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Skagit County Auditor

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**CONDOMINIUM DECLARATION**

**FOR**

**MILWAUKEE PARK, A CONDOMINIUM**

Grantor: Milwaukee Park Apartments Limited Partnership

Grantee: Milwaukee Park, a Condominium  
Pacific Northwest Title (Trustee)

Abbreviated Legal Description: Ptn. Lots 6, 7 & 8, Blk. 9, Riverside Add. To Town of Mt. Vernon

Assessor's Parcel No.: 3755-009-006-0204 (P54190)

**NOTICE TO RECORDER'S OFFICE**

AT THE TIME OF RECORDING PLEASE INSERT IN SECTION 1.7 OF ARTICLE 1 THE CROSS  
REFERENCE DATA FOR THE SURVEY MAP AND PLANS, AS REQUIRED BY RCW  
CHAPTER 64.34.

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**SCHEDULES:**

- A Description of Real Property
- B Unit Data, Allocated Interests
- C Parking Assignments
- D Limited Common Elements



**CONDOMINIUM DECLARATION  
MILWAUKEE PARK, A CONDOMINIUM**

**ARTICLE 1    CONSTRUCTION AND VALIDITY OF DECLARATION**

**Section 1.1    Purpose.** Declarant has recorded this Declaration for the purpose of creating a condominium of the real property described in **Schedule A** under the Condominium Act.

**Section 1.2    Construction.** The Declaration and the Condominium Act provide the framework by which the Condominium is created and operated. In the event a provision of the Declaration is inconsistent with a provision of the Condominium Act and the Condominium Act does not permit such inconsistency with such provision, the Condominium Act shall prevail. In the event of a conflict between a provision of this Declaration and the Bylaws, the Declaration shall prevail except to the extent the Declaration is inconsistent with the Condominium Act and the Condominium Act does not permit the inconsistency. The creation of the Condominium shall not be impaired and title to a Unit and its Common Ownership Interest shall not be rendered unmarketable or otherwise affected by reason of an insignificant failure of this Declaration or the Survey Map and Plans or any amendment thereto to comply with the Condominium Act.

**Section 1.3    Covenant Running With Land.** This Declaration shall operate as covenants running with the land, or equitable servitudes, and shall bind Declarant, its successors and assigns, and all subsequent Owners of the Property, together with their grantees, successors, heirs, executors, administrators, devisees or assigns.

**Section 1.4    Severability.** The provisions of this Declaration shall be independent and severable, and the unenforceability of any one provision shall not affect the enforceability of any other provision, if the remaining provision or provisions comply with the Condominium Act.

**Section 1.5    Percentage of Owners or Mortgagees.** For purposes of determining the percentage of Owners or Mortgagees, or percentage of voting power for approving a proposed decision or course of action in cases where an Owner owns, or a Mortgagee holds Mortgages on more than one Unit, such Owner shall be deemed a separate Owner for each such Unit so owned and such Mortgagee shall be deemed a separate Mortgagee for each such first Mortgage so held.

**Section 1.6    Inflationary Increase in Dollar Limits.** Any dollar amounts specified in this Declaration in connection with any proposed action or decision of the Board or Association may be increased proportionately by the increase in the consumer price index for the City of Seattle, Washington for All Urban Consumers ("Index"), prepared by the United States Department of Labor over the base Index for January 1 of the calendar year following the year in which the Declaration was recorded, to adjust for any decline in the value of the dollar. The Board may make such adjustment based on the Index beginning on January 1 of the second calendar year following the year in which the Declaration was recorded and annually thereafter each January 1<sup>st</sup>. In the event the Index is discontinued, the Board shall select a comparable index for this purpose.

**Section 1.7    Reference to Survey Map and Plans.** The Survey Map and Plans were filed with the Recorder of Skagit County, Washington, simultaneously with the recording of this Declaration under File No. 200904160089, in Volume \_\_\_\_\_ of Condominiums, Pages \_\_\_\_ through \_\_\_\_\_. This Declaration shall be effective as of the first date that it and the Survey Map and Plans are recorded.

## ARTICLE 2 DEFINITIONS

**Section 2.1 Words Defined.** For the purposes of this Declaration and any amendments hereto, the following definitions shall apply. The singular form of words includes the plural and the plural includes the singular. Masculine, feminine and neutral pronouns are used interchangeably.

**"Allocated Interests"** means the Common Ownership Interest, the Common Expense Liability and the Voting Interest allocated to each of the Units in the Condominium. The methods used to determine the Allocated Interests are set forth in Article 6. The actual Allocated Interests are set forth in **Schedule B**.

**"Apartment" or "Apartments"** means an apartment or dwelling, or, collectively, some or all of the apartments or dwellings, located within the Housing Unit.

**"Articles"** means Articles of Incorporation for the Association.

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

**"Association"** means the owners' association identified in Article 13.

**"Authorized Users"** means the agents, servants, tenants, invitees and licensees of an Owner, or of the Owner's tenants, who are accorded rights, directly or indirectly by that Owner to use or access all or a portion of that Owner's Unit and its appurtenant interest in the Common Elements.

**"Board"** means the board of directors of the Association, as described in Article 15, the Articles and the Bylaws.

**"Books and Records of the Association"** means all documents in the possession or control of the Association, including, without limitation, the following:

- (a) Declaration, Survey Map and Plans, Articles, Bylaws and other rules and regulations governing the Condominium or any part thereof, and all amendments thereto;
- (b) Minute books, including all minutes, of all Owner, Board, Officer, committee or other meetings relating to the Condominium or any part thereof, including all reports, documents, communications or written instruments attached thereto or referenced therein;
- (c) All financial records, including without limitation, canceled checks, bank statements and financial statements of the Association and source documents from the time of incorporation of the Association through the current date;
- (d) All reports, documents, communications or written instruments pertaining to the personal property of the Association or Condominium or any part thereof



or the construction, remodeling, maintenance, repair, replacement or condition of the Condominium or any part thereof;

- (e) All insurance policies or copies thereof for the Association or Condominium or any part thereof;
- (f) Copies of any certificates of occupancy that may have been issued for the Condominium or any part thereof;
- (g) Any other permits or notices by governmental bodies applicable to the Condominium or any part thereof in force or issued;
- (h) All written warranties that are still in effect for the Condominium or any part thereof, or any other areas or facilities that the Association has the responsibility for maintaining, from the Declarant, contractor, subcontractors, suppliers, and manufacturers, together with all owners' manuals or instructions furnished with respect to installed equipment or building systems;
- (i) A roster of Owners, officers and Directors and Eligible Mortgagees and their addresses and telephone numbers, if known;
- (j) Any leases of the Common Elements or areas and other leases to which the Association is a party; any employment, service, consultation, professional or other contracts in which the Association, Board or officer is one of the contracting parties, or in which the Association or the Owners have an obligation or a responsibility, directly or indirectly, to pay some or all of the fee or charge, or which in any way relate to the Condominium or any part thereof;
- (k) All reports, documents, communications or written instruments pertaining to any litigation or other legal or mediation/arbitration proceeding (whether pending, threatened, or under consideration) to which the Association (or Board, officer or Owner) is or may be a party, or which may relate to or affect the Condominium or any part thereof; and
- (l) All other reports, documents, communications or written instruments in any way relating to or affecting the Association, Board, officers, Owners or the Condominium or any part thereof.

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

**"Commercial Unit"** means Unit 1 as shown on the Survey Map and Plans.

**"Common Elements"** means all portions of the Condominium other than Units. The term includes the Limited Common Elements.

**"Common Expenses"** means expenditures made by or financial liabilities of the Association, including expenses related to the maintenance, repair and replacement of the Common Elements, allocations to reserves, and expenses related to any utility services provided by or billed through the





Association to the Unit Owners. Some Common Expenses are allocated to the Units according to the Common Expense Liability of the Unit. Other Common Expenses are Specially Allocated Expenses.

**"Common Expense Liability"** means the liability for Common Expenses (other than Specially Allocated Expenses) allocated to each Unit, as described in Article 6.

**"Common Ownership Interest"** means the undivided ownership interest in the Common Elements allocated to each Unit, as described in Article 6.

**"Condominium"** means the condominium created under this Declaration and the Survey Map and Plans.

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

**"Conveyance"** means any transfer of the ownership of a Unit, including a transfer by deed or by real estate contract and, with respect to a Unit in a leasehold condominium, a transfer by lease or assignment thereof. Conveyance does not mean a transfer solely as security for a debt or other obligation.

**"Declarant"** means Milwaukee Park Apartments Limited Partnership, a Washington limited partnership, and its successors and assigns.

**"Declaration"** means this Condominium Declaration as it may from time to time be amended.

**"Eligible Mortgagee"** means a Mortgagee who has filed with the secretary of the Association a written request that it be given copies of notices of any action by the Association that requires the consent of Mortgagees. The request must state the name and address of the Eligible Mortgagee and the Identifying Number or address of the Unit on which it holds (or insures or guarantees) a Mortgage.

**"Floor Area"** means the approximate square footage of each Unit as set forth in **Schedule B**. The Floor Area is approximate and may not match the interior area of a Unit when measured by the Owner, Association or others.

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

**"Governing Documents"** means this Declaration, the Articles, the Bylaws, and any rules or regulations adopted by the Board, as they may be amended from time to time.

**"Housing Unit"** means Unit 2 as shown on the Survey Map and Plans.

**"Identifying Number"** means the number of each Unit shown on the Survey Map and Plans and in **Schedule B**.

**"Limited Common Element"** means a portion of the Common Elements allocated in this Declaration, or by operation of law, for the exclusive use of one or more but fewer than all of the Units.

**"Limited Partner"** means Homestead Equity Fund and its affiliated funds, and its successors and assigns, in each case only during such time that such entity is a limited partner of the entity that owns the Housing Unit, and when no such entity is a limited partner in the entity that owns the Housing Unit, references to Limited Partner shall be of no force or effect.

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

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

**"Mortgagee"** means any holder, insurer or guarantor of a Mortgage on a Unit.

**"Notice and Opportunity To Be Heard"** means the procedure described in Section 15.9.

**"Owner"** or **"Unit Owner"** means the Declarant or other person who owns a Unit, but does not include any Person who (i) has an interest in a Unit solely as security for an obligation, monetary or regulatory, (ii) is the beneficiary of rights under easements and/or covenants granted by an Owner, or (iii) is an Authorized User.

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

**"Regulatory Agreement"** means the following covenants (as they may be amended) recorded or to be recorded against the Housing Unit imposing certain low income housing restrictions: Low Income Housing Covenant Agreement (State of Washington) and Tax Credit Regulatory Extended Use Agreement (WSHFC).

**"Rules and Regulations"** means rules or regulations governing use of the Condominium that may be adopted by the Board.

**"Special Declarant Rights"** means rights reserved for the benefit of the Declarant as specified in Article 12.

**"Specially Allocated Expenses"** means those Common Expenses described in Section 16.6 of this Declaration.

**"Survey Map and Plans"** means the survey map and plans for the Condominium. Section 1.7 refers to the recording number of the Survey Map and Plans, which were recorded simultaneously with this Declaration. The Survey Map and Plans includes any recorded amendments, corrections, and addenda thereto.

**"Transition Date"** means the date that is sixty days after the first conveyance of a Unit by the Declarant.

**"Unit"** means a physical portion of the Condominium designated for separate ownership, the boundaries of which are described in Section 5.2 and shown on the Survey Map and Plans.

**"Voting Interest"** means the number of votes in the Association allocated to each Unit, as described in Article 6.



**Section 2.2** **Statutory Definitions.** Some of the terms defined above are also defined in the Condominium Act. The definitions in the Declaration are not intended to limit or contradict the definitions in the Condominium Act. If there is any inconsistency or conflict, the definition in the Condominium Act will prevail.

### **ARTICLE 3** **NAME OF CONDOMINIUM**

The name of the Condominium created by this Declaration and the Survey Map and Plans is "Milwaukee Park, a Condominium."

### **ARTICLE 4** **DESCRIPTION OF LAND AND BUILDINGS**

**Section 4.1** **Description of Property.** The real property included in the Condominium is described in **Schedule A**.

**Section 4.2** **Description of Building.** There is one building in the Condominium. The location of the building is shown on the Survey Map and Plans.

### **ARTICLE 5** **DESCRIPTION OF UNITS**

**Section 5.1** **Number and Identification of Units.** The Condominium contains two commercial, non-residential Units. Notwithstanding the fact that residential apartments or dwellings are to be located within one of the Units, the Units are intended to be non-residential units under the Condominium Act. The location and configuration of each Unit created by this Declaration is shown on the Survey Map and Plans. **Schedule B** of this Declaration contains the following information as to each Unit created by this Declaration:

**5.1.1** **Unit Designation.** The Identifying Number of each Unit created by the Declaration.

**5.1.2** **Unit Data.** With respect to each Unit created by this Declaration, its approximate area and the levels at which the Unit is located.

**5.1.3** **Allocated Interests.** With respect to each Unit, its allocation of Common Ownership Interest, Common Expense Liability and Voting Interest, as described in Article 6.

### **Section 5.2** **Unit Boundaries.**

The boundaries of the Units are the walls, floors and ceilings of the Unit. All lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring, and any other materials constituting any part of the finished surfaces thereof are part of the Unit. All other portions of the walls, floors or ceilings are part of the Common Elements. Except for Common Elements described in Article 7, all spaces, interior partitions and other fixtures and improvements within the boundaries of the Unit are a part of the Unit. The physical boundaries of a Unit constructed in substantial accordance with the Survey Map and Plans become its boundaries rather than the metes and bounds expressed in the Survey Map and Plans, regardless of settling or lateral movement of the building or minor variance between boundaries shown on the Survey Map and Plans and those of the building.



## **ARTICLE 6 ALLOCATED INTERESTS**

**Section 6.1 Allocated Interests.** This Declaration allocates certain interests in the Condominium to each Unit. Those interests are: a Common Ownership Interest, a Common Expense Liability and a Voting Interest. The method used for allocating these interests is set forth in this Article 6. The allocation of these interests to each Unit can only be changed as provided in this Declaration. The Allocated Interests and the title to a Unit may not be separated or separately conveyed, whether voluntarily or involuntarily, except in conformity with this Declaration. The Allocated Interests shall be deemed to be conveyed with the Unit to which they are allocated even though the description in the instrument of conveyance may refer only to the title to the Unit.

**Section 6.2 Common Ownership Interest.** The Common Ownership Interest of each Unit is set forth in **Schedule B**. The Common Ownership Interest of each Unit is based on the relative Floor Area of each Unit.

**Section 6.3 Common Expense Liability.** The Common Expense Liability of each Unit is set forth in **Schedule B**. Except for Specially Allocated Expenses, the Common Expense Liability of each Unit is based on the relative Floor Area of each Unit.

Specially Allocated Expenses are allocated according to Section 16.6.

**Section 6.4 Voting Interest.** The Voting Interest of each Unit is set forth in **Schedule B**. The method for allocating the Units' votes in the Association is based on the relative Floor Area of each Unit.

## **ARTICLE 7 COMMON ELEMENTS**

**Section 7.1 Description.** The Common Elements are all portions of the Condominium other than the Units. The Common Elements include all portions of the walls, floors, or ceilings that are not a part of, or within, the Unit boundaries established by Section 5.2. The Common Elements also include any chute, flue, duct, wire, conduit, bearing wall, bearing column, or any other fixture that lies partially within and partially outside the designated boundaries of a Unit if it serves more than one Unit or any portion of a Common Element. The Common Elements are generally described as follows:

**7.1.1 Land.** The land described in **Schedule A** on which the buildings are situated.

**7.1.2 Common Structural Elements.** The foundations, footings, studs, joists, beams, supports, walls (excluding only non-bearing interior partitions of the Units), roofs, chimneys and fireplace walls, if any, and all other structural parts of the building to the boundaries of the Unit under the Act.

**7.1.3 Central Services.** The wires, pumps, motors, fans, ducts and all other parts or apparatus of any central services or common utility service, such as power, light, gas, hot and cold water, heating, air conditioning, incinerators, compactors, sewer, fire control systems and communication elements, if any, whether they are located in partitions or otherwise. The Common Elements do not include appliances and equipment serving only a single unit and located entirely within that Unit.



**Section 7.2     Use of Common Elements.** Unit Owners may not alter any Common Element or construct or remove anything in or from any Common Element except upon the prior written consent of the Board. The right to use the Common Elements, including the Limited Common Elements, shall be governed by the provisions of the Condominium Act and the Governing Documents.

**Section 7.3     Conveyance or Encumbrance of Common Elements.** No portion of the Common Elements may be conveyed or subjected to a security interest by the Association except upon the unanimous consent of all Unit Owners, Eligible Mortgagees and the Limited Partner. Except where permitted by the Condominium Act, the Common Elements (including Limited Common Elements) are not subject to partition. Any conveyance, encumbrance, judicial sale or other transfer (voluntary or involuntary) of an individual interest in the Common Elements shall be void unless the Unit to which that interest is allocated is also transferred.

## **ARTICLE 8     LIMITED COMMON ELEMENTS**

**Section 8.1     Description.** Any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, patios, and all exterior doors and windows or other equipment or fixtures designed to serve a single Unit, but which are located outside the Unit's boundaries, are Limited Common Elements allocated exclusively to that Unit. Any chute, flue, duct, wire, conduit, bearing wall, bearing column, or any other equipment or fixture that lies partially within and partially outside the designated boundaries of a Unit, if it serves only that Unit, is a Limited Common Element allocated exclusively to that Unit. The Limited Common Elements also include the areas, fixtures and equipment listed in **Schedule D.**

**Section 8.2     Reallocation or Incorporation of Common Elements.** A Common Element may be reallocated as a Limited Common Element, and a Common Element or Limited Common Element may be incorporated into an existing Unit with the approval of Owners of Units to which 100% of the Voting Interest in the Association is allocated and with the written approval of the Eligible Mortgagees and the Limited Partner. Such reallocation or incorporation shall be reflected in an amendment to the Declaration and the Survey Map and Plans.

**Section 8.3     Reallocation Between Units.** A Limited Common Element may be reallocated between Units only with the approval of the Board and by an amendment to the Declaration executed by the Owners of the Units to which the Limited Common Element was and will be allocated. The Board shall act upon the request of the Owner or Owners under this section within 30 days, or within such other period provided by the Declaration, unless the reallocation does not comply with the Condominium Act or the Declaration. The failure of the Board to act upon a request within such period shall be deemed approval thereof. The amendment shall be recorded in the names of the parties and of the Condominium.

**Section 8.4     Use of Limited Common Elements.** Each Owner of a Unit to which a Limited Common Element is allocated shall have the exclusive right to use the Limited Common Element in common with the other Owners, if any, to which that Limited Common Element is allocated. The right to use the Limited Common Element extends to the Owner's Authorized Users, but is governed by the provisions of the Condominium Act and the Governing Documents.

**Section 8.5     Parking Spaces.** Schedule C states the planned number of parking spaces in the Condominium, all of which are identified by number in the Survey Map and Plans. The Declarant



will allocate the parking spaces in **Schedule C** or by an amendment to **Schedule C** executed solely by the Declarant.

## **ARTICLE 9 EASEMENTS**

**Section 9.1 In General.** In addition to any rights under the Condominium Act, each Unit has an easement in and through the Common Elements (but not the Limited Common Elements) for unrestricted ingress and egress to such Unit. Each Unit has an easement in and through each other Unit and the Common Elements for all support elements; for utility, wiring, heat, and service elements; and for reasonable access thereto, as required to effectuate and continue proper operation of the Condominium.

**Section 9.2 Utility Easements.** The Declarant reserves the right to grant easements to any company or municipality providing utility services to the Condominium or to the Units for the (i) installation, construction, maintenance, repair and reconstruction of all utilities serving the Condominium or the Owners, including, without limitation, such, utility services as water, sanitary sewer, storm sewer, electricity, cable television, internet access and telecommunications; and (ii) access through the Common Elements to the utility installations.

**Section 9.3 Easements Specifically Reserved by the Declarant.** The Declarant reserves an access easement over, across, and through the Common Elements of the Condominium for the purpose of completing construction, making repairs required pursuant to any contract of sale, discharging the Declarant's obligations, or exercising Special Declarant Rights. This Section 9.3 may not be altered or amended without the written consent of the Declarant.

**Section 9.4 Commercial Nonexclusive Easement Area.** The Commercial Unit shall have a nonexclusive easement to use the ramp and hallways on the first floor of the Housing Unit, as shown on the Survey Map and Plans, for ingress and egress from the parking lot to the Commercial Unit.

**Section 9.5 Duration.** The easements granted in Sections 9.1, 9.2 and 9.4 are perpetual and run with the land. Any such easements granted in Section 9.1 shall, however, terminate upon the termination of this Condominium pursuant to Article 25 of this Declaration. The easements reserved in Sections 9.3 are easements in gross to the Declarant and its successors and assigns, whether acting as Declarant, the Association or an Owner of unsold Units in the Condominium. They shall terminate 5 years after the later of (i) the date of the last conveyance of a Unit by the Declarant to a Person other than the Declarant; or (ii) the later of the date the last Common Element was completed or the date the last Common Element was added to the Condominium.

## **ARTICLE 10 USE RESTRICTIONS**

### **Section 10.1 Permitted Uses.**

**10.1.1 Housing Unit.** The Housing Unit of the Condominium is intended for the operation of a multifamily apartment complex, including (i) use of the Apartments within the Housing Unit as primary residences, (ii) social, recreational, and other activities normally incident to residential uses of the Apartments, including use as a home office, and (iii) maintenance of management and rental offices for the Apartments in the Housing Unit.

**10.1.2 Commercial Unit.** The Commercial Unit may be used for any lawful use that



is compatible with the operation of a multifamily apartment complex. The intended initial use of the Commercial Unit is for the operation of a behavioral health services facility, and such use shall not be deemed to be incompatible with the operation of a multifamily apartment complex. The Commercial Unit may not, however, be used for any of the following:

- (a) Any gas station, service station, auto repair, auto service or auto parts use;
- (c) Any industrial use or processing or rendering use;
- (d) Any warehouse or any assembling, manufacturing, factory, distilling, refining, smelting, or mining operation or facility;
- (e) Any dumping, disposing, incinerating or reducing of garbage
- (f) Any flea market or second-hand store, or any fire sale, bankruptcy sale (unless pursuant to court order) or auction house operation;
- (g) Any central or commercial laundry or dry cleaning plant, coin-operated laundry or laundromat, provided, however, this prohibition shall not be applicable to on-site service-oriented dry cleaners and launderers with pickup and delivery by the ultimate consumer, including nominal supporting facilities, as the same maybe found in retail shopping districts in the local area;
- (h) Any automobile, truck, trailer, mobile home, or recreational vehicle sales, leasing or display use;
- (i) Any mortuary, funeral parlor or home or similar service establishment;
- (j) Any business involving the boarding, housing or sale of animals, including, without limitation, veterinary office, kennel, pet store and animal boarding or animal daycare establishment;
- (k) Any bowling alley, amusement or game room, amusement park, carnival, game parlor, skating rink, billiard room, hall or parlor, pool hall, gun range, off-track betting establishment, massage parlor, adult book store, peep show store, head shop store or any other similar store or club (which are defined as stores or clubs with any inventory, including nude photos, sexual devices, magazines, videos, tapes or objects depicting genitalia and other similar items, or in which any individual, whether male or female, shall be employed in any capacity in such store or club which includes the displaying of any genitalia, whether topless or bottomless or otherwise), any business devoted to the sale of articles or merchandise normally used or associated with illegal or unlawful activities, including, without limitation, the sale of paraphernalia used in connection with marijuana, cocaine, or other controlled drugs or substances, pawn shop, check cashing service, pay-day loan provider, night club, discotheque, theater, church, or place of worship;
- (l) Any other use that is hazardous or offensive, that threatens the safety or security of the residents of the Housing Unit, or that generates noise or odors generally considered inappropriate in a mixed use residential building.



**Section 10.2 Use of Parking Spaces.** Parking within the Condominium is prohibited except in designated parking spaces. The parking spaces may only be used for the parking of operable passenger cars, motorcycles, and passenger vans by Authorized Users. Other types of vehicles, items or equipment (such as boats, trailers, campers, trucks or recreational vehicles) may be kept in such areas only to the extent expressly allowed by Rules and Regulations adopted by the Board. No inoperative vehicle may remain in any parking space, road, drive or other Common Element for more than 72 hours. The Board may adopt rules further regulating the use of parking spaces, including the parking of recreational vehicles, campers, boats and the like. The Board may direct that any inoperative vehicle or any other thing improperly parked or kept in a parking space or elsewhere in the Condominium be removed, and if it is not removed the Board may cause it to be removed at the risk and cost of the owner thereof.

**Section 10.3 Effect on Insurance.** Nothing shall be done or kept in any Unit or in any Common Element that will increase the rate of insurance on the Condominium without the prior written consent of the Board. Nothing shall be done or kept in any Unit or in any Common Element that will result in the cancellation of insurance on any part of the Condominium, or that would be in violation of any laws. Notwithstanding the foregoing, in the event a Unit Owner proposes a use of its Unit that would increase the rate of insurance on the Condominium, and the additional insurance expense is allocated to and paid for by that Unit Owner as a Specially Allocated Expense, and the proposed use is consistent with the other provisions of this Declaration and does not violate any provisions of this Declaration or any other Governing Documents, the Regulatory Agreement or any applicable laws, rules, or ordinances, then this section 10.3 alone shall not prevent the proposed use.

**Section 10.4 Intrusive Activity.** Except in connection with the renovation of the Condominium, no Owner shall conduct, permit or allow (i) any noise, vibration, odor or other undesirable effect to emanate from a Unit or Common Element; or (ii) any illegal, noxious or offensive activity to be carried on in any Unit or Common Element. No Owner or Authorized User shall conduct, permit or allow any activity or the keeping of any thing in a Unit or a Common Element that may interfere with the use or enjoyment of the Apartments or Common Elements, threaten the comfort, safety or security of any Owner or its Authorized Users, or be or become an annoyance or nuisance to other Owners or Authorized Users. Upon notice by the Board to an Owner that any of the aforesaid is occurring, the Owner shall, within five (5) days thereafter, remove or control the same and, if any such condition is not so remedied, then the Board may, at its discretion, after Notice and Opportunity to be Heard either: (1) cure such condition at the Owner's expense; or (2) pursue any other available legal or equitable remedy. Notwithstanding the foregoing, noise and odors commonly associated with occupation of residential dwellings not constituting a nuisance or violation of applicable laws, statutes or ordinances shall be permitted.

**Section 10.5 Use of Buildings.**

**10.5.1 General.** No Unit Owner or Authorized User shall use the plumbing facilities for any purpose other than the disposal of ordinary wastewater. No Unit Owner or Authorized User shall install, operate or maintain in any Unit any electrical equipment which will overload the electrical system of the Condominium, or any part thereof, beyond its reasonable capacity for proper and safe operation as determined by the Board. No Unit Owner or Authorized User shall use or occupy a Unit or a Common Element, or do or permit anything to be done thereon, in any manner which will cause structural injury to the building, or which would violate any present or future, ordinary or extraordinary, laws, regulations, ordinances, or requirements of the federal, state, or local governments, or of any department, subdivision, bureaus, or offices thereof, or of any other





governmental public or quasi-public authorities now existing or hereafter created having jurisdiction over the Condominium.

**10.5.2 Deliveries.** The delivery or shipment of goods, merchandise, and supplies to and from the Commercial Unit shall be accomplished in a manner that does not unreasonably interfere with the enjoyment and security of the Apartment tenants. The Board may adopt such Rules and Regulations pertaining to such matters as in the judgment of the Board are necessary for the safe, sanitary and efficient operation of the Condominium. Any such Rules and Regulations must accommodate the business needs and interests of, and the governmental restrictions imposed upon, the Owners and Authorized Users of the Commercial Unit.

**Section 10.6 Hazardous Substances.** No Owner or Authorized User shall permit any Hazardous Substance to be generated, processed, stored, transported, handled, or disposed of on, under, in, or through the Owner's Unit or the Property. Each Owner shall indemnify, defend, and hold harmless the other Owner or Owners and the Association from all fines, suits, procedures, claims, and actions of any kind arising out of or in any way connected with any spills or discharges of Hazardous Substances or wastes arising from the operation or use of the Unit or the Property by the Owner or Authorized User. As used herein, the term "**Hazardous Substance**" means any hazardous, toxic, or dangerous substance, waste, or material which is or becomes regulated under any federal, state, or local statute, ordinance, rule, regulation, or other law now or hereafter in effect pertaining to environmental protection, contamination, or cleanup, including without limitation any substance, waste, or material which now or hereafter is designated as a "Hazardous Substance" under the Comprehensive Environmental Response, Compensation and Liability Act (42 USC §9601 et seq); or under any local or state rule or regulation. Without limiting the foregoing, Hazardous Substances shall include, but not be limited to, any substance which after being released into the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavior abnormalities, cancer, and/or genetic abnormalities.

**Section 10.7 Conveyance by Owners; Notice Required.** The right of an Owner to transfer the Unit shall not be subject to any right of approval, disapproval, first refusal, or similar restriction by the Association or the Board, or anyone acting on their behalf. An Owner intending to convey a Unit must, however, deliver a written notice to the Board at least two weeks before closing specifying (a) the Unit being sold; (b) the name and address of the purchaser, the closing agent, and the title insurance company insuring the purchaser's interest; and (c) the estimated closing date. The Board shall have the right to notify the purchaser, the title insurance company, and the closing agent of the amount of unpaid Assessments and charges outstanding against the Unit, whether or not such information is requested. Promptly upon the conveyance of a Unit, the new Unit Owner shall notify the Association of (i) the date of the conveyance; (ii) the Unit Owner's name and address; and (iii) the name and notice address of every first Mortgagee of the Unit. The Association shall notify each insurance company that has issued an insurance policy under Article 20 of the name and address of the new owner and request that the new Owner be made a named insured under such policy.



## **ARTICLE 11 MAINTENANCE AND MODIFICATION OF UNITS AND COMMON ELEMENTS**

**Section 11.1 Unit Maintenance.** Each Owner shall, at the Owner's sole expense, be responsible for maintenance, repair and replacement of its Unit and the improvements and fixtures therein. The Housing Unit Owner shall be responsible for performing and paying for the maintenance, repair and replacement of the Limited Common Element north stairs and second floor deck as shown on the Survey Map and Plans. Each Owner is also responsible for performing and paying for the ordinary maintenance, repair and replacement of its Unit's windows, doors and glass. The Owner of the Commercial Unit shall also promptly resurface any glass and remove any graffiti from the exterior of the Commercial Unit. Each Unit Owner shall be responsible for the maintenance, repair or replacement of any plumbing lines, hoses, drains, toilets, showers, tubs, faucets, garbage disposals and other fixtures; water heaters, fans, heating, cooling, or other equipment; and electrical fixtures or appliances which are located within or are part of the Unit. Each Owner shall be responsible for any damage caused to the Unit, another Unit or the Common Elements caused by its failure to maintain such equipment or fixtures.

### **Section 11.2 Common Element Maintenance.**

**11.2.1** Except as set forth in Section 11.1, the Association is responsible for the maintenance, repair, and replacement of the Common Elements, including the Limited Common Elements. The Board may adopt rules or regulations permitting or requiring Owners to maintain certain Limited Common Elements allocated to the Owners' Units if it concludes that the Owners will regularly, properly and consistently maintain the Limited Common Elements, and that there is little risk of damage to the Condominium or cost to the Association from such transfer of maintenance responsibility.

**11.2.2** The Board shall maintain the Common Elements in sound condition and shall not allow them to fail, deteriorate or cease functioning through lack of regular or proper maintenance. Without limiting the foregoing, the Board shall develop, update and adhere to schedules and procedures for the periodic inspection, maintenance, repair and replacement of the Common Elements. The schedules and procedures shall be based upon regular inspections of the Condominium and sound property management principles and practices and shall be adequate to maintain the Common Elements in the condition required herein. The Board shall keep contemporaneous records of all, inspections, maintenance and repair work, and all improvements to the Common Elements.

**Section 11.3 Construction Work – Common Elements.** The Common Elements shall not be reconstructed, rebuilt, altered, removed or replaced except by the Association acting through the Board in accordance with the Act, this Declaration, and the Bylaws or the Declarant when exercising rights reserved under this Declaration.

## **ARTICLE 12 SPECIAL DECLARANT RIGHTS**

The Declarant, for itself and any successor Declarant, reserves, for a period of 4 years after the first Conveyance of a Unit by the Declarant, the following Special Declarant Rights: to complete any improvements and perform work shown on the Survey Map and Plans, authorized by building permits, provided for under any contract of sale, necessary to satisfy any express or implied warranty under which Declarant is obligated, or otherwise authorized or required by law. Declarant, its agents, employees and contractors have the right to use easements through the Common Elements for the purpose of making improvements within the Condominium or exercising Special Declarant Rights.



The rights described in this Article shall not be transferred except by instrument evidencing the transfer executed by the Declarant or the Declarant's successor and the transferee and recorded in the county in which the Condominium is located. The rights and liabilities of the parties involved in such a transfer and of all persons who succeed to any Special Declarant Right, are set out in RCW 64.34.316.

## **ARTICLE 13 OWNERS ASSOCIATION**

**Section 13.1 Form of Association.** The Owners of Units shall be members of an owners association to be known as the Milwaukee Park Condominium Association (the "**Association**"). The Association shall be organized as a nonprofit corporation, no later than the date the first Unit in the Condominium is conveyed. Except where expressly reserved to the Owners under the Condominium Act or the Governing Documents, the affairs of the Association shall be managed by a Board. The rights and duties of the Board and of the Association shall be governed by the provisions of the Condominium Act, The Washington Nonprofit Corporation Act (RCW Chapter 24.03), the Declaration and the Bylaws.

**Section 13.2 Bylaws.** The Declarant will adopt initial Bylaws to supplement the Declaration and to provide for the administration of the Association and the property and for other purposes not inconsistent with the Condominium Act or the Declaration. The initial Bylaws may be amended pursuant to the procedures set forth in Article 24.

**Section 13.3 Qualifications For Membership.** Each Owner of a Unit (including the Declarant as to Units it owns) shall be a member of the Association and shall be entitled to one membership for each Unit owned. Only Owners may be members of the Association. Ownership of a Unit shall be the sole qualification for membership in the Association.

**Section 13.4 Transfer of Membership.** The membership of an Owner in the Association is appurtenant to the Unit giving rise to the membership. The membership shall not be transferred in any way except upon the transfer of title to the Unit and then only to the transferee of title to the Unit, provided that if a Unit has been sold on contract, the contract purchaser shall exercise the rights of the Owner for purposes of the Association, this Declaration, and the Bylaws, except as hereinafter limited, and shall be the voting representative unless otherwise specified. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Unit shall operate automatically to transfer the membership in the Association to the new Owner.

### **Section 13.5 Voting.**

**13.5.1 Number and Classes of Votes.** The allocation of Voting Interests in the Association is set forth in **Schedule B** of the Declaration.

**13.5.2 Association Owned Units.** The Association may not cast any votes allocated to a Unit owned by the Association. In determining the percentage of votes required to act on any matter, the votes allocated to Units owned by the Association shall be disregarded.

### **Section 13.6 Powers of Association.**

**13.6.1 General Powers.** Except as set forth in Sections 13.6.2, 13.6.3, 15.6 and elsewhere in the Declaration, the Association shall have (i) all powers authorized under the Condominium Act and the Washington Nonprofit Corporation Act; (ii) all powers necessary for the



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operation of the Condominium or governance of the Association; (iii) any other powers authorized by this Declaration; and (iv) all powers that may be exercised by any corporation of the same type as the Association.

**13.6.2 Capital Improvements.** The Association may cause additional improvements to be made as a part of the Common Elements, and acquire, hold, encumber, convey, and dispose of, in the Association's name, right, title, or interest to real or tangible and intangible personal property, and arrange for and supervise any addition or improvement to the Condominium, provided that:

**13.6.2.1** If the estimated cost of any separate property acquisition, addition, or improvements to the Condominium exceeds \$50,000, the approval of the Owners holding at least 86% of the votes in the Association and the Limited Partner shall be required;

**13.6.2.2** No structural changes shall be made to the Common Elements of a building without the approval of Owners holding at least 86% of the votes in the Association;

**13.6.2.3** No structural change shall be made to a Unit without the approval of the Owner of that Unit; and

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

**13.6.2.5** Without prior written approval of the Limited Partner, at no time during the 15-year compliance period (within the meaning of Section 42(i)(1) of the Internal Revenue Code of 1986, as amended (the "Code")) for the Housing Unit shall the Association or the Unit Owners make any improvement to, or the maintenance of, the Common Elements funded with a grant that was funded with federal funds (within the meaning of Section 42(d)(5)(A) of the Code) or with the proceeds of a loan that would constitute a "below-market Federal loan" within the meaning of Section 42(i)(2)(d) of the Code. This Paragraph 13.6.2.5 shall remain in effect only to the extent the Housing Unit is owned by Milwaukee Park Apartments Limited Partnership.

**13.6.3 Rules and Regulations.** All Rules and Regulations adopted by the Board shall comply with the following provisions (which shall not apply to amendments to this Declaration adopted in accordance with Article 24):

**13.6.3.1** No Rule or Regulation shall interfere with the freedom of residential tenants to determine the composition of their households, except that the Association shall have the power to require that all occupants of an Apartment be members of a single housekeeping unit.

**13.6.3.2** In adopting, amending or rescinding Rules and Regulations, the Association (i) shall give consideration to the matters brought to its attention via the Notice and Opportunity To Be Heard procedures; (ii) shall give consideration to the interests of the Owners and Authorized Users of the Commercial and Housing Units as well as the interests of the Association. No Rule or Regulation may be arbitrary or capricious. All Rules and Regulations must



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treat similarly situated Units, Owners and Authorized Users similarly. No Rule or Regulation shall be inconsistent with or violate the provisions of the Declaration, Articles, Bylaws or any Regulatory Agreement.

**13.6.3.3** The Board and the Association shall have no power to adopt Rules and Regulations or otherwise take any action with respect to any tenants in any of the Apartments that would constitute a violation of applicable landlord/tenant law, the Fair Housing Act, the Americans with Disabilities Act or any other federal, state or local antidiscrimination laws.

**13.6.3.4** The Board and the Association shall have no power to adopt Rules and Regulations that would, by their nature, prevent the effective operation of behavioral health services in the Commercial Unit.

**Section 13.7 Financial Statements and Records.** The Association shall keep financial records in accordance with generally accepted accounting principles and in sufficient detail to enable the Association to comply with the resale certificate requirements set forth in RCW 64.34.425. All financial and other records shall be made reasonably available for examination by the Managing Agent, the Association, any Owner or the Owner's authorized agents. At least annually, the Association shall prepare, or cause to be prepared, a financial statement of the Association in accordance with generally accepted accounting principles. The annual financial statement shall be audited at least annually by a certified public accountant who is not a Director of the Board or an Owner unless Owners holding at least 86% of the votes and the Limited Partner waive the audit for that year. The Investor Member and any Mortgagee will, upon request, be entitled to receive the annual financial statement within 120 days following the end of the fiscal year.

**Section 13.8 Inspection of Condominium Documents, Books and Records.** The Association shall make available to Owners, Mortgagees, prospective purchasers and their prospective Mortgagees, and the agents or attorneys of any of them, current copies of the Books and Records of the Association. "Available" shall mean available for inspection upon request, during normal business hours or under other reasonable circumstances. The Association may require the requesting party to pay a reasonable charge to cover the cost of making the copies.

#### **ARTICLE 14 TRANSFER OF ASSOCIATION PROPERTY**

**Section 14.1 Declarant's Transfer of Association Property.** Within 60 days after the Transition Date, the Declarant shall deliver to the Association all property of the Owners and of the Association held or controlled by the Declarant including, but not limited to, the Books and Records of the Association and control of Association funds.

**Section 14.2 Audit of Records Upon Transfer.** Within 60 days after the Transition Date, the records of the Association shall be audited as of the date of transfer by an independent certified public accountant in accordance with generally accepted auditing standards unless the Owners, by 86% vote, elect to waive the audit. The costs of the audit shall be a Common Expense.

#### **ARTICLE 15 THE BOARD OF DIRECTORS**

**Section 15.1 Selection of the Board and Officers.** Each Unit Owner is entitled, but not obligated, to appoint one or more (as applicable) directors to serve on the Board at the pleasure of the Owner. The Directors of the Board shall elect officers in accordance with the procedures provided in the Bylaws. The Directors of the Board and officers shall take office upon appointment and shall



serve as provided in the Bylaws. The Owner of the Commercial Unit shall have the right to appoint one Director. The Owner of the Housing Unit shall have the right to appoint two Directors. If a Director shall resign or cease to serve for any reason, then the Owner who appointed that Director shall have the right to appoint his or her replacement. If a Unit is subdivided into a greater number of Units, the right of that Unit Owner to appoint directors shall be shared by the Owners of the newly created Units, who shall constitute a class of Owners for purposes of this Section so that the number of Directors to be appointed by the Owners of the newly created Units shall equal the same number of Directors appointed by the Owner prior to the Unit's subdivision. A class of Owners shall appoint a Director by majority vote among the class, with each Owner having one vote. If a member of a class contests before the Board the appointment of the Director by the class, then that Director will not be qualified to serve on the Board until the members of the class submit a unanimous written appointment of a Director.

**Section 15.2 Powers of the Board.** Except as provided in this Declaration, the Bylaws or the Condominium Act, the Board shall at all times act on behalf of the Association. The Board may exercise all powers of the Association, except as otherwise provided in the Condominium Act, Declaration or the Bylaws. The Association shall arrange for goods and services necessary for the proper functioning of the Condominium, and the cost shall be shared among the Unit Owners in the manner provided in Article 6. Those goods and services may include, but are not be limited to the following:

**15.2.1 Utilities.** All necessary utility services for the Common Elements and all such services for the Limited Common Elements and the Units if not separately metered or charged, in which case, the Board may by reasonable formula allocate a portion of such expense to each such Unit involved as part of its Common Expense Liability.

**15.2.2 Additions to Common Elements.** Additions or improvements to the Common Elements not provided by the Declarant.

**15.2.3 Professional Services.** The legal and accounting services necessary or proper for the operation of the project or enforcement of Governing Documents.

**15.2.4 Maintenance.** Unless otherwise provided in the Declaration and subject to the limitations set forth in Section 13.6.2.5, the resurfacing, re-striping, maintenance, repair and replacement of the Common Elements including the Limited Common Elements (such as the parking areas and common utility facilities).

**15.2.5 Other Necessary Expenditures.** Any other materials, supplies, structural alterations, furniture, labor, services, insurance, taxes or assessments which the Board is required to secure or pay for pursuant to the terms of this Declaration, the Bylaws, or under law, or which, in its opinion, is necessary or proper for the operation of the Condominium, or for the enforcement of this Declaration or the Bylaws; provided that if any such services are provided for particular Units, the cost thereof shall be specially assessed to the owners of such Units and shall be immediately due and payable to the Association.

**15.2.7 Liens.** The Board may also pay any amount necessary to discharge any lien or encumbrance levied against the entire property or any part thereof which may or is claimed, in the opinion of the Board, to constitute a lien against the property or against the Common Elements, rather than merely against the interest therein of particular Owners. Where one or more owners are responsible for the existence of such lien, they shall be jointly and severally liable for the



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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 and shall be immediately due and payable to the Association.

**15.2.8 Representation by Association.** The Association shall represent the Unit Owners in any proceedings related to the condemnation, destruction, or liquidation of all or part of the Condominium, and shall have the sole authority to participate in all negotiations and enter into all related settlements or agreements on behalf of the Unit Owners. The Unit Owners hereby appoint the Association as their attorney-in-fact in all such matters.

**Section 15.3 Managing Agent.** The Declarant or Board may contract with an experienced professional Managing Agent to assist the Board in the management and operation of the Condominium and may delegate such of its powers and duties to the Managing Agent as it deems to be appropriate, except as limited herein. Any contract with a Managing Agent shall have a term no longer than one year (but may be renewable by agreement of the parties for successive one-year periods) and shall be terminable by the Board without payment of a termination fee, either (a) for cause, on 30 days' written notice; or (b) without cause, on not more than 90 days' written notice. The Managing Agent shall maintain fidelity insurance for its officers, employees and agents who handle or who are responsible for handling funds of or funds administered by the Association. All such fidelity insurance shall name the Association as an insured and shall be not less than the estimated maximum of funds, including reserve funds, in custody of the Association or the Managing Agent at any time while the policy is in force, but, in no event, shall the aggregate amount of insurance be less than three months' aggregate Assessments plus reserve funds. The policy shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

**Section 15.4 Exclusive Right to Contract.** The Board shall have the exclusive right to contract for all goods and services, the payment for which is to be made from the common expense fund.

**Section 15.5 Authorization of Board of Directors.** In the event the moneys in the common expense fund are insufficient to pay the expenditures provided for herein, the Board is authorized to borrow money to meet such expenditures on behalf of the Association and, to secure the repayment thereof, encumber (subject to the limitations set forth in this Declaration) any portion of the Common Elements. Prior to conveying or encumbering the Common Elements, the Board shall obtain the consent of all Unit Owners, Eligible Mortgagees and the Limited Partner. Proceeds of the conveyance or financing authorized under this section are an asset of the Association. Any agreement for the sale or financing of Common Elements shall be in writing, contain a legal description of the Common Elements affected thereby, shall be signed by all Unit Owners, and all such signatures shall be acknowledged. The agreement shall be recorded in the county in which the property is located and shall contain a deadline by which it must be recorded. No conveyance or encumbrance of Common Elements pursuant to this Section shall deprive any Unit of its rights of access or support. In addition, the Board is authorized to borrow money to meet such expenditures on behalf of the Association and, to secure the repayment thereof encumber (subject to the limitations set forth in this Declaration) future income of the Association, including any receivable, right to payment, and special and general assessments from the Unit Owners. In connection with the encumbrance of future income of the Association, the Association may execute such loan documents and undertake such obligations as the lender may require to realize on the encumbrance including powers of attorney, control over deposit accounts, the right to file or foreclose assessment liens, and the right to contact account debtors (including the Unit Owners) and require that payment be made directly to the lender.



**Section 15.6 Limitations on Board Authority.** Except when a higher standard is required by a provision of this Declaration or the Condominium Act, the Board shall act by majority vote. The Board shall act reasonably, in light of the facts determined by the Board, in making all determinations, exercising its discretion, granting or withholding consent, or taking any action on behalf of the Association. The Board shall not act on behalf of the Association to amend the Declaration in any manner that requires the vote or approval of the Unit Owners pursuant to Article 24, to terminate the Condominium pursuant to Article 25, or to elect members of the Board or determine the qualifications, powers, and duties, or terms of office of members of the Board. The Board may, in accordance with the Bylaws, fill vacancies in its membership for the unexpired portion of any term.

**Section 15.7 Indemnification.** Each Board member, officer and committee member, including the Declarant when acting in any such capacity, shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed in connection with any proceeding to which such person may be a party, or in which such person may become involved, by reason of holding or having held such position, or any settlement thereof, whether or not such person holds such position at the time such expenses or liabilities are incurred, except to the extent such expenses and liabilities are covered by any type of insurance and except in such cases wherein such person is adjudged guilty of willful misfeasance in the performance of such person's duties; provided, that in the event of a settlement, the indemnification shall apply only when the Board approves such settlement and reimbursement as being for the best interests of the Association.

**Section 15.8 Entry for Repairs or Maintenance.** The Association, the Managing Agent, and their agents or employees may enter a Unit and the Limited Common Elements allocated thereto to inspect and to effect repairs, improvements, replacements, maintenance or sanitation work deemed by the Board to be necessary in the performance of its duties, to do work that the Owner has failed to perform in violation of this Declaration, to prevent damage to the Common Elements or to another Unit, or to prevent unnecessary Common Expenses. The foregoing includes but is not limited to fireplaces, flues, bathtubs, sinks, toilets, hot water tanks, plumbing and electrical fixtures and other aspects of the building. Except in cases of emergency, the Board shall cause the Unit Owner to be given notice as far in advance of entry as is reasonably practicable. If the Board determines there is a need to repair or replace a portion of a Unit or Limited Common Element, the Association may either require the owner to make the repair or replacement, or may make the repair or replacement itself and allocate the cost to the Owner. The Board may levy a special assessment against the Owner of the Unit for all or a part of such sums, which may be collected and foreclosed by the Association in the same manner as assessments are collected and foreclosed under Article 17.

**Section 15.9 Notice and Opportunity To Be Heard.** Whenever this Declaration requires that an action of the Board be taken after "Notice and Opportunity to be Heard," the following procedure shall be observed: The Board shall give written notice of the proposed action to all Owners, tenants or occupants of Units whose interest would be significantly affected by the proposed action. The notice shall include a general statement of the proposed action and the date, time and place of the hearing, which shall be not less than five days from the date notice is delivered by the Board. At the hearing, the affected person shall have the right, personally or by a representative, to give testimony orally, in writing or both (as specified in the notice), subject to reasonable rules of procedure established by the Board to assure a prompt and orderly resolution of the issues. Such evidence shall be considered in making the decision but shall not bind the Board. The affected person shall be notified of the decision in the same manner in which notice of the meeting was given.





## **ARTICLE 16 BUDGET AND ASSESSMENTS**

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

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

**Section 16.3 Ratification of Budget.** Within 30 days after adoption of any proposed budget for the Condominium, the Board shall provide a summary of the budget to all the Owners and the Limited Partner and shall set a date for a meeting of the Owners to consider ratification of the budget not fewer than 14 nor more than 60 days after mailing of the summary. If the budget for the coming year exceeds the budget for the current year by more than 10%, then ratification of the budget shall require unanimous consent of the Owners. If the budget for the coming year is less than 110% of the current years' budget, then the budget will be ratified at the Owner meeting as long as Owner's holding at least 67% of the voting interest in the Association do not reject the budget, whether or not a quorum is present, and provided the budget is not rejected by the Limited Partner. In the event the proposed budget is rejected or the required notice is not given, the periodic budget last ratified by the Unit Owners shall be continued until such time as the Unit Owners ratify a subsequent budget proposed by the Board. If the Board proposes a supplemental budget during any fiscal year, such budget shall not take effect unless ratified by the Unit Owners and the Limited Partner in accordance with this Section.

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

**Section 16.5 Assessments for Common Expenses.** The sums required by the Association for Common Expenses as reflected by the annual budget and any supplemental budgets shall be paid annually (or at such other interval to be established by the Board) over the period to be covered by the budget or supplemental budget. The annual Assessment for Common Expenses for each Unit shall be the total of (a) the Common Expense Liability of that Unit (except Specially Allocated Expenses) and (b) any Specially Allocated Expenses of that Unit. Assessments shall commence against the Units within 60 days of the first conveyance of a Unit to an Owner other than Declarant. Notwithstanding the foregoing, the Declarant may delay the commencement of Assessments beyond such date if the Declarant pays the actual expenses of operating the Condominium (provided that Declarant need not pay any contributions to reserves or charges for utility services used by Units that have not been conveyed or are not occupied).

**Section 16.6 Specially Allocated Expenses.** The Common Expenses described in this section shall be assessed against the Owners as described herein, and not on the basis of the Owner's Common Expense Liability.



**16.6.1. Insurance.** The Common Expense of procuring and maintaining insurance will be allocated between the Units on the basis of the Owner's Common Expense Liability. The Unit Owners may elect to allocate the cost of procuring and maintaining insurance between the Units as determined by the Board based upon the relative cost of insuring the Units and the operations conducted therein. Upon placement or renewal of insurance, the Board shall consult with its insurance agent, broker, insurer or insurance advisors to determine how to fairly allocate the Common Expense for insurance among the Unit Owners based upon the loss experience of each Owner and its tenants, the risk and exposure created by the activities of each Owner and its tenants, and other underwriting factors that affect the cost of the insurance to the Association. If elected by the Unit Owners, the Board will allocate the cost of insurance based upon those factors.

**16.6.2. Misconduct.** To the extent that any Common Expense is caused by the misconduct of, or violation of the Governing Documents by, an Owner or Authorized User of any Unit, the Association may assess the expense (including the cost of any deductible under the Association's property insurance) against the Unit.

**16.6.3. Limited Common Elements.** Any Common Expense associated with the operation, maintenance, repair, or replacement of a Limited Common Element shall be assessed against the Unit(s) to which that Limited Common Element is allocated.

**16.6.4. Unequal Benefit.** The Board must assess any Common Expense, or portion thereof, that benefits fewer than all the Units solely against the Units receiving the benefit.

**16.6.5. Utilities.** If utilities paid for by the Association are separately metered or sub-metered to the Units, the Common Expense for those utilities will be assessed to the user(s) of the service based on the metering. If utilities are not separately metered to the Units, the Board shall assess the Common Expense for those utilities, or any portion thereof, according to the Common Expense Liability if they serve all Units.

**Section 16.7 Special Assessments.** For those Common Expenses which cannot reasonably be calculated and paid on a regular basis, the Board may levy special Assessments for such expenses against the Units, subject to ratification by the owners pursuant to Section 16.3.

**Section 16.8 Creation of Reserves; Assessments.** The Board may create reserve accounts for anticipated expenses for repairs, replacement and improvements which will occur in the future. The operation of reserve accounts and Assessments for reserve accounts shall be further governed by the Bylaws.

**Section 16.9 Notice of Assessments.** The Board shall notify each Owner in writing of the amount of the general and special Assessments to be paid for the Owner's Unit and shall furnish copies of all budgets and the Common Expense Liability allocations which apply to the Unit, on which the general and special Assessments are paid. The Board shall furnish the same information to an Owner's Mortgagee if so requested.

**Section 16.10 Payment of Assessments.** On or before the first day of February each year (or such installment schedule adopted by the Board), each Owner shall pay or cause to be paid to the treasurer or designated agent of the Association all Assessments against the Unit for that year. Any Assessment not paid by day such payment is due shall be delinquent and subject to late charges, interest charges and collection procedures as provided in Article 17.



**Section 16.11 Proceeds Belong to Association.** All Assessments and other receipts received by the Association on behalf of the Condominium shall belong to the Association.

**Section 16.12 Failure To Assess.** Any failure by the Board or the Association to make the budgets and Assessments hereunder before the expiration of any year for the ensuing year shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of the Owner from the obligation to pay Assessments during that or any subsequent year, and the Assessment amounts established for the preceding year shall continue until new Assessments are established.

**Section 16.13 Certificate of Unpaid Assessments.** Upon the request of any Owner or Mortgagee of a Unit, the Board will furnish a certificate stating the amount, if any, of unpaid Assessments charged to the Unit. The certificate shall be conclusive upon the Board and the Association as to the amount of such indebtedness on the date of the certificate in favor of all purchasers and mortgagees of the Unit who rely on the certificate in good faith. The Board may establish a reasonable fee to be charged to reimburse it for the cost of preparing the certificate.

**Section 16.14 Recalculation of Assessments.** If Common Expense Liabilities are reallocated, Common Expense Assessments, special Assessments, and any installment thereof not yet due shall be recalculated in accordance with the reallocated liabilities.

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

### **Section 17.1 Assessments Are a Lien; Priority.**

**17.1.1** The Association has a lien on a Unit for any unpaid Assessment levied against a Unit from the time the Assessment is due.

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

**17.1.3** Recording of this Declaration constitutes recorded notice and perfection of the lien for Assessments, however, the Association may record a notice of claim of lien for Assessments in the real property records of the county in which the Condominium is located.

**Section 17.2 Lien May Be Foreclosed; Judicial Foreclosure.** The lien arising under this Article may be enforced judicially by the Association or its authorized representative in the manner set forth in RCW 61.12, or nonjudicially in the manner set forth in Section 17.3. The Association shall obtain the written consent of the Limited Partner to judicial or nonjudicial foreclosure of a lien arising under this Article. The Association or its authorized representative shall have the power to purchase the Unit at the foreclosure sale and to acquire, hold, lease, mortgage, or convey the same. Upon an express waiver in the complaint of any right to a deficiency judgment in a judicial foreclosure action, the period of redemption shall be eight months. Nothing in this section shall prohibit the Association from taking a deed in lieu of foreclosure. The holder of a mortgage or other purchaser of a Unit who obtains the right of possession of a Unit through foreclosure shall not be liable for any Assessments or installments thereof that became due prior to such right of possession. Such unpaid Assessments shall be deemed to be Common Expenses collectible from all the Owners, including such mortgagee or



other purchaser of the Unit. Foreclosure of a mortgage does not relieve the prior Owner of personal liability for Assessments accruing against the Unit prior to the date of such sale.

**Section 17.3 Nonjudicial Foreclosure.** A lien arising under this Article may be foreclosed nonjudicially in the manner set forth in RCW 61.24 for nonjudicial foreclosure deeds of trust. For the purpose of preserving the Association's nonjudicial foreclosure option, this Declaration shall be considered to create a grant of each Unit in trust to Pacific Northwest Title or its successors or assigns ("Trustee"), to secure the obligations of each Unit Owner ("Grantor") to the Association ("Beneficiary") for the payment of Assessments. Grantor shall retain the right to possession of Grantor's Unit so long as Grantor is not in default of an obligation to pay Assessments. The Trustee shall have a power of sale with respect to each Unit, which becomes operative in the case of a default in a Grantor's obligation to pay Assessments. The Units are not used principally for agricultural or farming purposes. If the Association forecloses its lien nonjudicially pursuant to this Section, it shall not be entitled to the lien priority over mortgages provided in Section 17.1.2.

**Section 17.4 Receiver During Foreclosure.** From the time of commencement of an action by the Association to foreclose a lien for nonpayment of delinquent Assessments against a Unit that is not occupied by the Owner thereof, the Association shall be entitled to the appointment of a receiver to collect from the lessee thereof the rent for the Unit as and when due. If the rent is not paid, the receiver may obtain possession of the Unit, refurbish it for rental up to a reasonable standard for rental Units in this type of Condominium, rent the Unit or permit its rental to others, and apply the rents first to the cost of the receivership and attorneys' fees thereof, then to the cost of refurbishing the Unit, then to applicable charges, then to costs, fees, and charges of the foreclosure action, and then to the payment of the delinquent Assessments. Only a receiver may take possession and collect rents under this Section, and a receiver shall not be appointed less than 90 days after the delinquency. The exercise by the Association of the foregoing rights shall not affect the priority of preexisting liens on the Unit.

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

**Section 17.6 Extinguishment of Lien and Personal Liability.** A lien for unpaid Assessments and the personal liability for payment of Assessments is extinguished unless proceedings to enforce the lien or collect the debt are instituted within three years after the amount of the Assessments sought to be recovered becomes due.

**Section 17.7 Joint and Several Liability.** In addition to constituting a lien on the Unit, each Assessment shall be the joint and several obligation of the Owner or Owners of the Unit to which the same are assessed as of the time the Assessment is due, except as otherwise specifically provided herein. In a voluntary conveyance, the grantee of a Unit shall be jointly and severally liable with the grantor for all unpaid Assessments against the grantor up to the time of the grantor's conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore. Suit to recover a personal judgment for any delinquent Assessment shall be maintainable in any court of competent jurisdiction without foreclosing or waving the lien securing such sums.

**Section 17.8 Late Charges and Interest on Delinquent Assessments.** The Association may from time to time establish reasonable late charges and a rate of interest to be charged on all



subsequent delinquent Assessments or installments thereof. In the absence of another established nonusurious rate, delinquent Assessments shall bear interest from the date of delinquency at the maximum rate permitted under RCW 19.52.020 on the date on which the Assessments became delinquent.

**Section 17.9 Recovery of Attorneys' Fees and Costs.** The Association shall be entitled to recover any costs and reasonable attorneys' fees incurred in connection with the collection of delinquent Assessments, whether or not such collection activities result in suit being commenced or prosecuted to judgment. In addition, the Association shall be entitled to recover costs and reasonable attorneys' fees if it prevails on appeal and in the enforcement of a judgment.

**Section 17.10 Reserved.**

**Section 17.11 Remedies Cumulative.** The remedies provided herein are cumulative and the Board may pursue them, and any other remedies which may be available under law although not expressed herein, either concurrently or in any order.

**Section 17.12 Municipal Ownership.** If a Unit is owned by a municipal corporation, then its liability for Assessments shall be limited to its interest in the Unit.

## **ARTICLE 18 ENFORCEMENT OF GOVERNING DOCUMENTS**

**Section 18.1 Rights of Action.** Each Owner, its Authorized Users and the Association shall comply strictly with the Governing Documents and the proper decisions of the Board. The Declarant shall enjoy all the rights and assume all the obligations of an Owner as to each unsold Unit in the Condominium owned by the Declarant. The Association acting on behalf of the Owners or any Owner acting on his own behalf may bring an action to recover sums due or damages, or for injunctive relief, or any or all of them, against any party who fails to comply with the Governing Documents and the proper decisions of the Board.

**Section 18.2 Additional Rights.** In addition, the Board may, after Notice and Opportunity to be Heard, take any of the following actions against any party who fails to comply with the Governing Documents and the proper decisions of the Board:

**18.2.1** Require an Owner, at its own expense, to stop work on, and remove, any improvement from such Owner's Unit or other areas of the Condominium in violation of the Governing Documents and to restore the Unit to its previous condition and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed and any such action shall not be deemed a trespass;

**18.2.2** Levy Assessments to cover costs incurred by the Association to cure a violation of the Governing Documents;

**18.2.3** Impose reasonable monetary fines which shall constitute an Assessment and a lien upon the violator's Unit. No fine may be imposed, however, unless pursuant to a previously established schedule thereof adopted by the Board and distributed to Owners;

**18.2.4** To the extent allowed by applicable law, suspend any services (including utilities) provided by the Association to an Owner or the Owner's Unit if the Owner is more



than thirty days delinquent in paying any Assessment or other charge owed to the Association or has failed to replenish any security deposit required by the Association (provided the Association has given Notice and Opportunity to Be Heard to any tenant of the Unit); and

**18.2.5** Exercise self-help or take action to abate any violation of the Governing Documents. Notice and Opportunity to be Heard shall not, however, be required in an emergency situation or in regard to the removal of vehicles or items that are in violation of parking or storage rules and regulations.

**Section 18.3 Remedies Cumulative; Attorneys' Fees.** All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents, if the Association or Owner prevails, it shall be entitled to recover all costs, including without limitation, its attorneys' fees and court costs, reasonably incurred in such action.

**Section 18.4 Enforcement Discretion; No Waiver.** The decision to pursue enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstances of a particular case:

**18.4.1** The Association's position is not strong enough to justify taking any further action; or

**18.4.2** The covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with applicable law; or

**18.4.3** Although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or

**18.4.4** That it is not in the Association's best interests, based upon hardship, expense or other reasonable criteria, to pursue enforcement action.

Such a decision shall not be construed to be a waiver of the right of the Association to enforce such provision at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction or rule. The receipt by the Board of payment of an Assessment from an Owner, with knowledge of a breach by the Owner, shall not be a waiver of the breach. No waiver by the Board of any requirement shall be effective unless expressed in writing and signed for by the Board. This Section 18.4 also extends and applies to the Declarant.

## **ARTICLE 19 TORT AND CONTRACT LIABILITY**

**Section 19.1 Declarant Liability.** Neither the Association nor any Owner except the Declarant is liable for the Declarant's torts in connection with any part of the Condominium which the Declarant has the responsibility to maintain. Otherwise, an action alleging a wrong done by the Association must be brought against the Association and not against any Owner or any officer or director of the Association. An Owner is not precluded from bringing an action contemplated by this section because he or she is a Unit Owner or a member or officer of the Association.



**Section 19.2 Limitation of Liability for Utility Failure.** Except to the extent covered by insurance obtained by the Board, none of the Association, the Board, the Managing Agent nor the Declarant shall be liable to any Unit Owner for:

- (a) the failure of any utility or other service to be obtained and paid for by the Board;
- (b) injury or damage to person or property caused by the elements, or resulting from electricity, water, rain, dust, mold or mildew which may leak, travel or flow from outside of any building, from any Unit, any Common Element or from any part of the building, or from any pipes, drains, conduits, appliances, or equipment, or from any other place; or
- (c) inconvenience or discomfort resulting from any action taken to comply with the Governing Documents, any law, ordinance or orders of a governmental authority. No diminution or abatement of Assessments shall be claimed or allowed for any such utility or service failure, or for such injury or damage, or for such inconvenience or discomfort.

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

## **ARTICLE 20 INSURANCE**

**Section 20.1 Required Insurance.** Commencing not later than the time of the first conveyance of a Unit to a person other than the Declarant, the Association shall maintain, to the extent reasonably available, a policy or policies and bonds necessary to provide (a) property insurance on the Condominium; (b) liability insurance; and (c) fidelity insurance. The Board shall review at least annually the adequacy of the Association's insurance coverage. All insurance shall be obtained from insurance carriers that are generally acceptable for similar projects, are authorized to do business in the state of Washington, and meet the reasonable requirements of Mortgagees and the Limited Partner, except to the extent such coverage is not available on commercially reasonable terms or has been waived in writing by them. All such insurance policies and fidelity bonds shall provide that coverage may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least 30 days' prior written notice to any and all insureds named therein, including Owners, Mortgagees, designated servicers of Mortgagees and the Limited Partner.

**Section 20.2 Property Insurance Requirements.** The Association, or its insurance trustee, shall be the "named insured." The Limited Partner (for as long as the Limited Partner has an ownership interest in the entity that owns the Housing Unit) shall be named as an "additional insured." The property insurance shall, at the minimum, provide special cause-of-loss coverage in an amount equal to 100% of the replacement cost of the Common Elements, the Limited Common Elements, the Units, and the interior partitions, equipment, fixtures, and improvements installed in the Units by Declarant and intended as a permanent part of the Unit (exclusive of such items as land, foundations, excavations, and other items normally excluded from property policies), and all personal property



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owned by the Association. After the completion of all construction work by the Declarant and the termination of any builder's risk form of coverage, the policy shall contain a "Guaranteed Replacement Cost Endorsement" or a "Replacement Cost Endorsement" and, if it contains a co-insurance clause, an "Agreed Amount Endorsement." The loss payable clause of the policy shall show the Association or its insurance trustee as trustee for each Unit Owner and its Mortgagees. The Unit Owner, not the Association, shall be responsible up to the amount of the deductible under the Association's property policy for (i) the cost of damage or loss within the Owner's Unit; (ii) damage to another Unit or the Common Elements resulting from the negligence or misconduct of the Unit Owner or its Authorized Users; or (iii) damage to another Unit or the Common Elements caused by faulty or leaking plumbing fixtures (including pipes, hoses, drains, toilets, showers, tubs, dishwashers, faucets, garbage disposals, and shower heads), water heaters or hot water tanks that are within or (as to water heaters or water tanks) serve only the Owner's Unit. The policy shall include "Special Hazards" insurance or endorsements for boiler and machinery, flood, wind, mudslide and/or earthquake areas as required by the Limited Partner.

**Section 20.3 Liability Insurance Requirements.** The liability insurance shall insure the Board, the Association, the Owners, the Limited Partner (for as long as the Limited Partner has an ownership interest in the entity that owns the Housing Unit) and the Declarant. The policy shall insure against liability of the insureds for property damage, bodily injury or death arising in connection with the use, operation or maintenance of the Common Elements and any areas under the supervision of the Association. The policy may insure against liability in connection with employment contracts of the Association, host liquor liability, employers' liability insurance, automobile, liability insurance, and such other risks as are customarily covered with respect to condominium projects of similar construction, location and use. The limits of liability shall be at least \$1,000,000 per occurrence and \$2,000,000 aggregate. The policy shall contain a "Severability of Interest Endorsement" or equivalent which precludes the insurer from denying the claim of an insured because of the negligent acts of another insured. The policy may contain medical payments coverage and any other coverages that the Board deems advisable.

**Section 20.4 Fidelity Insurance Requirements.** The fidelity insurance shall name the Association as insured. It shall protect against dishonest acts on the part of officers, directors, trustees, and employees of the Association and all other persons who handle or are responsible for handling funds held or administered by the Association. All such fidelity insurance shall name the Association as an insured and shall be not less than the estimated maximum of funds, including reserve funds, in custody of the Association at any time while the policy is in force, but, in no event, shall the aggregate amount of insurance be less than three months' aggregate Assessments plus reserve funds. The policy shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

**Section 20.5 Additional Insurance Requirements.** The insurance obtained pursuant to Sections 20.2, 20.3 and 20.4 shall contain the following provisions and limitations:

**20.5.1** Each Unit Owner is an insured person under the policy with respect to liability arising out of the Owner's Common Ownership Interest or membership in the Association.

**20.5.2** A waiver of subrogation by the insurer as to any and all claims against the Association, any Unit Owner and/or their respective agents, members of the Owner's household, employees, or lessees.





**20.5.3** Coverage shall not be prejudiced by (a) any act or omission of any Unit Owner unless acting within the scope of the Owner's authority on behalf of the Association; or (b) failure of the Association to comply with any warranty or condition with regard to any portion of the premises over which the Association has no control.

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

**20.5.5** A standard mortgagee clause which shall:

(a) Name the loan servicer and its successors and assigns as the Mortgagee;

(b) Provide that any reference to a Mortgagee in the policy shall mean and include all Mortgagees of any Unit or Unit lease or sublease in their respective order of preference, whether or not named therein;

(c) Provide that such insurance as to the interest of any Mortgagee shall not be invalidated by any act or neglect of the Board or Owners or any persons under any of them; and

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

**20.5.6** A provision that coverage may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least 30 days' prior written notice to the named insured, any Eligible Mortgagee and the Limited Partner.

The provisions of Sections 20.1 through 20.5 are not intended to contradict or limit any insurance policy or coverage obligations of the Association under any loan agreement, deed of trust, bond guaranty agreement or similar document.

**Section 20.6 Adjustment of Losses; Insurance Trustee; Power of Attorney.** Any loss covered by the insurance described in Section 20.2 shall be adjusted with the Association, but the 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, provided that if permitted by applicable law and if all Eligible Mortgagees, other than a Declarant or holder of a Mortgage assigned by a Declarant, agree in writing that a particular Mortgagee shall be entitled to receive insurance proceeds, then insurance proceeds shall be paid to such Mortgagee, and if so agreed by all such Eligible Mortgagees then such Mortgagee shall have right to make and settle a claim for such proceeds. The insurance trustee or the Association shall hold any insurance proceeds in trust for Unit Owners and lien holders as their interests may appear. Each Owner and the Owner's Mortgagee, if any, shall be beneficiaries of the policy in accordance with percentages established by the Common Ownership Interest of Owner's Unit. Certificates of insurance shall be issued to each Owner and Mortgagee upon request. Subject to the provisions of Section 20.9, the proceeds must be disbursed first for the repair or restoration of the damaged property, and Unit Owners and lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored or the Condominium is terminated. Each Owner appoints the



Association, or any insurance trustee or successor trustee designated by the Association, as attorney-in-fact for the purpose of purchasing and maintaining such insurance, including the collection and appropriate disposition of the proceeds thereof, the negotiation of losses and execution of releases of liability, the execution of all documents and the performance of all other acts necessary to accomplish such purposes. If requested by an Eligible Mortgagee, other than a Declarant or holder of a Mortgage assigned by a Declarant, when the insurance proceeds of a loss exceed \$500,000, the Association shall retain an insurance trustee, reasonably acceptable to the Mortgagee making such request, to receive and distribute the proceeds. The insurance trustee shall be a bank or trust company doing business in Washington.

**Section 20.7 Optional Insurance.** If the Board deems it advisable, the Association may also obtain (a) worker's compensation insurance; (b) directors and officers' liability insurance; and (c) any other insurance.

**Section 20.8 Tenant Insurance.** Any lessee or tenant of the Commercial Unit must obtain general liability insurance for its operations at the Condominium with limits of no less than \$1,000,000 per occurrence and \$2,000,000 aggregate. The insurance must name the Owner of the Commercial Unit and the Association as additional insureds, and must provide for 30 days prior written notice to the additional insureds of cancellation, change in terms or reduction of limits. The lessee or tenant must provide copies of its insurance policy to the Association prior to taking possession of the Unit.

**Section 20.9 Use of Insurance Proceeds.** Any portion of the Condominium for which insurance is required under this Article which is damaged or destroyed shall be repaired or replaced promptly by the Association pursuant Article 21 unless:

**20.9.1** The Condominium is terminated;

**20.9.2** Repair or replacement would be illegal under any state or local health or safety statute or ordinance; or

**20.9.3** Owners holding at least 86% of the votes in the Association, including every Owner of a Unit or Limited Common Element which will not be rebuilt, and Owners holding at least 86% the votes in the Association vote not to rebuild.

The cost of repair or replacement in excess of insurance proceeds, reserves and deductibles paid by Owners is a Common Expense, which the Board may allocate according to the Common Expense Liability or as a Specially Allocated Expense. If all of the damaged or destroyed portions of the Condominium are not repaired or replaced, (i) the insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition compatible with the remainder of the Condominium; (ii) the insurance attributable to Units and Limited Common Elements which are not rebuilt shall be distributed to the Owners of those Units and the Owners of the Units to which those Limited Common Elements were allocated, or to lien holders, as their interests may appear; and (iii) the remainder of the proceeds shall be distributed to all the Unit Owners or lien holders, as their interests may appear, in proportion to their Common Ownership Interests. If the Unit Owners vote not to rebuild any Unit, that Unit's allocated interests are automatically reallocated upon the vote as if the Unit had been condemned under Article 22, and the Association promptly shall prepare, execute, and record an amendment to this Declaration reflecting the reallocations. Notwithstanding the provisions of this section, Article 25 governs the distribution of insurance proceeds if the Condominium is terminated.



## **ARTICLE 21 DAMAGE AND REPAIR OF DAMAGE TO PROPERTY**

**Section 21.1 Definitions: Damage, Substantial Damage, Repair, Emergency Work.** As used in this Article 21:

**21.1.1 "Damage"** shall mean all kinds of damage, whether of slight degree or total destruction.

**21.1.2 "Substantial Damage"** shall mean that in the commercially reasonable judgment of a majority of the Board the estimated Assessment determined under Section 21.2.4 for any one Unit exceeds three percent of the full, fair market value of the Unit before the damage occurred, as determined by the then current assessment for the purpose of real estate taxation.

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

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

**Section 21.2 Initial Board Determination.** In the event of Damage to any portion of the Condominium for which insurance is required by this Declaration, the Board shall promptly, and in all events within thirty days after the date of learning of the Damage, take the following actions. In doing so, the Board shall obtain such advice from professionals (such as engineers, architects, contractors, insurance consultants, lenders and attorneys) as the Board deems advisable and shall consider the information then known to the Board:

**21.2.1** Determine the nature and extent of the Damage to the Condominium and loss to the Association and Unit Owners, together with an inventory of the improvements and property directly affected thereby.

**21.2.2** Obtain as reliable an estimate as possible of the cost and time to Repair the damage, which estimate shall, if reasonably practicable, be based upon two or more firm bids obtained from responsible contractors.

**21.2.3** Determine the insurance proceeds and reserves, if any that will likely be available to pay for the Damage.

**21.2.4** Determine (i) the amount, if any, by which the estimated cost of Repair is likely to exceed the expected insurance proceeds, the reserves available to repair the damage, other available funds of the Association, and the deductibles owed by Owners; and (ii) the likely amount of the Assessments that would have to be made against each Unit if the excess cost were to be paid as a Common Expense.

**Section 21.3 Notice of Damage.** Within the same time frame, the Board shall provide each Owner with a written notice summarizing the initial Board determinations made under Section 21.2, explaining any further information needed by the Board to make a final decision on the cost and



schedule for repairs. If the Board determines that the Damage is Substantial Damage then the notice shall also explain any further information needed by the Board to allow the Owners to make an informed decision about repairs to the Condominium, and call a special meeting to consider whether to repair the Damage. If the Damage affects a material portion of the Condominium, the Board shall also send the notice to Eligible Mortgagees and the Limited Partner; if the Damage affects a Unit, the Board shall send the notice to the Eligible Mortgagees of that Unit; and if the Damage affects the Housing Unit the Board shall send the notice to the Limited Partner. If the Board fails to call such a meeting within the 30-day period, any Owner, Eligible Mortgagee or the Limited Partner may call such a meeting. The Board may, but is not required to, call such a meeting in other circumstances.

#### **Section 21.4    Execution of Repairs.**

**21.4.1**    The Association shall promptly repair any Damaged portion of the Condominium that the Association is responsible to insure and to maintain or repair unless:

**21.4.1.1**    The Condominium is terminated by vote at a special meeting called in accordance with Section 21.3 and taken in accordance with the termination provisions of the Declaration and Condominium Act;

**21.4.1.2**    Repair would be illegal under any state or local health or safety statute or ordinance; or

**21.4.1.3**    Owners holding at least 86% of the votes in the Association vote not to Repair the Damage. In addition to the consent by the Owners specified above, any election not to repair the damage or not to rebuild substantially in accordance with the original plan will require the approval of the Limited Partner and any Eligible Mortgagees holding a Mortgage on the Housing Unit.

**21.4.2**    The cost of Repair within the deductible that is not recovered from a Unit Owner and that exceeds the available insurance proceeds and the Association's reserves shall be a Common Expense. If the cost of Repair exceeds the available insurance proceeds and any available reserves or other Association funds (to the extent the Board determines to apply them to such costs) the Board may impose Assessments for all or some of the un-insured costs against the Unit responsible for the damage, or may impose Assessments against all Units in proportion to their Common Expense Liability in an aggregate amount sufficient to pay the excess costs.

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

**21.4.4**    The Board may enter into a written agreement with a reputable financial institution or trust or escrow company that the institution or company shall act as an insurance trustee to adjust and settle any claim for casualty loss in excess of \$50,000, or for the institution or company to collect the insurance proceeds and carry out the provisions of this Article.



The Board may expend so much of the insurance proceeds and Association funds as the Board deems reasonably necessary for Emergency Work (which Emergency Work may include but is not necessarily limited to removal of the damaged improvements and clearing, filling, and grading the land), and the remaining funds, if any, and the property shall thereafter be held and distributed as provided in Section 21.5.

**Section 21.5 Effect of Decision Not To Repair.** If all of the damaged or destroyed portions of the Condominium are not repaired or replaced:

**21.5.1** The insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition compatible with the remainder of the Condominium;

**21.5.2** The insurance proceeds attributable to Units and Limited Common Elements that are not fully repaired or replaced shall be distributed to the Owners of those Units and the Owners of the Units to which those Limited Common Elements were allocated or to lien holders, as their interests may appear; and

**21.5.3** The remainder of the proceeds shall be distributed to all the Unit Owners or lien holders, as their interests may appear, in proportion to their Common Ownership Interests.

If the Unit Owners vote not to rebuild any Unit, that Unit's allocated interests are automatically reallocated upon the vote as if the Unit had been condemned under Article 22, and the Association promptly shall prepare, execute, and record an amendment to this Declaration reflecting the reallocations. Notwithstanding the provisions of this section, Article 25 governs the distribution of insurance proceeds if the Condominium is terminated.

## **ARTICLE 22 CONDEMNATION**

**Section 22.1 Consequences of Condemnation; Notices.** If any Unit or portion thereof or the Common Elements or Limited Common Elements or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, notice of the proceeding or proposed acquisition shall promptly be given to each Owner and Mortgagee and the provisions of this Article shall apply.

**Section 22.2 Power of Attorney.** Each Owner appoints the Association as attorney-in-fact for the purpose of representing the Owners in any proceedings, negotiations, settlements or agreements regarding a condemnation of any part of the Condominium. Any proceeds from a condemnation shall be paid to the Association for the benefit of affected Units and their Mortgagees. Should the Association not act, based on their right to act pursuant to this section, the affected Owners may individually or jointly act on their own behalf.

**Section 22.3 Condemnation of a Unit.** If a Unit is acquired by condemnation, or if part of a Unit is acquired by condemnation leaving the Unit Owner with a remnant of a Unit which may not practically or lawfully be used for any purpose permitted by this Declaration, the award must compensate the Owner for the Owner's Unit and its appurtenant interest in the Common Elements, whether or not any Common Elements are acquired. The proceeds from the Unit shall be paid to the Owner or lien holder of the Unit, as their interests may appear. Upon acquisition, unless the decree otherwise provides, that Unit's Allocated Interests are automatically reallocated to the remaining Units



in proportion to the respective Allocated Interests of those Units before the taking, and the Association shall promptly prepare, execute, and record an amendment to this Declaration reflecting the reallocations. Any remnant of a Unit remaining after part of a Unit is taken under this section is thereafter a Common Element.

**Section 22.4 Condemnation of Part of a Unit.** Except as provided in Section 22.3, 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. The proceeds from the condemnation awarded to the Unit Owner shall be paid to the Owner or lien holders of the Unit, as their interests may appear. Upon acquisition, unless the decree otherwise provides: (a) that Unit's Allocated Interests are reduced in proportion to the reduction in the size of the Unit; and (b) the portion of the Allocated Interests divested from the partially acquired Unit are automatically reallocated to that Unit and the remaining Units in proportion to the respective Allocated Interests of those Units before the taking, with the partially acquired Unit participating in the reallocation on the basis of its reduced Allocated Interests.

**Section 22.5 Condemnation of Common Element or Limited Common Element.** If part of the Common Elements is acquired by condemnation the portion of the award attributable to the Common Elements taken shall be paid to the Owners based on their respective interests in the Common Elements or to lien holders, as their interests may appear. Any portion of the award attributable to the acquisition of a Limited Common Element must be equally divided among the Owners of the Unit to which that Limited Common Element was allocated at the time of the acquisition, or to lien holders, as their interests may appear. If the Board determines that a particular Owner's interest in the Common Elements will be diminished with respect to other Owners, by the acquisition of a Common Element, the Declaration may be amended to adjust that Owner's Common Expense Liability allocation, or to remove the allocation of a Limited Common Element to that Owner's Unit, as the case may be.

**Section 22.6 Reconstruction and Repair.** Any reconstruction and repair necessitated by condemnation shall be governed by the procedures specified in Article 21.

## **ARTICLE 23 PROCEDURES FOR SUBDIVIDING, COMBINING OR ALTERING UNITS AND RELOCATING BOUNDARIES**

**Section 23.1 Subdivision or Combination of Units.** No Unit may be subdivided into a greater number of Units or Units combined into a lesser number of Units, whether by agreement, legal proceedings or operation of law, except as provided in this Section 23.1.

**23.1.1** An Owner desiring to subdivide a Unit or combine Units must submit a written proposal to (a) the Board, (b) all Mortgagees of the Units and (c) the Limited Partner. The proposal must include complete plans and specifications for accomplishing the subdivision or combination and proposed amendments of this Declaration and the Survey Map and Plans. The proposed amendments must assign an identifying number to each resulting Unit, and reallocate the Allocated Interests of the former Unit(s) to the new Unit(s) in a reasonable manner, provided however, the aggregate Voting Interest of the new Unit(s) shall not exceed the total Voting Interest of the Unit(s) before the subdivision or combination.

**23.1.2** If approved pursuant to Section 23.1.3, the amendments must be executed by the Owner of the Unit(s) involved. The Owner of the Unit(s) to be subdivided or combined shall bear all costs of the subdivision or combination.



**23.1.3** A proposal to subdivide a Unit or combine Units must be approved in writing by the Board, all Eligible Mortgagees of the Unit or Units to be subdivided or combined and by the Limited Partner if the proposal involves the Housing Unit. The Board must approve the proposal unless the proposal fails to comply with the Condominium Act, this Section 23.1 or impairs the structural integrity or mechanical or electrical systems in the Condominium.

**Section 23.2 Alteration of Units.** No Unit may be altered in any way except in accordance with this Section 23.2.

**23.2.1** Subject to the use restrictions and other restrictions of the Governing Documents, an Owner may make any improvements or alterations to the Owner's Unit that do not affect the structural integrity or mechanical or electrical systems or lessen the support of any portion of the Condominium.

**23.2.2** An Owner may not change the appearance of the Common Elements or the exterior appearance of a Unit without permission of the Association pursuant to Section 23.2.4.

**23.2.3** After acquiring an adjoining Unit or an adjoining part of any adjoining Unit, an Owner may, with approval of the Board pursuant to Subsection 23.2.4, 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.

**23.2.4** An Owner must submit a written request, including plans and specifications for the proposed alteration or removal to the Board. The Board must approve a request under this Section 23.2 within 60 days, unless the proposal fails to comply with the Condominium Act, this Section 23.2, 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.

**Section 23.3 Relocation of Boundaries – Adjoining Units.** The boundaries between adjoining Units may not be relocated in any way except in accordance with this Section 23.3.

**23.3.1** The Owners of adjoining Units may relocate the boundaries between their Units if the relocation will not adversely affect the structural integrity or mechanical or electrical systems or lessen the support of any portion of the Condominium.

**23.3.2** The Owners desiring to relocate the boundary between the Units must submit a written proposal to the Board, all Mortgagees of those Units and the Limited Partner if the proposal involves the Housing Unit. The proposal must include complete plans and specifications for accomplishing the relocation and proposed amendments of this Declaration and the Survey Map and Plans. The proposed amendments must reallocate the Allocated Interests of the affected Units in a reasonable manner.

**23.3.3** The Board must approve a request under this Section 23.3 within 30 days, unless the proposal fails to comply with the Condominium Act or this Section 23.3, impairs the structural integrity or mechanical or electrical systems in the Condominium, or contains an



unreasonable reallocation of Allocated Interests. The failure of the Board to act upon a request within such period shall be deemed approval thereof.

**23.3.4** Upon approval, 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 record survey maps or plans complying with the requirements of RCW 64.34.232(4) necessary to show the altered boundaries between adjoining Units and their dimensions and identifying numbers.

**23.3.5** The Owner or Owners benefited by a relocation of Unit boundaries shall bear all costs associated therewith in proportion to the relative benefits to each such Unit as determined by the Board.

**ARTICLE 24 AMENDMENT OF DECLARATION, SURVEY MAP AND PLANS,**  
**ARTICLES OR BYLAWS**

**Section 24.1 Procedures.** Except in cases of amendments that may be executed by the Declarant, the Association or certain Owners under other provisions of this Declaration or under the Condominium Act, the Declaration, the Survey Map and Plans, the Articles and the Bylaws may be amended only by vote or agreement of the Owners as specified in this Article.

**24.1.1** Any Owner or Owners may propose amendments to the Board. If approved by any one or more members of the Board, the amendment shall be submitted to the members of the Association for their consideration at the next regular or special meeting for which timely notice can be given. The notice for any meeting at which an amendment will be considered shall include the text of the amendment.

**24.1.2** Amendments may be adopted at a meeting of the members of the Association or by such alternative methods as allowed by the Bylaws, after such notice as is required by the Bylaws has been given to all persons (including Eligible Mortgagees) entitled to receive notices.

**24.1.3** Upon its adoption and the receipt of any necessary consents under this Article, an amendment to the Declaration or the Survey Map and Plans will become effective when it is recorded or filed in the real property records in the county in which the Condominium is located. The amendment shall be indexed in the name of the Condominium and shall contain a cross-reference by recording number to the Declaration and each previously recorded amendment thereto. No action to challenge the validity of an amendment to the Declaration or Survey Map and Plans adopted by the Association pursuant to this Article may be brought more than one year after the amendment is recorded. Upon its due adoption and any consents required under this Declaration, an amendment to the Articles shall be effective upon filing the amendment with the Secretary of State. An amendment to the Bylaws shall be effective upon adoption and receipt of any consents required under this Declaration.

**24.1.4** Amendments under this section shall be prepared, executed, recorded and certified on behalf of the Association by any officer of the Association designated for that purpose or, in the absence of designation, by the president of the Association.





**Section 24.2 Consent Required.** Except as provided in Articles 21 and 22 relating to damage or condemnation of the property, and except in cases of amendments that may be executed by the Declarant under Sections 64.34.232(6) or 64.34.236 of the Condominium Act; the Association under Sections 64.34.060, 64.34.220(5), 64.34.228(3), 64.34.248 or 64.34.268(8) of the Condominium Act; or certain Owners under Section 64.34.228(2) of the Condominium Act; the consents of Owners, the Limited Partner and Mortgagees required for adoption of amendments to the Declaration, the Survey Map and Plans, the Articles and the Bylaws are as follows:

**24.2.1** Except as set forth in Section 24.2.2 of this Declaration, an amendment to the Declaration, the Survey Map and Plans, the Articles or the Bylaws shall require the vote or agreement of Unit Owners to which at least 86% of the Voting Interest in the Association is allocated and the Limited Partner.

**24.2.2** An amendment that creates or increases Special Declarant Rights, increases the number of Units, changes the boundaries of any Unit, any Allocated Interest of a Unit, or the uses to which any Unit is restricted, shall require the vote or agreement of (i) the Unit Owners and (ii) the Eligible Mortgagee(s).

**24.2.3** An amendment to the Declaration, Survey Map and Plans, Articles or Bylaws that requires notice to Eligible Mortgagees under Section 26.2 of this Declaration, shall also require the consent of the Eligible Mortgagees of Units to which at least 86% of the votes allocated to Units subject to Mortgages held by Eligible Mortgagees are allocated, and where provided in a particular section of this Declaration, shall require the written consent of all Eligible Mortgagees or all Eligible Mortgagees of the Units involved, as the case may be.

**24.2.4** An Eligible Mortgagee who receives a written request to consent to an amendment who does not submit to the requesting party a negative response within 30 days shall be deemed to have consented to such request, provided the request was delivered by certified or registered mail, return receipt requested and the request conspicuously states, on the first page thereof, the time period for response and the effect of failure to respond.

**Section 24.3 Limitations on Amendments.** No amendment may restrict, eliminate, or otherwise modify any Special Declarant Right provided in the Declaration without the consent of the Declarant and any mortgagee of record with a security interest in the Special Declarant Right or in any real property subject thereto, excluding Mortgagees of Units owned by persons other than the Declarant.

## **ARTICLE 25 TERMINATION OF CONDOMINIUM**

**Section 25.1 Action Required.** Except in the case of the taking of all Units by condemnation, the Condominium may be terminated only by agreement of all Owners of Units, Eligible Mortgagees and the Limited Partner. An Eligible Mortgagee who receives a written request to consent to termination who does not submit to the requesting party a negative response within 30 days shall be deemed to have consented to such request, provided the request was delivered by certified or registered mail, return receipt requested and the request conspicuously states, on the first page thereof, the time period for response and the effect of failure to respond.

**Section 25.2 Condominium Act Governs.** The provisions of the Condominium Act relating to termination of a condominium contained in RCW 64.34.268, as it may be amended, shall govern the termination of the Condominium, including, but not limited to, the disposition of the real



property in the Condominium and the distribution of proceeds from the sale of that real property. Any termination agreement must provide that upon termination of the Condominium any Regulatory Agreement then in force against any Unit shall remain in effect according to its own terms against the portion of the real property that formerly constituted such Unit or other part of the Condominium, whether the Condominium is sold or not. Whether or not so provided in any termination agreement, to the extent that, immediately prior to termination, the Housing Unit is subject to any Regulatory Agreement, such Regulatory Agreement shall continue to burden the interests of the Owner of such Unit in the real property formerly constituting such Unit and its Limited Common Elements, including without limitation rights of exclusive occupancy under RCW 64.34.268 or successor provision, and if the real property that formerly constituted such Unit shall be transferred after termination, the transferee shall take subject to the terms of such Regulatory Agreement.

## **ARTICLE 26 NOTICES**

**Section 26.1 Form and Delivery of Notice.** Unless provided otherwise in this Declaration, all notices given under the provisions of this Declaration or the Bylaws or rules or regulations of the Association shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, the notice shall be deemed to have been delivered upon being deposited in the United States mail, first class, postage prepaid, addressed to the person entitled to such notice at the most recent address known to the Board, the Owner, the Limited Partner or the Mortgagee. Notice to the Owner of any Unit shall be sufficient if mailed to the Unit if no other mailing address has been given in writing to the Board. Notices to the Board shall be given to the president or secretary of the Association. Notices to the Declarant shall be given at the following address, or such other address as Declarant may specify in written notice to the Board or the Owners:

Milwaukee Park Apartments Limited Partnership  
c/o Compass Health  
4523 Federal Avenue  
Everett, WA 98203-8810

**Section 26.2 Notices to Mortgagees.** A Mortgagee who has delivered a written request for notices to the Association shall be entitled to receive timely written notice of:

**26.2.1** Any proposed amendment of the Declaration or Survey Map and Plans effecting a change in:

- (a) the boundaries of any Unit,
- (b) the exclusive easement rights, if any, appertaining to any Unit,
- (c) the Common Ownership Interests or the Common Expense Liabilities,
- (d) the Voting Interest allocated to any Unit, or
- (e) the purposes to which a Unit or the Common Elements are restricted;



**26.2.2** Any proposed termination of condominium status, transfer of any part of the Common Elements or termination of professional management of the Condominium;

**26.2.3** Any condemnation loss or casualty loss that affects a material portion of the Condominium or that affects the Unit on which the Mortgagee has Mortgage;

**26.2.4** Any delinquency that has continued for 60 days in the payment of Assessments or charges owed by an Owner of a Unit;

**26.2.5** Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; and;

**26.2.6** Any proposed action that would require the consent of a specified percentage of Eligible Mortgagees under this Declaration or the Condominium Act.

The Mortgagee's request to receive notices must be delivered to the Association in writing, must state the name and address of the Mortgagee and the Identifying Number or address of the Unit on which it holds (or insures or guarantees) a Mortgage.

**Section 26.3 Other Parties Entitled to Notice.** A partner, shareholder or member of an Owner who files a written request for notice in compliance with Section 26.2 shall be entitled to receive the same notices as an Eligible Mortgagee. The Limited Partner shall deliver to the Association its address for delivery of notices. The Limited Partner shall also be entitled to receive notices of any other action for which its consent is required by the terms of this Declaration.

## **ARTICLE 27 ASSIGNMENT BY DECLARANT**

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



DECLARANT'S SIGNATURE PAGE FOR CONDOMINIUM DECLARATION

Dated this 2 day of April, 2009.

MILWAUKEE PARK APARTMENTS LIMITED PARTNERSHIP,  
a Washington limited partnership

By: Compass Health Holdings LLC  
Its: General Partner

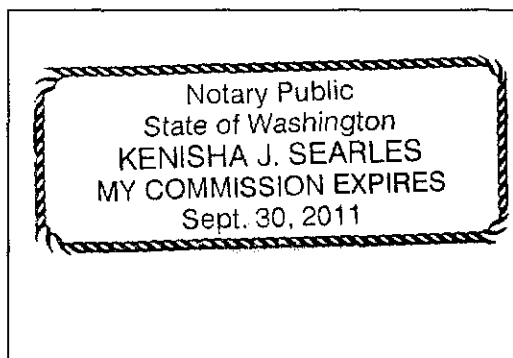
By: Compass Health  
Its: Sole Member and Manager

By Tom Sebastian  
Printed Name: TOM SEBASTIAN  
Title: PRESIDENT/CEO

STATE OF WASHINGTON )  
COUNTY OF Snohomish ) ss.

I certify that I know or have satisfactory evidence that Tom Sebastian is the person who appeared before me and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the President/CEO of Compass Health, the sole member and manager of Compass Health Holdings LLC, general partner of Milwaukee Park Apartments Limited Partnership, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: April 2, 2009



Kenisha Searles  
Print Name: Kenisha Searles  
Residing at: Everett, WA  
My appointment expires: Sept 30, 2011

CONDOMINIUM DECLARATION - MILWAUKEE PARK



200904160090

Skagit County Auditor

SIGNATURE PAGE

**SCHEDULE A  
MILWAUKEE PARK, A CONDOMINIUM**

**DESCRIPTION OF REAL PROPERTY**

THE WEST 30 FEET OF LOT 6, AND ALL OF LOTS 7 AND 8, BLOCK 9, "RIVERSIDE  
ADDITION TO THE TOWN OF MOUNT VERNON," AS PER PLAT RECORDED IN VOLUME  
3 OF PLATS, PAGE 24, RECORDS OF SKAGIT COUNTY, WASHINGTON,

EXCEPT THE NORTH 19.50 FEET THEREOF.

SITUATE IN THE CITY OF MOUNT VERNON, COUNTY OF SKAGIT, STATE OF  
WASHINGTON.



**SCHEDULE B  
MILWAUKEE PARK, A CONDOMINIUM**

**UNIT DATA AND ALLOCATED INTERESTS**

- The Unit Number is the Identifying Number of the Unit.
- The Floor Area is the approximate area of the Unit.
- The Level refers to the levels in the building on which the Unit is located.
- "COI" shows the "Common Ownership Interest" of each Unit based on the formula set forth in Article 6. Some of those Allocated Interests may have been rounded so that the aggregate of those Allocated Interests equals 100.
- "CEL" shows the "Common Expense Liability" of each Unit based on the formula set forth in Article 6. Some of those Allocated Interests may have been rounded so that the aggregate of those Allocated Interests equals 100.
- "VI" shows the "Voting Interest" of each Unit based on the formula set forth in Article 6. Some of those Allocated Interests may have been rounded so that the aggregate of those Allocated Interests equals 100.

UNIT #	FLOOR AREA	LEVELS	COI	CEL	VI
1 (Commercial Unit)	1,648	1	15%	15%	15
2 (Housing Unit)	9,360	1, 2, 3	85%	85%	85
TOTAL	11,008		100%	100%	100



**SCHEDULE C  
MILWAUKEE PARK, A CONDOMINIUM**

**PARKING ASSIGNMENTS**

- There will be a total of 21 uncovered parking spaces in the Condominium.
- Parking Spaces numbered 5 through 19 on the Survey Map and Plans are allocated to the Housing Unit. Parking Spaces numbered 1 through 4, 20 and 21 on the Survey Map and Plans are allocated to the Commercial Unit.



**SCHEDULE D  
MILWAUKEE PARK, A CONDOMINIUM**

**DESCRIPTION OF LIMITED COMMON ELEMENTS**

**HOUSING UNIT LIMITED COMMON ELEMENTS:**

North Stairs as shown on the Survey Map and Plans

Deck on Second Floor as shown on the Survey Map and Plans

Parking Spaces as described on Schedule C and shown on the Survey Map and Plans

**COMMERCIAL UNIT LIMITED COMMON ELEMENTS:**

Parking Spaces as described on Schedule C and shown on the Survey Map and Plans



200904160090

Skagit County Auditor

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