 30 days.

## VII. OWNERS ASSOCIATION AND VOTING

7.1 Organization. The Association shall be organized as a non-profit corporation pursuant to RCW 24.06 et. seq. no later than the date the first Unit is conveyed. The membership of the Association at all times shall consist exclusively of all the Unit Owners.

7.2 Name of Association. The name of the Association shall be the "Island Medical Center Condominium Association."

7.3 Membership. All Unit Owners shall constitute the membership of the Association, as provided by the Act. Natural persons, partnerships, municipal corporations, corporations, trusts or other lawful business entities may own or have Ownership interest in Units.

7.4 Voting Power. The total voting power of all Owners shall be 100 votes, which may be assigned in fractions of up to two (2) decimal places, and the total number of votes available to the Owners of any one Unit shall be as set out in Article V. If a person, corporation or firm owns more than one Unit, he, she or it shall have the votes for each Unit owned.

7.5 Voting Agent. If only one of the multiple Owners of a Unit is present at a meeting of the Association, the Owner is entitled to cast all the votes allocated to that Unit. If more than one of the multiple Owners are present, the votes associated to that Unit may be cast only in accordance with the agreement of a majority in interest of the multiple Owners. The votes of any Unit may not be split. There is majority agreement if any one of the multiple Owners cast the votes allocated to that Unit without protest being made promptly to the person



presiding over the meeting by any of the other Owners of the Unit. In the event of a deadlock among Owners of a Unit, such Unit Owners shall have no vote at that meeting.

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

7.7 Units Owned by Association. No votes allocated to a Unit owned by the Association may be cast, and in determining the percentage of votes required to act on any matter, the votes allocated to Units owned by the Association shall be disregarded.

7.8 Mortgagees. The Owners of a Unit may pledge their vote regarding special matters to a Mortgagee of the Unit. In the event the Owner or Owners have pledged their vote regarding special matters to a Mortgagee, and if in addition a copy of such mortgage with a statement of the special items respecting which the vote is pledged is filed with the manager or Board, only the vote of the Mortgagee or its agent will be recognized in regard to the special matters upon which the vote is so pledged. Amendments to this paragraph shall only be effective on the written consent of all the voters and their respective Mortgagees, if any.

7.9 Voting Requirement for Action by the Unit Owners/Association. Unless otherwise set forth in this Declaration, a vote of seventy five percent (75%) of the total votes of the Association is required to approve any action of the Unit Owners/Association.

## VIII. QUORUM - MEETINGS

8.1 Quorum. The presence at any meeting of Unit Owners or their agents having seventy five percent (75%) of the total votes shall constitute a quorum. In the event that a quorum is not present at any meeting, the Owners present, though less than a quorum, may adjourn the meeting to a later date and give notice thereof to all the Owners in accordance with the notice provisions of the Declaration. Unless otherwise expressly provided in this Declaration, any action may be taken at a meeting of the Owners, at which a quorum is present, upon the affirmative vote of seventy five percent (75%) of the total votes of the Association.

8.2 Annual Meeting. There shall be an annual meeting of the Owners each year at such reasonable place and time as may be designated by written notice of the Board delivered to the Owners not less than ten (10) days nor more than sixty (60) days prior to the date fixed for said meeting. At the annual meeting, the Board shall present a financial statement of the Association and a report itemizing receipts and disbursements for the preceding twelve (12) months, the allocation thereof to each Unit, and the estimated common expenses for the coming year. A copy of the financial statement and report shall be delivered to any Unit Owner requesting one. The financial statement of the Association shall be audited annually, unless the



audit is waived annually by Unit Owners to which at least seventy five percent (75%) of all votes are allocated. A Unit Owner at the Unit Owner's own expense, may at any reasonable time make an audit of the books of the Board and manager.

8.3 Special Meetings. Special meetings of the Unit Owners may be called as provided in the Act.

## IX. NOTICES

Any notice permitted or required to be delivered as provided herein shall or may be delivered either personally or by first-class mail. If delivery is made by mail, such notice shall be deemed to have been delivered on the third business day after a copy of the notice has been deposited in the United States mail, postage prepaid, addressed to the person entitled to such notice at the address given by such person to the Board, in writing, for the purpose of service of such notice. Notice to a Unit Owner shall be sufficient if mailed to the Unit of such Unit Owner if no other mailing address has been given in writing to the Board. Notice to be given to the Board may be given to Declarants until such time as the Association and Board have been constituted and thereafter shall be given to the chair or to the secretary of the Board. The notice of any meeting shall state the time and place of the meeting and the items on the agenda to be voted on by the members, including the general nature of any proposed amendment to the Declaration or Bylaws, changes in the previously approved budget that result in a change in assessment obligations, and any proposal to remove a director or officer.

## X. BOARD OF THE ASSOCIATION: COMPOSITION, ELECTION, RIGHTS AND POWERS OF DECLARANTS

10.1 Composition and Care Required. The Board of the Association shall be composed of four (4) members and during the period of Declarant control the board members shall be appointed as follows: The District shall fill Board Position No. 1 and Board Position No. 2, and Challenge shall fill Board Position No. 3 and Board Position No. 4. The Board shall act in all instances on behalf of the Association. In the performance of their duties, the officers and members of the Board are required to exercise: (a) if appointed by the Declarants, the care required of fiduciaries of the Unit Owners; or (b) if elected by the Unit Owners, ordinary and reasonable care. The terms of the four Board Positions shall be as set forth in the Bylaws, and may be staggered. A quorum of the Board for the conducting of any business shall be three (3) Board Members. The right of the District and Challenge to fill or appoint all four (4) Directors, as set forth above, shall be referenced in the Articles of Incorporation for the Association.

10.2 Restrictions on Power. The Board shall not act on behalf of the Association to amend the Declaration in any manner: (a) that requires the vote or approval of the Unit Owners, or (b) to terminate the Condominium pursuant to Article XXVI, "Termination".

10.3 Notice of Budget. Within thirty (30) days after adoption of any proposed budget for the Condominium, the Board shall provide a summary of the budget to all the Unit Owners



and shall set a date for a meeting of the Unit Owners to consider ratification of the budget not less than fourteen (14) nor more than sixty (60) days after the mailing of the summary. Unless at the meeting the Owners of Units holding eighty percent (80%) of the votes in the Association reject the budget, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected or the required notice is not given, the periodic budget last ratified by the Unit Owners shall be continued until such time as the Unit Owners ratify a subsequent budget proposed by the Board.

10.4 Declarant Control. The Declarants, or persons designated by the Declarants, may control the Association by appointing and removing the officers and Directors of the Board as set forth in Section 10.1, above. The period of Declarant control shall terminate no later than the earlier of: (a) sixty (60) days after conveyance of all of the Units to Unit Owners; or (b) the date on which the Declarants record an amendment to the Declaration pursuant to which the Declarants voluntarily surrender the right to further appoint and remove officers and members of the Board.

10.4.1 Notwithstanding the foregoing, after the termination of Declarant control and so long as the District owns Unit LL1, the District shall have the right to appoint and fill Board Position No. 1 and Board Position No. 2. Notwithstanding the foregoing, after the termination of Declarant control and so long as Challenge owns Units 101 and 102, Challenge shall have the right to appoint and fill Board Position No. 3 and Board Position No. 4.

10.5 Election after Declarant Control. Subject to Section 10.4.1, above, after the expiration of Declarant control, nominations for the Board may only be made by an Owner having at least a ten percent (10%) interest in the Association as set forth in Section 5.1, above. Each Owner having at least a ten percent (10%) interest in the Association as set forth in Section 5.1, above, shall be entitled to nominate one person for each vacant Board position. Within thirty (30) days after the termination of Declarant control, the Unit Owners shall elect Directors to fill all vacant positions on the Board (i.e. those that are not appointed pursuant to Section 10.4.1, above). All Directors elected by the Unit Owners must be Unit Owners, or agents, representatives, or employees of the Unit Owners. The Board shall elect the officers. The Directors and officers shall take office upon election.

10.6 Removal of Director. The Unit Owners, by the vote of seventy five percent (75%) of the total voting power in the Association, at any meeting of the Unit Owners at which a quorum is present, may remove any member of the Board with or without cause; provided, however that the Unit Owners may not remove a Director appointed by the Declarants (including a Director appointed by the District after the termination of Declarant Control as set forth in Section 10.4.1, above).

10.7 Deadlock. A "Deadlock" shall exist if the Board is unable to agree on any matter before the Board. In the event of a Deadlock, such matters shall be referred for resolution by the Unit Owners. The deadlocked matter may only be resolved by a vote of the Unit Owners holding seventy five percent (75%) of the total voting interest. If the Deadlock is not resolved by a vote of the Unit Owners, the Deadlock will be resolved according to the following procedures.



The parties shall first try in good faith to settle the dispute through nonbinding mediation under the Rules of Practice and Procedures ("Rules") of the Judicial Arbitration and Mediation Services, Inc. ("JAMS"). A single disinterested third-party mediator shall be selected by JAMS in accordance with its then current Rules. The parties to the dispute shall share the expenses of the mediator and the other costs of mediation on an equal basis. Any dispute that cannot be resolved by nonbinding mediation within thirty (30) days following the submission of the dispute for mediation shall be referred for definitive resolution by binding arbitration as follows:

10.7.1 The parties shall mutually agree to select a single arbitrator to conduct an arbitration through the arbitration service of the parties' choice; if the parties are unable to agree on a single arbitrator, the arbitrator shall be selected by JAMS;

10.7.2 The arbitration shall be conducted in accordance with the rules of arbitration established by the arbitration service selected by the parties;

10.7.3 Should the parties fail to agree to use a particular arbitration service, or in the case an arbitration service selected does not use particular rules, the arbitration shall be conducted in accordance with the Commercial Arbitration Rules of JAMS;

10.7.4 The location of the arbitration shall be Anacortes, Washington, or such other location mutually agreed upon by the parties;

10.7.5 The arbitrator shall issue a written decision and send copies to all parties, which shall include separate findings of fact and conclusions of law.

10.7.6 Each party shall be responsible for its own attorneys' fees, costs and expenses incurred in connection with the arbitration; provided, however, that the arbitrator may award reasonable attorneys' fees if the arbitrator finds that the party against whom the fees are assessed acted frivolously or in bad faith in its demand for or participation in the arbitration;

10.7.7 Each party shall share equally in payment of the costs and fees for the arbitrator; and

10.7.8 If a party unsuccessfully challenges the arbitrator's award, or fails to comply with the arbitrator's award, the other party is entitled to costs of suit including reasonable attorneys' fee for having to defend or enforce the award.

The judgment of the arbitrator shall be binding upon the parties and may be filed in and enforced by any court having proper jurisdiction.

## XI. AUTHORITY OF THE ASSOCIATION

11.1 Powers. The Association, acting through the Board, unless otherwise required by the Declaration, the Bylaws or the Act, may:

11.1.1 Rules. Adopt and amend Bylaws, rules, and regulations;

Declaration Establishing the Island Medical Center Condominium 13  
03/10/06{DWB619925.DOC:8/06989.045010/}



200603140130

Skagit County Auditor

11.1.2 Budgets. Adopt and amend budgets for revenues, expenditures, and reserves, and impose and collect assessments for common expenses from Unit Owners;

11.1.3 Employees. Hire and discharge or contract with managing agents and other employees, agents, and independent contractors;

11.1.4 Litigation. Institute, defend, or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more Unit Owners on matters affecting the Condominium;

11.1.5 Contracts. Make contracts and incur liabilities;

11.1.6 Common Elements. Regulate the use, maintenance, repair, replacement, and modification of common elements;

11.1.7 Improvements. Cause additional improvements to be made as a part of the common elements;

11.1.8 Property. Acquire, hold, encumber, and convey in its own name any right, title or interest to real or personal property, but common elements may be conveyed or subjected to a security interest only pursuant to Section 28.2, Conveyance or Encumbrance of Common elements;

11.1.9 Easements. Grant easements, leases, licenses, and concessions through or over the common elements and petition for or consent to the vacation of streets and alleys;

11.1.10 Fees. Impose and collect any payments, fees, or charges for the use, rental, or operation of the common elements and for services provided to Unit Owners;

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

11.1.12 Charges. Impose and collect reasonable charges for the preparation and recording of amendments to the Declaration, resale certificates and statements of unpaid assessments;

11.1.13 Indemnification and Insurance. Provide for the indemnification of its officers and Board and maintain directors' and officers' liability insurance and fidelity bonds;

11.1.14 Assignment of Income. Assign its right to future income, including the right to receive common expense assessments.



11.1.15 Collection of Sums Owed Pursuant to Lease. As set forth in Section 2.5, above, the Association shall administer the Lease (as defined in Section 2.5, above) on behalf of the Unit Owners. All sums owed pursuant to the Lease shall be remitted to the Association within thirty (30) days of the date an invoice is received by the Unit Owners from the Association. The collection of sums owed pursuant to the Lease as set forth herein shall impose no obligation on the Association to advance any sums owed by the Unit Owners to the District, as Landlord, as a result of a non-paying Unit Owner, or to otherwise enforce the terms or conditions of the Lease on behalf of the Landlord.

11.1.16 Other. Exercise such other powers as may be allowed by the Act.

11.2 Payments. The Association, for the benefit of the Condominium and the Owners, acting through the Board unless otherwise required by this Declaration, the Bylaws, or the Act, shall enforce the provisions of this Declaration and shall acquire and shall pay for out of the common expense fund provided for in this Declaration, the following:

11.2.1 Utilities. Water, sewer, garbage collection, electrical, and other necessary utility service for the common elements and the Units except if the Unit is separately metered or charged for the utility service. The Board reserves the right to reasonably allocate non-metered utilities according to usage, when it becomes apparent to the Board that the usage is materially different from the percentage responsibility for said utility as set forth in Section 5.1.

11.2.2 Insurance. Policies of insurance as the same are more fully set forth in this Declaration under Article 23, "Insurance".

11.2.3 Manager. The services of a person or firm to manage the affairs for the Condominium (herein called "the manager") 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 the manager including, but not limited to, a single business retained by the Board to provide janitorial services to the Building and all Units therein.

11.2.4 Professional Services. Legal, accounting, and other professional services necessary or proper in the operation of the Association affairs, administration of the common elements or the enforcement of this Declaration.

11.2.5 Maintenance of Common elements. Painting, maintenance, replacement, and repair of all common elements, and such furnishings and equipment for these areas as the Board shall determine are necessary and proper, and the Board shall have the exclusive right and duty to acquire the same for these areas; provided however, that the interior surfaces of each Unit shall be painted, maintained and repaired by the Owners thereof, all such maintenance to be at the sole cost and expense of the particular Owner.

11.2.6 Maintenance of Units and Limited Common Elements. Maintenance, operation, replacement and repair of any Unit and the limited common elements associated with



said Units, if such maintenance, operation, replacement or repair is reasonably necessary in the discretion of the Board to protect the common elements of the Building, or the Property, or preserve the appearance and value of the Property, and the Owner or Owners of the Unit have failed or refused to perform the maintenance or repair within a reasonable time after written notice of the necessity of such maintenance or repair delivered by the Board to the Unit Owner or Owners, provided that the Board shall levy a special assessment against the Unit of such Owner or Owners for the cost of the maintenance or repair.

11.3 Liens. The Board may also pay any amount necessary to discharge any lien or encumbrance levied against the 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 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 expense incurred by the Board by reason of such lien or liens shall be assessed against the Owners and the Units responsible to the extent of their responsibility.

11.4 Alterations, Additions and Improvements - Limitation. The Board shall make no non-budgetary alterations, capital additions to, or capital improvements of the common elements requiring an expenditure in excess of Twenty-five Thousand Dollars (\$25,000.00) per calendar year without prior approval of the Unit Owners holding seventy five percent (75%) of the total votes. The Board shall make no non-budgetary alterations, capital additions to, or capital improvements of individual Units or limited common elements pursuant to Section 11.2.6 requiring an expenditure in excess of Five Thousand Dollars (\$5,000.00) per calendar year per Unit, without prior approval of the Unit Owners holding seventy five percent (75%) of the total votes.

11.5 Association Records. The Association shall keep financial records sufficiently detailed to enable the Association to comply with RCW 64.34.425 and this Declaration. All financial and other records shall be made reasonably available for examination by any Unit Owner and the Owner's authorized agents.

11.6 Funds. The funds of the Association shall not be commingled with the funds of any other association, or with the funds of any manager of the Association or any other person responsible for the custody of such funds. Any reserve funds of the Association shall be kept in a segregated account and any transaction affecting such funds in excess of Five Thousand Dollars (\$5,000.00), including the issuance of checks, shall require the signature of at least two persons who are officers or directors of the Association.

11.7 Other. Unless otherwise provided in this Declaration, the Association may exercise any other powers conferred by the Declaration, Bylaws, or the Act, may exercise all powers that may be exercised in this state by the same type of corporation as the Association, and may exercise any other powers necessary and proper for the governance and operation of the Association.



## XII. TRANSFER OF ASSOCIATION CONTROL

12.1 Declarant Control. Declarants shall, within sixty (60) days after the termination of the period of Declarant control provided in Section 10.4, deliver to the Association all property of the Unit Owners and of the Association held or controlled by the Declarants including, but not limited to:

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

12.1.2 Corporate Documents. The certificate of incorporation and a copy or a duplicate original of the Articles of Incorporation of the Association as filed with the Secretary of State;

12.1.3 Bylaws. The Bylaws of the Association;

12.1.4 Minutes. The minute books, including all minutes, and other books and records of the Association;

12.1.5 Rules. Any rules and regulations that have been adopted;

12.1.6 Resignations. Resignations of officers and members of the Board who are required to resign because the Declarants are required to relinquish control of the Association;

12.1.7 Financial Records. The financial records, including cancelled checks, bank statements, and financial statements of the Association, and source documents from the time of incorporation of the Association through the date of transfer of control to the Unit Owners;

12.1.8 Funds. Association funds or the control of the funds of the Association;

12.1.9 Property. All tangible personal property of the Association, represented by the Declarants to be the property of the Association or ostensibly the property of the Association, and an inventory of the property.

12.1.10 Plans. Except for alterations to a Unit done by a Unit Owner other than the Declarants, a copy of the Declarants' plans and specifications utilized in the construction or remodeling of the Condominium, with a certificate of the Declarants or a licensed architect or engineer that the plans and specifications represent, to the best of their knowledge and belief, the actual plans and specifications utilized by the Declarants in the construction or remodeling of the Condominium;

12.1.11 Insurance Policies. Insurance policies or copies thereof for the Condominium and Association;



12.1.12 Certificates of Occupancy. Copies of any certificate of occupancy that may have been issued for the Condominium;

12.1.13 Permits. Any other permits issued by governmental bodies applicable to the Condominium in force or issued within one year before the date of transfer of control to the Unit Owners;

12.1.14 Warranties. All written warranties that are still in effect for the common elements, or any other areas or facilities which the Association has the responsibility to maintain and repair, from the contractor, subcontractors, suppliers, and manufacturers and all Owners' manuals or instructions furnished to the Declarants with respect to installed equipment or building systems;

12.1.15 Roster. A roster of Unit Owners and eligible Mortgagees and their addresses and telephone numbers, if known, as shown on the Declarants' records and the date of closing of the first sale of each Unit sold by the Declarants;

12.1.16 Leases. Any leases of the common elements and other leases to which the Association is a party.

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

12.1.18 Contracts. All other contracts to which the Association is a party.

12.2 Audit. Upon the transfer of control to the Unit Owners, the records of the Association shall be audited as of the date of transfer by an independent certified public accountant in accordance with generally accepted auditing standards unless the Unit Owners holding seventy five percent (75%) of voting interest elect to waive the audit. The cost of the audit shall be a common expense. The accountant performing the audit shall examine supporting documents and records, including the cash disbursements and related paid invoices, to determine if expenditures were for Association purposes and the billings, cash receipts, and related records to determine if the Declarants were charged for and paid the proper amount of Assessments.

### **XIII. COMMON EXPENSES: ASSESSMENTS**

13.1 Budget and Assessments. Annually the Board shall estimate the net charges to be paid during each year, and shall include a reasonable reserve fund for maintenance, repairs and replacement of the common elements and payment of rent due under the Lease; provided, that Declarants or the initial Board may at any suitable time establish the first such estimate. Said estimate shall be assessed to Units and the Owner or Owners thereof according to the percentage of undivided interest in the common elements set forth in Section 5.1, above. If the estimate proves inadequate for any reason, including nonpayment of any Owner's assessment, the Board may at any time levy a further assessment, which shall be assessed to the Owners thereof



according to the percentage of undivided interest in the common elements. Each Unit Owner shall be obligated to pay assessments made pursuant to this paragraph to the treasurer or manager for the Association in equal monthly installments on or before the first day of each month during such year, or in such other reasonable manner as the Board shall designate, and any unpaid assessments shall bear interest at twelve percent (12%) per annum from the due date until paid.

13.1.1 Collection of Sums Owed Under the Lease. So long as the Association is responsible for the collection of sums due under the Lease, the sums due shall be allocated according to the interests set forth in Section 5.1, above, and collected pursuant to Section 11.1.15, above. In the event of a failure of a Unit Owner to pay said sums when due, then, in addition to any other rights and remedies, the Association shall have the rights set forth in Article XIV, below.

13.2 Prior Assessments. Except as provided in RCW 64.34.364(3), the holder of a mortgage or other purchaser of a Unit who obtains the right of possession of the Unit through foreclosure shall not be liable for assessments or installments thereof that became due prior to such right of possession. Such unpaid assessments shall be deemed to be common expenses collectively from all the Unit Owners, including such Mortgagee or other purchaser of the Unit. Foreclosure of a mortgage does not relieve the prior Owner of personal liability for assessments accruing against the Unit prior to the date of such sale as provided in this subsection.

13.3 Disbursement of Funds. All funds collected by the Association as assessments shall be expended for the purposes designated in this Declaration.

13.4 No Waiver. The omission by the Board, before the expiration of any year, to fix the assessments hereunder for that or the next year, shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of the Owner from the obligation to pay the assessments, or any installment thereof for that or any subsequent year, but the assessment fixed for the preceding year shall continue until a new assessment is fixed.

13.5 Records. The manager or Board shall keep a current copy of this Declaration, Bylaws, and other rules concerning the Condominium as well as detailed accurate records of the receipts and expenditures of the Association, and affecting the common elements, specifying and itemizing the maintenance and repair expenses of the common elements and any other expense incurred. Such records and any resolutions authorizing the payment involved shall be available for examination by any Owner or holder, insurer and guarantors of mortgages that are secured by Units at convenient hours of week days; provided that the Association may establish a reasonable fee for making the records available, calculated to pay the costs of the Association, including overhead.

13.6 Assessments to Pay Judgment. Assessments to pay a judgment against the Association may be made only against the Units in the Condominium at the time the judgment was entered in proportion to their allocated common expense liabilities at the time the judgment was entered.



13.7 Caused by Misconduct. To the extent that any common expense is caused by the negligence or misconduct of any Unit Owner or its lessee, the Association may assess that expense against the Owner's Unit.

13.8 Reallocation. If common expense liabilities are reallocated and the percentage responsibilities set forth in Section 5.1, above, are amended, then the common expense assessments (including any sums owed pursuant to the Lease) and any installment thereof yet due shall be recalculated in accordance with the reallocated common expense liabilities.

13.9 Special Allocations. Notwithstanding anything set forth in this Section 13, prior to the completion of Unit 102 (as contemplated by Section 5.4) common expenses for maintenance and improvements may be specially allocated among the Unit Owners pursuant to a separate written agreement signed by all Unit Owners, including without limit that certain Side Agreement for IMDC Building Purchase and Condominium Conversion of even date herewith.

#### **XIV. DEFAULT IN PAYMENT OF ASSESSMENT OR LEASE OBLIGATIONS - COLLECTION - NOTICE OF OBLIGATION**

14.1 Joint and Several Obligations; Lien, Recovery of Costs. Each monthly assessment and each special assessment shall be separate, joint and several personal debts and obligations of the Owner or Owners of Units for which the same are assessed at the time the assessment is made and shall be collectible as such. Suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing the same. The amount of any assessment, whether regular or special, assessed to any Unit, plus interest as set out above, and costs, including reasonable attorney's fees, shall be a lien upon such Unit from the time the assessment is due. The assessment is recoverable in a suit to recover money judgment without foreclosing the lien, at the election of the Board. The lien for the assessment shall have priority over all other liens and encumbrances 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 due; and (c) liens for real property taxes and other governmental assessments or charges against the Unit.

14.2 Statement of Indebtedness. The Association, upon written request, shall furnish to a Unit Owner or 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 (15) days after receipt of a request; provided that the Association may condition the furnishing of the statement upon the payment of a reasonable fee for the service, as the Association may set from time to time, but until such fee shall be changed by the Board, the fee shall be Fifty Dollars (\$50). The statement is binding on the Association, the Board, and every Unit Owner, unless and to the extent known by the recipient to be false.

14.3 Security Deposit. A Unit Owner who has taken possession of any Unit pursuant to the exercise of his security interest may be required, by the Board, from time to time, to make a security deposit not in excess of three (3) months' estimated monthly assessments, which shall be due as directed by the Board, and may be collected as are other assessments. Such deposit



shall be held in a separate fund, credited to such Unit Owner, and resort may be had thereto at any time when such Unit Owner is ten (10) days or more delinquent in paying the Unit Owner's monthly or other assessments.

14.4 Foreclosure of Assessment Lien - Attorney Fees and Costs. The Declarants, manager or Board on behalf of the Association may initiate action to foreclose the lien of any assessment. In any action to foreclose a lien against any Unit for nonpayment of delinquent assessments, any judgment rendered against the Owners in favor of the Association shall include a reasonable sum for attorney's fees and all costs and expenses reasonably incurred in preparation for or in the prosecution of said action, in addition to taxable costs permitted by law. A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within three (3) years after the amount of the assessments sought to be recovered becomes due.

14.5 Rental Value. 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, the Association shall be entitled to the appointment of a receiver to collect from the lessee of the Unit the rent for the Unit as and when due. If the rental is not paid, the receiver may obtain possession of the Unit, refurbish it for rental up to a reasonable standard for rental Units in this type of Condominium, rent the Unit or permit its rental to others, and apply the rent first to the cost of the receivership and attorneys' fees, 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 (90) days after the delinquency. The exercise by the Association of the foregoing rights shall not affect the priority of preexisting liens on the Unit.

14.6 Assignment of Rents. If a Unit is rented by its Owner, the Board may collect and the tenant or lessee shall pay over to the Board as much of the rent thereof as is required to pay any amounts due the Board hereunder, plus interest, costs and fees, if the same are in default over thirty (30) days. Such payment shall discharge the lessee's or tenant's duty of payment to the Owner but will not operate to discharge the continuing obligations of the Owner under this Declaration for assessments, or operate as an approval of the lease. The Board shall not exercise this power if a receiver has been appointed. This right to an assignment of rents shall be subordinate to any other assignment of rents by an Owner as part of a mortgage on the Unit if that mortgage was approved in advance and in writing by the District as landlord under the Lease.

14.7 Remedies Cumulative. The remedies provided are cumulative and the Board may pursue them concurrently, with other remedies which may be available under law, whether or not expressed herein.

## XV. MORTGAGE PROTECTION

15.1 Compliance with State Law. This Condominium project is being created in full compliance with the requirements of the Condominium Act of the State of Washington, RCW 64.34.

15.2 No Right of First Refusal. There is no right of first refusal contained in this Declaration.

15.3 Unpaid Dues or Charges. The obligations of a Mortgagee who obtains title to a Condominium Unit pursuant to the remedies provided in the mortgage or through foreclosure of the mortgage are set out in Section 13.2, "Prior Assessments."

15.4 Limitations in Actions of Association. Except as provided by statute, in case of condemnation or substantial loss to the Units and/or common elements of the Condominium project, or where a greater percentage is required elsewhere in this Declaration, unless at least seventy five percent (75%) of the voting authority of Unit Owners or of eligible Mortgagees to whom votes of a Unit have been pledged, as provided in Section 7.8 of the Declaration, have given their prior written approval, the Association may not:

15.4.1 Abandon Project. By act or omission seek to abandon or terminate the Condominium project;

15.4.2 Pro-Rata Interest. Change the pro-rata interest or obligations of any Unit in order to levy assessments or charges, allocate distribution of hazard insurance proceeds or condemnation awards, or determine the pro-rata share of Ownership of each Unit in the common elements.

15.4.3 Common Elements. Seek to abandon, partition, subdivide, encumber, sell or transfer the common elements by act or omission. The granting of easements for public utilities or other public purposes consistent with the intended use of the common elements by the Condominium project is not a transfer within the meaning of this clause.

15.4.4 Insurance. Use hazard insurance proceeds for losses to any Condominium property (whether Units or common elements) for other than the repair, replacement or reconstruction of the Condominium property.

15.5 Taxes, Assessments and Charges. All taxes, assessments and charges that may become liens prior to the first mortgage under local law relate only to the individual Units and not to the Condominium project as a whole.

15.6 First Mortgagee's Rights Confirmed. No provision of the Condominium Declaration gives a Unit Owner or any other party priority over any rights of the first Mortgagee of a Unit, pursuant to its mortgage, to insurance proceeds or condemnation awards for losses to or taking of Units and/or common elements.



15.7 Amenities. All the common elements are a part of the Condominium project and are part of the Unit described in a mortgage to the same extent as the Unit's undivided interest in the common elements. All common elements are fully installed, completed and in operation for use by Unit Owners.

15.8 Right to Notification. An eligible Mortgagee (as defined in the Act) of any Unit is entitled to timely written notice of the following; provided, however, the failure of the Association to provide such notice shall serve only to limit the Association's right to proceed or act to the detriment of the eligible Mortgagee:

15.8.1 Loss. Any condemnation or casualty loss that affects either a material portion of the Condominium or the Unit securing its mortgage;

15.8.2 Delinquency. Any sixty (60) day delinquency in the payment of assessments or charges owed by the Owner of any Unit on which it holds the mortgage;

15.8.3 Insurance Change. A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; and

15.8.4 Mortgagee Approval. Any proposed action that requires the consent of a specified percentage of eligible Mortgagees.

15.8.5 Request. To obtain this information, the eligible Mortgagee must send a written request to the Association, stating both its name and address and the Unit number or address of the Unit pledged as collateral and described in its mortgage.

15.9 Audit. Any Mortgagee is allowed to have an audited statement of the Association prepared at the Mortgagee's own expense.

## XVI. MANAGER

16.1 Delegation by Board. The Board may delegate any of its duties, powers or functions, including but not limited to, the authority to give the statements or certificates provided for herein, to any person or firm, to act as manager of the Condominium, provided that any such delegation shall be revocable immediately upon notice by the Board. The members of the Board shall not be liable for any omission or improper exercise by the manager of any such duty, power or function so delegated. In the absence of any appointment, the president of the Board may be appointed by the Board to act as manager. Declarants are entitled to the protection of this section. Any contract with a manager shall contain a clause indemnifying the Declarants, Board, and Owners from and against the negligent acts and omissions and other wrongful conduct of the manager, its agents and employees.

16.2 Term of Employment. Any manager named or employed by Declarants shall be employed to manage only so long as Declarants are entitled to exercise the powers of the Board.



Thereafter, the Board shall have the right to retain or discharge said manager as it determines desirable in its discretion.

16.3 Termination. Any agreement for professional management of the Condominium must provide for termination by the Association without cause or payment of a termination fee on ninety (90) days or less written notice. Any agreement for professional management shall have a maximum contract term of three (3) years.

## XVII. OWNER'S OBLIGATIONS

17.1 Interior. Each Unit Owner shall, at the Owner's expense, keep the interior of the Owner's Unit and its equipment and appurtenances in good order, condition and repair and in a clean and sanitary condition, and shall do all redecorating and painting and provide all upkeep which may at any time be necessary to maintain the good appearance and condition of the Unit. In addition to decorating and keeping the interior of the Unit in good repair, the Owner shall be responsible for the maintenance, repair or replacement of any improvements to the Unit, including but not limited to floor coverings, plumbing fixtures, water heaters, heating fixtures, heat pumps, lighting fixtures, refrigerators, air conditioning equipment, dishwashers, disposals, washers, dryers, ranges and the like that may be in, or connected with, the Owner's Unit or a limited common element associated with said Unit.

17.2 Patios, Parking Spaces, Storage Spaces. The Owner shall also, at the Owner's own expense, keep the patios, parking spaces, mechanical rooms, storage spaces, and all other matters which have been assigned to the Owner's Unit as limited common elements in a neat, clean and sanitary condition and the Owner is responsible for their maintenance. The Association and manager shall not be responsible to the Owner for loss or damage by theft or otherwise of articles which may be kept or stored by the Owner in a storage space, parking space, Unit, or limited common element assigned to said Unit, except to the extent of insurance purchased by the Association providing coverage for such loss or damage.

17.3 Loss or Theft. The Association, directors, officers, managers, or any agent or independent contractor hired by the Association shall not be responsible or liable to the Owner or any tenant of the Owner for any loss or damage (including, but not limited to damage or loss arising from criminal acts) to (a) personal property which may be kept, placed, installed or stored in a Unit or limited common element assigned to said Unit, or (b) the Unit itself, or limited common element assigned to said Unit; except to the extent of insurance purchased by the Association providing coverage for such loss or damage. Each Unit Owner expressly waives any claims (including, but not limited to claims for consequential damages) against the Association, directors, officers, managers, or any agent or independent contractor hired by the Association arising from said loss or damage.

17.4 Exterior. The Owner shall not modify, paint or decorate any portion of the exterior of the Building or other common or limited common elements. In order to maintain a uniform pleasing architectural appearance, the Owners agree that the Board may require the painting of the exterior of the Building, including common and limited common elements, and



regulate the type and color of paint to be used, and may contract for painting of all such areas as a common expense.

17.5 Maintenance of Unit. Each Unit Owner shall, at the Owner's sole expense, keep the Owner's Unit, and the limited common elements, equipment, windows, appliances, and appurtenances relating thereto, in good order, condition, repair and appearance; provided, however, that the Association or manager may retain a business to perform janitorial services to the Building and all Units therein and said cost of the janitorial services shall be a common expense.

17.6 Resale of Unit. In the case of the resale of a Unit, the Unit Owner shall comply with the requirements of the Act, and is referred to RCW 64.34.425. The Association shall provide statements and certificates as required by the Act, but may condition the providing of them upon the payment of a reasonable fee, as established by the Board from time to time.

17.7 Real Property Taxes. Each Unit Owner shall pay the real property taxes to Skagit County relating to each Unit, including each Unit's limited common elements and its share of the common elements.

17.8 Signs. No sign or other device which publicly displays material or information, regardless of the method of the display and regardless of how or where located, shall be placed within or on a Unit, or the limited common elements of a Unit, in such manner as to be visible from the exterior of the Building without the prior approval of the Board.

17.9 Window Coverings and Display. Window coverings, blinds, shades and the like, and any display or presentation (other than an approved sign) which is visible from the exterior of the Building shall be approved in advance by the Board. The Board need not approve a covering or display which is inconsistent with the overall presentation of the Building, because of color or design, lack of uniformity, or otherwise, as determined by the Board, in its sole discretion.

## **XVIII. PROVISIONS REGARDING ALTERATION – SUBDIVIDING AND COMBINING**

18.1 Alterations of Units. A Unit Owner may make any improvements or alterations to the Owner's Unit that do not affect the structural integrity or mechanical, telecommunication, security, electrical or other systems or lessen the support of any portion of the Condominium.

18.2 Appearance. A Unit Owner may not change the appearance of the common elements or the exterior appearance of a Unit without permission of the Association.

18.3 Combination of Units. A Unit Owner after acquiring an adjoining Unit or an adjoining part of an adjoining Unit may, with approval of the Board, remove or alter any intervening partition or create apertures therein, even if the partition in whole or in part is a common element, if those acts do not adversely affect the structural integrity or mechanical or electrical systems or lessen the support of any portion of the Condominium. Removal of



partitions or creation of apertures under this subsection is not a relocation of boundaries. The Board shall approve a Unit Owner's request, which request shall include the plans and specifications for the proposed removal or alteration, under this subsection within thirty (30) days, unless the proposed alteration does not comply with the Act or the Declaration or impairs the structural integrity or mechanical or electrical systems in the Condominium. The failure of the Board to act upon a request within such period shall be deemed approval thereof.

18.4 Relocation of Boundaries. The boundaries between adjoining Units may only be relocated by an amendment to the Declaration upon application to the Board by the Owners of those Units. If the Owners of the adjoining Units have specified a reallocation between their Units of their allocated interests, the application must state the proposed reallocations. Unless the Board determines within thirty (30) days, that the reallocations are unreasonable, the Association shall prepare an amendment that identifies the Units involved, states the reallocations, is executed by those Unit Owners, contains words of conveyance between them, and is recorded in the name of the grantor and the grantee. The Association shall obtain and record Survey Map or Plans complying with the requirements of RCW 64.34.232 necessary to show the altered boundaries between adjoining Units and their dimensions and identifying numbers, at the expense of the Owner altering the boundaries.

18.5 Subdivision of Units. A Unit may be subdivided into two or more Units. Upon application of a Unit Owner to subdivide a Unit, the Board shall prepare, execute, and record an amendment to the Declaration, including the Survey Map and Plans, subdividing that Unit; provided that the Unit Owner submitting the application shall reimburse the Association for costs actually incurred in furtherance of the subdivision. The amendment to the Declaration must be executed by the Owner of the Unit to be subdivided, assign an identifying number to each Unit created, and reallocate the allocated interests formerly allocated to the subdivided Unit to the new Units in any reasonable and equitable manner prescribed by the Owner of the subdivided Unit.

18.6 Construction Work - Common and Limited Common Elements. The common and limited common elements shall not be reconstructed, rebuilt, altered, removed or replaced except by the Association acting through the Board, or as and in the manner the Association acting by the Board may authorize, and such action must also be in accordance with the Act, this Declaration, and the Bylaws.

18.7 Fee. The Association may assess a reasonable fee to the Unit Owner altering or combining a Unit, calculated to compensate the Association for its costs, expense and time, which fee shall be deemed an assessment.

## XIX. ENTRY OF UNITS BY ASSOCIATION

In addition to access to perform routine janitorial services, the Board or its agents may enter any Unit during normal business hours upon reasonable advance prior notice when necessary in connection with any maintenance, landscaping or construction for which the Board is responsible. Such entry shall be made with as little inconvenience to the Owners as practicable, and any damage caused thereby shall be repaired by the Board out of the common



expense fund if the entry was for the purpose of maintenance, or repairs, to common elements or another Unit where the repairs to the other Unit were undertaken by the Board. Notwithstanding the foregoing, in the event of an emergency (the determination of an emergency shall be at the sole discretion of the Board, or its agents), the Board, or its agents, shall have immediate access to all Units at any time, and the Board shall endeavor, if reasonably practical, to notify the Unit Owner within 24 hours after a Unit has been entered under an emergency situation.

## **XX. FAILURE OF BOARD TO INSIST ON STRICT PERFORMANCE NO WAIVER**

The failure of the Board, Unit Owner, or manager to insist in any one or more instances upon the strict performance of any of the terms, covenants, conditions or restrictions of this Declaration, or to exercise any right or option herein contained, or to serve any notice or to institute any action, shall not be construed as a waiver or a relinquishment for the future of such term, covenant, condition or restriction, but such term, covenant, condition or restriction shall remain in full force and effect. The receipt by the Board or manager of any assessment from an Owner, with knowledge of the breach of any covenant hereof, shall not be deemed a waiver of such breach. No waiver by the Board, Unit Owner or manager of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Board, Unit Owner or manager. This section also extends to the Declarants' exercise of the powers of the Board during the initial period of operation of the Association and Condominium development.

## **XXI. LIMITATION OF BOARD AND ASSOCIATION LIABILITY**

Whether or not any insurance proceeds are available, the Declarants, the Association, the Board, and the officers, contractors, agents, and employees of the Association shall not be liable for injury or damage to person or property for (a) any failure of, in whole or in part, or defect in, any utility, security system, or other system or service provided to or made a part of the Property or Building, or (b) caused by the elements, or resulting from electricity, water, rain, dust or sand which may leak or flow from outside or from any parts of the Building, or from any of its pipes, drains, conduits, appliances, or equipment, or from any other place. Each Unit Owner expressly waives any claims (including, but not limited to claims for consequential damages) against the Declarants, the Association, the Board, and the officers, contractors, agents and employees of the Association arising from said injury or damage. No diminution or abatement of common expense assessments shall be claimed or allowed for inconveniences or discomfort arising from the making of repairs or improvements to the common elements, or from any action taken to comply with any law, ordinance or orders of a governmental authority. This exemption extends to the Declarants, the Association as well as the Board, and the officers, contractors, agents, and employees of the Association. This section shall not be interpreted to impose any form of liability by any implication upon the Declarants, the Board, the Association, or the officers, contractors, agents, and employees of the Association.

## **XXII. INDEMNIFICATION OF BOARD MEMBERS**

Each member of the Board shall be indemnified by the Owners against all expenses and liabilities including attorney's fees, reasonably incurred by or imposed upon the member in connection with any proceeding to which the member may be a party, or in which the member may become involved, by reason of the member being or having been a member of the Board,



or any settlement thereof, whether or not the person is a member of the Board at the time such expenses are incurred, except in such cases wherein the member of the Board is adjudged guilty of willful misfeasance or malfeasance in the performance of the member's duties; provided that in the event of a settlement the indemnification shall apply only when the Board approves such settlement and reimbursement as being for the best interests of the Association. This section also applies to the Declarants' exercise of the powers of the Board during the initial period of operation of the Association and Condominium development.

### XXIII. INSURANCE

23.1 Maintain Insurance. Not later than the time of the first conveyance of a Unit to a person other than the Declarants, the Board shall obtain and maintain at all times insurance as required by the Act (see RCW 64.34.352), and as set out below.

23.1.1 General Insurance Requirements.

23.1.1.1 Licensing of Insurer. All insurers and re-insurers must be licensed, or otherwise authorized by law, to conduct business in Washington state.

23.1.1.2 Rating of Insurer. The required insurance must be underwritten by an insurer currently rated in accordance with one of the following alternatives:

23.1.1.2.1 the insurer is assigned a financial performance index of 6 or better in Best's Insurance Report; or

23.1.1.2.2 the insurer has a rating of BBB or better in Standard and Poor's Insurer Solvency Review; or

23.1.1.2.3 the insurer has a rating of BBBq in Standard and Poor's Insurer Solvency Review; or

23.1.1.2.4 the insurance has a rating of AAisi or better in Standard and Poor's International Confidential Rating Service; or

23.1.1.2.5 a non-admitted insurer has a rating of A- or better in Best's Insurance Reports or a rating of AA- or better in Standard and Poor's Insurer Solvency Review; or

23.1.1.2.6 the insurer is reinsured by a re-insurer that has a Standard and Poor's Insurer Solvency review rating of BBB or International Confidential Rating Service rating of AAisi or better, or by a re-insurer that is rated A/VIII or better in Best's Insurance Reports - International Edition, provided that:

---the re-insurer has executed a "cut-through" endorsement by which it agrees to become immediately liable for



100% of any loss payable to the insurer, in the event of insurer's insolvency;

---the re-insurer has executed an endorsement by which it agrees to give the policyholder, servicer, and insurer 90-day written notice before canceling or otherwise terminated the reinsurance;

---the above endorsements are attached to each property insurance policy.

23.1.1.3 Condominium Endorsement. There must be a Special Condominium Endorsement, which must comply with the Act, and which provides that:

23.1.1.3.1 any Insurance Trust Agreement will be recognized;

23.1.1.3.2 the right of subrogation against any Unit Owner, members of Owner's household and lessees of Owner shall be waived;

23.1.1.3.3 the insurance will not be prejudiced or conditioned upon any acts or omissions of individual Unit Owners that are not under the control of the Association;

23.1.1.3.4 the policy will be primary, even if a Unit Owner has other insurance that covers the same loss; and

23.1.1.3.5 each Unit Owner is an insured person under the policy with respect to liability arising out of the Owner's interest in the common elements or membership in the Association.

23.1.1.4 Proceeds. Any loss covered by the property insurance under this subsection of this section must be adjusted with the Association, but the insurance proceeds for that loss are payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not to any holder of a mortgage. The insurance trustee or the Association shall hold any insurance proceeds in trust for Unit Owners and lienholders as their interests may appear. Subject to the provisions of Section 24, "Damage and Destruction," the proceeds must be disbursed first for the repair, replacement or restoration of the damaged property, and Unit Owners and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored or the Condominium is terminated. The "loss payable" clause should show the Association or the insurance trustee as a trustee for each Unit Owner and the holder of each Unit's mortgage.

23.1.1.5 Notice. The policy must provide for at least thirty (30) days' written notice to the Association, Unit Owners and Mortgagees before the insurer



can cancel, modify or refuse to renew. Similar notice must also be given to each holder of a first mortgage on an individual Unit in the project.

23.1.1.6 Named Insured. Insurance policies should show the following as a named insured:

“Island Medical Center Condominium Association for the use and benefit of the individual Owners.”

23.1.2 Hazard Policy. The insurance policy must be an “all risk” policy. The policy must meet the requirements described below.

23.1.2.1 Master Policy. A “master” or “blanket” type of insurance policy, with premiums being paid as a common expense. The policy must cover all of the common elements and limited common elements that are normally included in coverage. These include common fixtures and machinery, building service equipment, common personal property, and supplies belonging to the Association.

23.1.2.2 Interior of Units. Upon the election of the Board, the policy may also cover fixtures, improvements, and alterations inside individual Units whether or not the property is part of the common elements, if such coverage applies proportionately to all Units, otherwise this portion of the policy shall be allocated according to the risk. The Unit Owner shall be responsible for insuring its personal property and contents of the Unit.

23.1.2.3 Replacement Cost. Insurance should cover one hundred percent (100%) of the current replacement cost of items identified in the blanket policy described in Section 23.1.2.1.

23.1.2.4 Vacancy. The premises must be covered even when vacant and, where necessary and available, there must be a vacancy permit endorsement.

23.1.2.5 Land. Coverage does not need to include land, foundations, excavations, or other items that are usually excluded from insurance coverage.

23.1.2.6 Deductible. The maximum deductible amount for policies shall be established by the Board from time to time by resolution, with a copy provided to each Owner but until changed is the lesser of Ten Thousand Dollars (\$10,000) or one percent (1%) of the policy face amount. If the policy is a blanket policy that also covers individual Units, the deductible related to the individual Units should be the lesser of One Thousand Dollars (\$1,000) or one percent (1%) of the Unit’s replacement cost. Funds to cover these deductible amounts should be included in the Association’s operating reserve account.



23.1.3 Flood Insurance. If the Property is in an area that has been identified by the Secretary of Housing and Urban Development or the Director of the Federal Emergency Management Agency as a special flood hazard area, the Association must maintain a "master" or "blanket" policy of flood insurance and provide for the premiums to be paid as a common expense. The policy should cover common elements, buildings and any other common property. The building coverage should equal one hundred percent (100%) of the insurable value of the building, including machinery and equipment that are a common element of the Building. The contents coverage must include one hundred percent (100%) of the insurable value of all contents, including any machinery and equipment that are not part of the building, but which are owned in common by the Association members. If the required coverage exceeds the maximum coverage available under the National Flood Insurance Administration's programs, coverage equal to the maximum amount that is available under those programs is acceptable.

23.1.3.1 Deductible. The maximum deductible amount shall be established by the Board from time to time by resolution, with a copy provided to each Owner but until changed is the lesser of Five Thousand Dollars (\$5,000) or one percent (1%) of the policy face amount. Funds to cover this deductible amount should be included in the Association's operating reserve account.

23.1.3.2 Endorsement. A separate condominium association endorsement is required if not already part of the policy.

23.1.4 Liability Insurance. The Association must maintain a comprehensive general liability insurance policy covering all common elements, limited common elements, public ways, and any other areas that are under its supervision. The insurance should also cover commercial spaces that are owned by the Association, even if they are leased to others. The policy should provide coverage of at least Two Million Dollars (\$2,000,000) for bodily injury and property damage for any single occurrence, which may be increased by the Board.

23.1.4.1 Liability. The liability insurance should provide coverage for:

23.1.4.1.1 bodily injury and property damage that results from the operation, maintenance, or use of the Condominium's common elements; and

23.1.4.1.2 any legal liability that results from law suits related to employment contracts in which the Association is a party.

23.1.4.2 Endorsement. If the policy does not include "severability of interest" in its terms, there must be a specific endorsement to preclude the insurer's denials of a Unit Owner's claim because of negligent acts of the Association or of other Unit Owners.

23.1.5 Standard Mortgagee Clause. Upon the advance consent of the Board, all insurance policies will contain the standard mortgagee clause which must be endorsed to provide



that any proceeds shall be paid to a Mortgagee which requests it, subject to the limitations set forth in Section 23.1.1.4, above, entitled "Proceeds". The name of the Mortgagee should include, "its successors and assigns." The Mortgagee clause must be endorsed fully to protect the interest of Mortgagee.

23.1.6 Certificate of Insurance. A certificate of insurance must be provided to the Association, or upon written request to any Unit Owner Mortgagee. The certificate must contain the following information and name the Mortgagee:

23.1.6.1 Name. Named insured Association, Unit Owner, and Unit Owner Mortgagee;

23.1.6.2 Address. Property address;

23.1.6.3 Coverage. Type, amount, and effective dates of coverage; deductible amount;

23.1.6.4 Endorsements. Any endorsement or optional coverage obtained and made part of the original policy;

23.1.6.5 Notice. Insurer's agreement to provide at least thirty (30) days' notice to the Association and to a Mortgagee before any reduction in coverage, cancellation of the policy, or refusal to renew; and

23.1.6.6 Signature. signature of an authorized representative of the insurer, if required by law.

23.2 Additional Insurance. Each Owner may obtain additional insurance for the Owner's Unit as provided in RCW 64.34.352(5) and at the Owner's expense; provided, however, that no Owner shall be entitled to maintain insurance coverage in any manner which would decrease the amount which the Board, on behalf of all of the Owners, will realize under any insurance policy which the Board may have in force on the Condominium at any particular time.

## XXIV. DAMAGE AND DESTRUCTION

24.1 Reconstruction. In case of fire, casualty or any other disaster covered by the insurance policies, causing any damage or destruction to any Units, limited common elements, or common elements, the insurance proceeds shall be applied toward the repair, replacement or reconstruction of the Building. Reconstruction, as used in this paragraph, means restoring the Building to substantially the same condition in which it existed prior to the fire, casualty, or other disaster, with each Unit and the common elements having the same vertical and horizontal boundaries as before. Modifications to conform to the applicable governmental rules and regulations may be made. Such reconstruction shall be accomplished by the Board, or the manager at the Board's direction shall have the authority to employ an architect, advertise for bids and let contracts to contractors and others as required to effect the reconstruction upon satisfaction of the Board that such reconstruction will be appropriately carried out. If required by



state law, such reconstruction shall comply with the public works and similar law regarding public bidding and the retention of architects and engineers.

24.2 Insufficient Insurance Proceeds. If the insurance proceeds are insufficient to repair or reconstruct the Building, damage to or destruction of the Building shall nevertheless be promptly repaired and restored by the Board, utilizing available insurance funds, and all Unit Owners shall be liable equally for assessment for any deficiency as a common expense.

24.3 Determination Not to Rebuild or Repair. An one hundred percent (100%) vote of the voting authority of Unit Owners as established in Section 5.1, including every Owner of a Unit or assigned limited common elements which will not be rebuilt, **and** the written approval of the District as landlord under the Lease, is required to avoid the requirements of this section and to allow a determination not to rebuild, repair or restore the Building. In the event of a decision not to rebuild, the Board may nevertheless expend such of the insurance proceeds as may be necessary to restore the damaged area to a condition compatible with the remainder of the Condominium and place the site in condition required by any applicable governmental rule or regulation, or in such condition as the Board may determine is necessary to reasonably protect the Owners from liability from the condition of the site, and the funds shall thereafter be held and distributed as provided by the Act. If a Unit is not rebuilt, that Unit's allocated interests are automatically reallocated as if it had been condemned. The Association shall promptly record an amendment to the Declaration reflecting the reallocation. This Section 24.3 is specifically adopted by the Declarants pursuant to RCW 64.34.352(8).

## XXV. CONDEMNATION

25.1 Taking. 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 the 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, 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.

25.2 Partial Taking. Except as provided in Section 25.1 of this section, 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 acquisitions, unless the decree otherwise provides: (a) that Unit's allocated interest are reduced in proportion to the reduction of 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.



25.3 Common Elements. If parts of the common elements are acquired by condemnation, the portion of the award attributable to the common elements taken shall be paid to the Owners based on their respective interests in the common elements. Any portion of the 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.

25.4 Representation. Should the Association not act on the Owners' behalf in a condemnation process, the affected Owners may individually or jointly act on their own behalf.

25.5 Repair, Reconstruction. Any repair or reconstruction necessitated by the condemnation may be carried out as provided in Sections 24.1, Damage and Destruction, of this Declaration. The Board may retain such portion of condemnation award proceeds due to each Owner and apply the same or the required portion thereof as necessary to discharge the Owner's liability, if any, for contribution to the repair or reconstruction or for any special assessment arising therefrom.

## XXVI. TERMINATION

26.1 Vote Needed. Except in the case of a taking of all the Units by condemnation under Section 25, "Condemnation" or upon the termination of the Lease as described in Section 2.5, the Condominium may be terminated only by agreement of Unit Owners of Units to which at least eighty percent (80%) of the votes in the Association are allocated.

26.2 Termination Procedure. Termination of the Condominium shall occur as provided by the Act (see RCW 64.34.268).

## XXVII. ENFORCEMENT

27.1 Enforcement. Each Owner shall comply strictly with the provisions of this Declaration and with the administrative rules and regulations and Bylaws adopted pursuant to this Declaration, as the same may be lawfully amended from time to time, and with decisions adopted pursuant to said Declaration and administrative rules and regulations, and failure to comply shall be grounds for an action to recover for damages, or for injunctive relief, or both, maintainable by the Board or manager on behalf of the Owners, or in a proper case, by an aggrieved Owner.

## XXVIII. ASSOCIATION PROPERTY

28.1 Acquisition of Personal Property. The Board or manager may, from common funds of the Association, 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; and the beneficial interest in such personal property shall be owned by the Owners in the same proportion as their respective interests in the common elements, and such property shall thereafter be held, sold, leased, rented, mortgaged or otherwise dealt with for the benefit of the common fund of the Association as the Board may



direct. The Board shall not, however, in any case acquire real property or personal property valued in excess of Five Thousand Dollars (\$5,000.00) by lease or purchase except upon seventy five percent (75%) of the total votes held by the Unit Owners or written consent of the Unit Owners holding seventy five percent (75%) of the total votes.

28.2 Conveyance or Encumbrance of Common Elements. Common elements may be conveyed or subjected to a security interest only as follows:

28.2.1 Approval. Portions of the common elements which are not necessary for the use and possession of a Unit may be conveyed or subjected to a security interest by the Association if the Owners of Units to which at least eighty percent (80%) of all of the votes allocated to Units, agree to that action; but all the Owners of Units to which any limited common element is allocated must agree in order to convey that limited common element or subject it to a security interest. Proceeds from the sale or financing are an asset of the Association.

28.2.2 Form of Agreement. An agreement to convey common elements or subject them to a security interest must be evidenced by the execution of an agreement, or ratifications thereof, in the same manner as a deed, by the requisite number of Unit Owners. The agreement must specify a date after which the agreement will be void unless recorded before that date. The agreement and all ratifications thereof must be recorded with Skagit County Auditor and is effective only upon recording.

28.2.3 Power of Association. The Association, on behalf of the Unit Owners, may contract to convey common elements or subject them to a security interest, but the contract is not enforceable against the Association until approved pursuant to Subsections 28.2.1 and 28.2.2 of this section. Thereafter, the Association has all powers necessary and appropriate to effect the conveyance or encumbrance, including the power to execute deeds or other instruments.

28.2.4 Voidable. Any purported conveyance, encumbrance, or other voluntary transfer of common elements, unless made pursuant to this section, is void.

28.2.5 Access and Support. A conveyance or encumbrance of common elements pursuant to this section shall not deprive any Unit of its right of access and support.

28.2.6 Priority. A conveyance or encumbrance of common elements pursuant to this section shall not affect the priority or validity of preexisting encumbrances.

28.3 Description of Personal Property on Termination. Within thirty (30) days following the termination of Declarants' right to exercise the powers of the Board, the Declarants shall execute and deliver a bill of sale to the Board on behalf of all the Owners, transferring any items of property located on the Property and furnished by Declarants, which property is intended for the common use and enjoyment of the Owners.

28.4 No Business for Profit. Nothing herein shall authorize the Board or Association to carry on any business for profit.



## XXIX. INTERPRETATION

29.1 Liberal Construe. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a Condominium development.

29.2 Captions. Headings and captions to provisions of this Declaration are for information purposes only and are not controlling.

## XXX. BYLAWS

Bylaws for the administration of the Association, and the Condominium, and for other purposes not inconsistent with the Act or with the terms or intent of this Declaration, shall be adopted by the Association by seventy five percent (75%) of the vote held by the Owners. They shall be adopted at a meeting held for the purpose. Notice of the time, place and purpose of such meeting shall be delivered to each Unit Owner at least ten (10) days prior to such meeting. Amendments to the Bylaws may be adopted by the same vote at a meeting similarly called.

## XXXI. AMENDMENT OF DECLARATION, SURVEY MAP, PLANS

31.1 Declaration. Amendments to the Declaration shall be made in an instrument in writing entitled "Amendment to Declaration of Island Medical Center Condominium" which sets forth the entire amendment. Except for amendments allowed without vote or agreement of Unit Owners by the Act, notice of any proposed amendment must be given to all Owners of Units as provided herein and any proposed amendment must be approved prior to its adoption by a majority of the Board of Directors of the Association. If the Board approves the proposed amendment, it may be adopted at a meeting of the Owners if seventy five percent (75%) of the votes held by the Owners vote for such amendment, or without meeting if Owners holding seventy five percent (75%) of the vote consent in writing to such amendment. In all events, the amendment shall bear the signature of the president of the Board of the Association and shall be attested by the secretary, who shall state whether the amendment was properly adopted and shall be acknowledged by them as officers of the Association. Amendments once properly adopted shall be effective upon recording in the office of the Skagit County Auditor. Any decision changing the values and percentage of interest expressed herein shall require the unanimous consent of the Unit Owners. It is specifically covenanted and understood by any parties accepting Ownership interests in Units under this Declaration that any amendment to this Declaration properly adopted will be completely effective to amend any or all of the covenants, conditions, and reservations contained herein which may be affected and any or all clauses of this Declaration.

Notwithstanding the above, this Declaration and the Survey Map and Plans shall be amended as necessary to incorporate the final detail of Unit 102 upon construction (at the that time that Unit 102 has received a certificate of occupancy from the City of Anacortes), all as more fully described in Section 5.4.



31.2 Mortgage Holders' Rights Regarding Amendments.

31.2.1 Material Amendments. Eligible Mortgagees (those holders of a first mortgage on a Unit who have requested the Association to notify them of any proposed action that requires the consent of mortgage holders) also have the right to join in the decision-making about certain amendments to the project documents. Amendments of a material nature must be agreed to by Unit Owners representing at least seventy five percent (75%) of the total allocated votes in the Association. In addition, approval must be obtained from eligible Mortgagees representing at least fifty-one percent (51%) of the votes of Units that are subject to mortgages held by eligible Mortgagees, and the eligible Mortgagees, by becoming Mortgagees subsequent to the recording of this Declaration, agree to not unreasonably withhold approval. A change to any of the following would be considered as material:

Voting rights;

Responsibility for maintenance and repairs;

Reallocation of interests in the general or limited common elements, or rights to their use;

Boundaries of any Unit;

Convertibility of Units into common elements or vice versa;

Expansion or contraction of the Condominium project, or the addition, annexation, or withdrawal of property to or from the project, except to the extent provided in Section XXXII, "Declarants' Reserved Development Rights";

A decision by the Association to establish self-management when professional management had been required previously by an eligible Mortgagee;

Restoration or repair of the project (after a hazard damage or partial condemnation) in a manner other than that specified in the documents;

Any action to terminate the legal status of the project after substantial destruction or condemnation occurs; or

Any provisions that expressly benefit Mortgagees.

Notwithstanding the above, no Mortgagee shall have the right to consent to the completion of Unit 102 or any related amendments to the Declaration required by the completion of Unit 102.

31.2.2 Non-Material Amendments. If an addition or amendment is not considered as a material change--such as the correction of a technical error or the clarification of a statement--approval is assumed when an eligible Mortgagee fails to submit a response to any



written proposal for an amendment within 30 days after the proposal is made, if such approval is required.

31.3 Survey Map and Plans. Subject to the provisions regarding modification of Units, the Survey Map and Plans may be amended by revised versions thereof referred to and described as to effect in an amendment to the Declaration adopted as provided for herein. Copies of any proposed amendment to the Survey Map and Plans shall be made available for the examination of every Owner. Such amendment to the Survey Map and Plans shall also be effective, once properly adopted, upon recordation in the files of the Skagit County Auditor.

## XXXII. DECLARANTS' RESERVED DEVELOPMENT RIGHTS

32.1 Roof Surface. Declarants reserve the right, but do not have the obligation, to designate the use of the surface of the roof for the purpose of locating telecommunications facilities, including the right to designate portions of the surface of the roof as limited common elements assigned to a particular Unit for the purpose of locating telecommunications facilities. Use of the limited common elements on the roof, if granted by the Declarants, shall be limited to telecommunications equipment directly related to the telecommunication needs of the Owners and tenants in the Building. No use of the roof shall be permitted or allowed for anyone who does not own or rent space in the Building.

32.1.1 Any use of the surface of the roof shall be based on a first come, first served basis, and the Owner of a Unit with a limited common element on the surface of the roof shall be responsible to ensure that its use of the surface of the roof does not conflict, obstruct or interfere (including electrical interference) with any pre-existing use of the surface of the roof by the Declarants or another Owner. That principle shall apply to multiple uses over time of the same limited common element on the roof. In other words, a later use of a limited common element on the roof shall be subject to pre-existing uses of all limited common elements on the roof. The Unit Owner proposing any alteration, reconfiguration, addition or expansion of an existing use of the roof surface shall be responsible to ensure that said alteration, reconfiguration, addition or expansion does not conflict or interfere with any use pre-existing the proposed alteration, reconfiguration, addition or expansion.

32.1.2 The Declarants or the Board may adopt commonly accepted industry standards regarding electrical interference that will apply to all uses of the roof. In addition, the Declarants or the Board may adopt reasonable rules and regulations regarding the use of the roof, including an application process, notice to other Owners or tenants using the roof, and means for resolving conflicts.

32.2 Easements. Declarants reserve easements over and across all of the Property for purposes of exercising their rights reserved under this Article. Declarants specifically reserve such easements for utilities, shared access, and for purposes of storage and use of construction materials. The easements created by this reservation shall exist in perpetuity for the construction of the Condominium, uses necessary to implement Declarants' reserved rights, and uses by the Declarants for any other improvements which Declarants may add in and around the Property.



32.3 Adjustment of Unit Boundaries – Subdivision of Units. During the period of Declarant control, the Declarants reserve the right to modify the boundaries of the Units of the Building owned by the Declarants without the approval of the Board or the Association. The Declarants shall file an amendment to the Declaration and record survey maps and plans complying with the requirements of the Act.

32.4 Assignment of Rights. Declarants reserve the right to transfer or assign the development rights reserved in this Article, including an assignment of some or all of said rights to the Association. The assignee or successor in interest of Declarants' development rights shall have all of such rights, without limitation, as Declarants possess, subject only to any restrictions or limitations set forth in the Act, this Declaration, and the Lease.

32.5 Time for Exercise. Any or all of the development rights reserved by the Declarants in this Declaration may be exercised within fifty (50) years from the date of recording of this Declaration. Declarants may exercise one or more of the rights reserved in this Declaration at any time and the exercise of only a portion of Declarants' reserved right does not impact or restrict Declarants' right in the future to exercise the remainder of the development rights reserved.

### XXXIII. RIGHTS OF ACTION

The Association and any aggrieved Unit Owner has the right of action against Unit Owners who fail to comply with provisions of this Declaration, the Lease or any rules, Bylaws or decisions adopted by the Board. Unit Owners also have a right of action against the Association for its failure to comply with the provisions of the Declaration, the Lease, Bylaws, rules or its own decision.

### XXXIV. SERVICE OF PROCESS

Vince Oliver, the Superintendent and CEO of the District, Declarant whose address is:

Skagit County Public Hospital Dist. No. 2  
c/o Island Hospital  
1211-24th Street  
Anacortes, WA 98221-2590

is hereby designated as the person to receive service of process on behalf of the Declarants in the cases provided in the Act.

### XXXV. 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.



**XXXVI. CERTIFICATE OF COMPLETION**

Declarants hereby certify, pursuant to RCW 64.34.200(2)(a), that all structural components and mechanical systems in the Condominium are substantially completed.

**XXXVII. EFFECTIVE DATE**

This Declaration shall take effect upon recording.



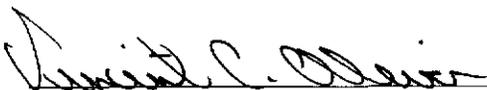
**XXXVIII. REFERENCE TO SURVEY MAP AND PLANS**

The set of plans of the building referred to herein were filed with the Auditor of Skagit County, Washington, simultaneously with the recording of this Declaration under Auditor's File No. 200603140131.

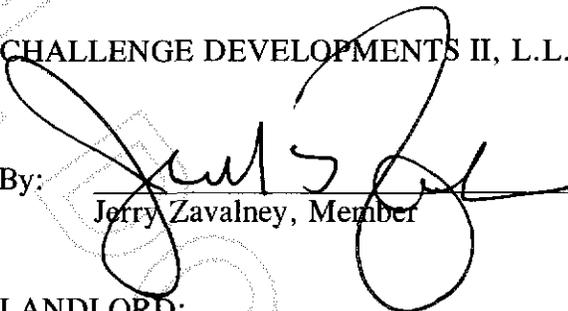
DATED effective the 13<sup>th</sup> day of March, 2006.

DECLARANTS:

SKAGIT COUNTY PUBLIC HOSPITAL  
DISTRICT NO. 2

By:   
Vincent C. Oliver, CEO

CHALLENGE DEVELOPMENTS II, L.L.C.

By:   
Jerry Zavalney, Member

LANDLORD:

SKAGIT COUNTY PUBLIC HOSPITAL  
DISTRICT NO. 2

By:   
Vincent C. Oliver, CEO



STATE OF WASHINGTON )  
 )ss.  
County of Skagit )

I certify that I know or have satisfactory evidence that Vince Oliver 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 CEO of the Skagit County Public Hospital District No. 2, a Washington municipal corporation, one of the Declarants under this Declaration and the Landlord, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this 13<sup>th</sup> day of March, 2006.



Mary Mansfield  
Mary Mansfield Printed Name  
NOTARY PUBLIC, State of Washington  
My Commission Expires: 10-28-09

STATE OF WASHINGTON )  
 )ss.  
County of Skagit )

I certify that I know or have satisfactory evidence that Jerry Zavalney 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 a Member of Challenge Developments II, L.L.C., a Washington limited liability company, one of the Declarants under this Declaration to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this 13<sup>th</sup> day of March, 2006.



Mary Mansfield  
Mary Mansfield Printed Name  
NOTARY PUBLIC, State of Washington  
My Commission Expires: 10-28-09



**EXHIBIT A**

**LEGAL DESCRIPTION OF THE LAND**

**(To be revised as may be required by survey of the Property or final title insurance commitment by Title Company.)**

That portion of the Southeast Quarter of Section 24, Township 35 North, Range 1 East of the Willamette Meridian, described as follows:

Commencing at the East Quarter corner of said Section 24;  
thence South 0°59'30" East, along the East line of said Section 24, 1,223.17 feet to an intersection with the South line of 24th Street;  
thence South 89°58'48" West, along the South line of 24th Street, 396.27 feet to the true point of beginning;  
thence South 0°01'35" East, 264.46 feet;  
thence South 89°58'25" West, 358.50 feet to the East line of "M" Avenue;  
thence North 0°01'35" West, along the East line of "M" Avenue, 264.50 feet to the South line of 24th Street;  
thence North 89°58'48" East along the South line of 24th Street, 358.50 feet to the true point of beginning;

Together with that Reciprocal Easement Agreement recorded March 14, 2006 under Auditor's File No. 200603140129, Records of Skagit County, Washington.

Situate in Skagit County, Washington.

END OF EXHIBIT A

