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Skagit County Auditor

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**SECOND AMENDMENT TO DECLARATION
FOR
VERNON HEIGHTS CONDOMINIUM**

TITLE OF DOCUMENT:

**SECOND AMENDMENT TO CONDOMINIUM
DECLARATION FOR VERNON HEIGHTS CONDOMINIUM**

DOCUMENT AMENDED

AF# 9408260063

GRANTOR:

**UNIT OWNERS ASSOCIATION OF VERNON HEIGHTS
CONDOMINIUM**

GRANTEE:

THE GENERAL PUBLIC

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

**SECOND AMENDMENT TO DECLARATION
FOR VERNON HEIGHTS CONDOMINIUM**

**PURPOSE: TO MODIFY PROVISIONS RELATING TO INSURANCE AND CASUALTY LOSSES,
TO IMPOSE RESTRICTIONS ON THE NUMBER OF RENTAL UNITS AND TO COMPLY WITH
STATUTORY REQUIREMENTS RELATING TO RESERVE STUDIES**

THIS AMENDMENT is made this 20th day of April, 2009, by Unit Owners Association of Vernon Heights Condominium, (the "Association").

WITNESSETH THAT:

WHEREAS, a certain Condominium Declaration establishing Vernon Heights Condominium ("the Condominium") in Mount Vernon, Washington, was recorded by its Declarant at Auditor's File No. 9408260063 among the land records of Skagit County, Washington, along with a Survey Map and Plans, which were contemporaneously recorded at Auditor's File No. 9408260062; the Declaration has been previously amended by instruments recorded at Auditor's File Nos. 9503090036;

WHEREAS, pursuant to RCW 64.34.264 and Section 17.1 of the Declaration, the Declaration of this Condominium generally may be amended by the vote or agreement of unit owners of Units holding defined percentages of the votes in the Association, along with the consent of at least 51% of any Eligible Mortgagees;

WHEREAS, the Association has determined that it is necessary or desirable to amend and replace Article XI of the Declaration, dealing with insurance coverage and casualty losses, to place restrictions on the number of Units within the Condominium which can be rented, and to bring the Declaration into compliance with statutory requirements relating to reserve studies, in the manner hereinafter specified, and has obtained the necessary consent of the requisite percentage of Unit Owners prior to the date of this Amendment, and there being no Eligible Mortgagees;

NOW, THEREFORE, pursuant to and in compliance with Section 17.1 of the Declaration and RCW 64.34.264, the Association hereby amends the following portions of the Declaration:

9.1.9 General Lease Restrictions.

With the exception of an institutional lender in possession of a Unit following a default under a mortgage, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure, no Unit Owner shall be permitted to lease his or her Unit for periods of less than thirty (30) days. Any lease agreement shall be required and deemed to provide that the terms of the lease shall be subject in all respects to the provisions of the Condominium Instruments, and that any failure by the Lessee to comply with such provisions shall be a default under the lease, entitling the Association to enforce such provisions as a real party in interest. All leases shall be in writing, and the Association is entitled to receive copies of all leases. A lease, as defined herein, may include month-to-month rentals, but neither subleasing nor transient occupancy for a term of less than 30 days is permitted. Any tenant shall be deemed to have assumed all non-monetary responsibilities of an Owner under this Section of the Declaration. See Section 9.3 hereof for limitations on the numbers of Units which may be rented in this Condominium.



9.3 Limitation on Number of Units Which May Be Leased By Their Owners.

9.3.1 General Prohibition Against Leasing.

Except as provided below in Sections 9.3.3 through 9.3.6 hereof, no Unit Owner shall be permitted to lease all or any portion of his or her Unit to an unrelated third party (i.e., to someone other than a parent, child or sibling).

9.3.2 Existing Rentals Unaffected - "Grandfather" Status. Units which are leased or rented to unrelated third parties as of the date of recordation of this Amendment ("Rental Units") shall be permitted to remain as Rental Units, subject to the condition that when any Rental Unit is conveyed to a new Owner, the limitations of Section 9.3.1 hereof shall become applicable to such Unit.

9.3.3 Circumstances Justifying Temporary Increase in Number of Leased Units.

To avoid undue hardship on an Occupant-Owner (i.e., an Owner who has occupied his/her Unit for at least one year) who experiences a need to move temporarily from his or her Unit for health-related reasons for a period not exceeding two (2) years in duration, or for an extended vacation or an employment-related relocation for a period not exceeding two (2) years in duration, such Owner may lease the Unit following the written approval of the Board of Directors, which approval shall not be unreasonably withheld. Upon good cause shown in writing by such an Owner, such a lease may be extended or renewed for an additional period of up to one year, provided that such Owner first demonstrates to the reasonable satisfaction of the Board that the Owner truly intends to resume use of the Unit as a personal residence following the conclusion of the lease term. PROVIDED, however, that no such leasing shall be permitted if at the time of an Occupant-Owner's request for same, the total number of Units occupied by tenants (including the Unit subject to such request) shall exceed 35% of the total number of Units in the Condominium.

9.3.4 Rental Incident to Bona Fide Sale of Unit.

A Unit may be rented by its Owner in conjunction with a *bona fide* sale of such Unit for a period of not more than three months. The foregoing includes rental to a purchaser of the Unit prior to closing, and a "lease-back" of the Unit following closing.

9.3.5 Exemption for Institutional Lenders, Family Members and Association.

The restrictions of this Section 9.3 shall not apply to the Association following a foreclosure of its lien for assessments, or to an institutional lender in possession of a Unit following a default under a first mortgage, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure. Units leased by their Owners to immediate family members [parents, children, or siblings] shall not be considered Rental Units; in such cases, it shall be the responsibility of the Owner to notify the Board of the commencement and termination of the family tenancy, and this exemption shall cease when occupancy of the Unit by a family member ceases. A Unit which is owned by a family trust, family limited partnership, or similar entity for estate planning or similar purposes, when occupied by an immediate family member of the original Owner who established the entity, shall be considered exempt as a family tenancy.

9.3.6 Selling Owner Responsible for Compliance with Rental Restrictions.



Each Owner shall be responsible for advising any purchaser of the Unit of the existence of these restrictions on rental units, and may be held liable to the Association for any damages, costs and/or expenses incurred by the Association as a result of such failure.

9.3.7 Justification and Enforcement.

The restrictions in this Section are necessary to maintain the primarily owner-occupied status of the Condominium, so as to enhance the market value of the Units therein, to preserve the ability of Occupant-Owners to obtain favorable, owner-occupied mortgage financing for their Units, and to maintain the sense of community which can suffer when a disproportionate percentage of Units become occupied by tenants. All leasing of Units shall be conducted in accordance with the provisions of Section 9.1.9 of this Declaration. No Owner shall enter into or permit nor shall the Board consent to, any lease, sublease or rental agreement, the effect of which would result in noncompliance with this Section. The Board may resort to any and all remedies contained in the Condominium Instruments, in addition to unlawful detainer proceedings, as may be necessary to fully implement the terms hereof.

9.3.8 Rent Payable to Association Upon Owner's Default. If the Owner of a Rental Unit is delinquent in payment of dues or assessments owing to the Association, the Board may collect, and the tenant or lessee shall pay over to the Board, so much of the rent for such Unit as is required to pay any amounts due the Association by said Owner, including interest and costs if the same are in default over thirty (30) days. The renter or lessee shall not have the right to question payment over to the Board, and such payment will discharge the lessee's or renter's duty of payment to the Owner for rent, to the extent such rent is paid to the Association, but such payment will discharge the liability of the Owner or the Unit under this Declaration only *pro tanto*, and shall not operate as an approval of the lease. The Board shall not exercise this power where a receiver has been appointed with respect to the Unit or its Owner; nor shall this power be exercised in derogation of any rights of a Mortgagee with respect to such Unit.

10.3 Reserves for Major Repairs, Replacements, & Insurance Deductibles.

10.3.1 Establishment of Reserves.

The Board of Directors shall establish and maintain reasonable reserves for major repairs and replacements. Reserves shall also be established for the deductible under insurance policies obtained pursuant to Article XI hereof, exclusive of earthquake and/or related coverages. The Annual Budget of the Association shall always contain provisions for such reserves. The Association shall allocate and deposit monthly to such reserves one-twelfth of the total amount budgeted for such reserves in the current fiscal year. The Board may also establish and maintain reserve funds for operations, capital improvements and for such other purposes as may appear advisable. All reserves shall be identified and segregated on the books of the Condominium. The portions of the Units' Assessments paid into such reserves shall be conclusively deemed to be non-refundable contributions to the capital of the Association by the Unit Owners. Such reserves may be expended only for the purposes for which they were established unless the Unit Owners, at a duly-constituted meeting of the Association, otherwise decide. The Budget may include reserves for any Special Limited Common Elements, assessable against only the Unit(s) benefitted thereby.

10.3.2 Reserve Study Required by State Law.



Unless doing so would impose an unreasonable hardship, the Association shall prepare and update a Reserve Study, in accordance with the relevant 2008 amendments to the Condominium Act. The initial Reserve Study must be based upon a visual site inspection conducted by a Reserve Study Professional. Unless doing so would impose an unreasonable hardship, the Association shall update the Reserve Study annually. At least every three years, an updated Reserve Study must be prepared and based upon a visual site inspection conducted by a Reserve Study Professional. In preparing a Reserve Study, the Association shall estimate the anticipated major maintenance, repair, and replacement costs, whose infrequent and significant nature make them impractical to be included in an annual budget. A Reserve Study shall include:

- (a) A reserve component list, including quantities and estimates for the useful life of each reserve component, the remaining useful life of each reserve component, and current repair and replacement cost for each component;
- (b) The date of the study and a statement that the study meets the statutory requirements;
- (c) The level of reserve study performed: (i) Level I: Full reserve study funding analysis and plan; (ii) Level II: Update with visual site inspection; or (iii) Level III: Update with no visual site inspection;
- (d) The Association's reserve account balance;
- (e) The percentage of the fully funded balance that the reserve account is funded;
- (f) Special assessments already implemented or planned;
- (g) Interest and inflation assumptions;
- (h) Current reserve account contribution rate;
- (i) Recommended reserve account contribution rate;
- (j) Projected reserve account balance for thirty years and a funding plan to pay for projected costs from those reserves without reliance on future unplanned special assessments;
- (k) Whether the Reserve Study was prepared with the assistance of a Reserve Study Professional.; and
- (l) Statutory warning language.

ARTICLE XI



INSURANCE, DESTRUCTION, RESTORATION AND DISTRIBUTION

11.1 Authority, Name of Insured.

The Board of Directors shall obtain and maintain casualty and liability insurance under such terms and for such amounts as shall be deemed necessary by the Board of Directors. Monetary levels of coverage shall be determined annually by the Board of Directors with assistance of the agent of the insurance company affording such coverage. Unless not reasonably available, such coverage shall follow the terms, conditions and amounts required by Section 11.2 hereof. The name of the insured under each required policy shall be stated as follows: "Unit Owners Association of Vernon Heights Condominium."

11.2 Insurance Policies and Coverage.

11.2.1 Master Policy.

The Condominium shall be insured under a "master", "blanket" or "entity" type of policy, against casualty or physical damage in an amount equal to the maximum insurable replacement value of the Common Elements and the Units (i.e., 100% of total replacement costs based upon the value of replacing all buildings and all improvements of the Condominium exclusive of land, excavations and foundations, utilizing contemporary building materials and technology.) Such coverage shall afford protection against:

(a) loss or damage by fire, vandalism, malicious mischief, windstorm, and other hazards covered by the standard "broad form" and/or "special" extended coverage endorsements or their equivalent, together with Common Expense assessments coverage with respect to the Units during any period of repair or reconstruction; and such other perils customarily covered by insurance for similar condominium projects. Such coverage shall insure all buildings and other General and Limited Common Elements that are normally included in coverage. The policy shall also cover all of the Units and their bathroom, laundry and kitchen equipment, fixtures and cabinets, together with all included electrical and plumbing fixtures and equipment, any heating and ventilating and other equipment supplied or installed by the Declarant, but not including furniture, furnishings or other personal property supplied or installed by Unit Owners. The policy shall also cover other Condominium property including fixtures, building service equipment and common personal property and supplies owned by the Owners Association or included in the Common Elements. An insurance policy that includes either of the following endorsements will assure full insurable value replacement cost coverage:

(i) a Guaranteed Replacement Cost Endorsement (under which the insurer agrees to replace the insurable property regardless of the cost) and, if the policy includes a coinsurance clause, an Agreed Amount Endorsement (which waives the requirement for coinsurance); or

(ii) a Replacement Cost Endorsement (under which the insurer agrees to pay up to 100% of the Property's insurable replacement cost, but no more) and, if the policy includes a coinsurance clause, an Agreed Amount Endorsement (which waives the requirement for coinsurance).

(b) the following Special Endorsements, or their functional equivalent:

(i) an Inflation Guard Endorsement, when it can be obtained; and

(ii) Building Ordinance, Construction Code or Law Endorsement, if the enforcement of any building, zoning, or land-use law will result in loss or damage, increased cost of repairs



or reconstruction, or additional demolition and removal costs. (The endorsement must provide for contingent liability from the operation of building laws, demolition costs, and increased costs of reconstruction.)

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

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

11.2.2 Flood Insurance.

If any part of the Condominium's improvements are in a Special Flood Hazard Area -- which is designated as A, AE, AH, AO, A1-30, A-99, V, VE, or V1-30 on a Flood Insurance Rate Map (FIRM), the Association must maintain a "master" or "blanket" policy of flood insurance which should cover buildings and any other improvements constituting Common Elements. If the project consists of high-rise or other vertical buildings, the Association must have a separate flood insurance policy for each building that houses dwelling units. The amount of flood insurance should be at least equal to the lesser of \$250,000 or 100% of the insurable value of the facilities, or the maximum coverage available under the appropriate National Flood Insurance Administration program. If the Condominium consists of high-rise buildings or other vertical buildings, the building coverage should equal 100% of the insurance value of the building, including machinery and equipment that are part of the building. The contents coverage must include 100% of the insurable value of all contents, including any machinery and equipment that are not part of the building, but which are owned by the Association for its members. The maximum deductible amount for policies covering the Common Elements or for those covering each building in a high-rise or vertical condominium project, is the lesser of \$5,000 or 1% of the policy's face amount. Funds to cover this deductible amount may be included in the Association's operating reserve account.

11.2.3 Earthquake Insurance.

If desirable and reasonably available, earthquake insurance may be obtained. The Board should consider the advisability of maintaining funds to cover any deductible applying to such coverage in the Association's operating reserve account.

11.2.4 Directors' and Officers' Insurance.

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

11.2.5 Fidelity Insurance.

The Association shall obtain blanket fidelity insurance for any person who either handles (or is responsible for) funds that he or she holds or administers, whether or not that individual receives compensation for services. The policy shall name the Association as the insured and must include a provision that calls for ten days' written notice to the Association and all Eligible Mortgagees before the policy can be canceled or substantially modified for any reason, in the manner provided in Section 15.2 hereof. The policy



should cover the maximum funds that will be in the custody of the Association or its Manager at any time while the policy is in force. A Manager that handles funds for the Association may be named as an additional insured under such policy, or may be covered by its own fidelity insurance policy, which should provide the same coverage required of the Association.

11.2.6 Additional Insurance.

The Board shall also acquire such additional insurance coverage as it may deem advisable and appropriate, including Workmen's Compensation insurance, where necessary to meet the requirements of law. Further, and notwithstanding any other provisions herein, the Association shall continuously maintain in effect such casualty, flood and liability insurance and fidelity insurance meeting the insurance and fidelity bond requirements for condominium projects established by Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Veteran's Administration, or other governmental or quasi-governmental agencies involved in the secondary mortgage market, so long as any such agency is a Mortgagee or Owner of a Unit within the Condominium; in the event that such additional coverage is not reasonably available, the procedures described in Section 11.6 shall be followed.

11.2.7 General Policy Provisions and Limitations.

Insurance obtained pursuant to the requirements of this Article XI shall be subject to the following provisions:

(a) Each policy shall be written with a company or companies which are licensed to do business in the State of Washington and which hold a B general policyholder's rating or a financial performance index of 6 or better in the latest edition of Best's Key Rating Guide, or an A or better rating from Demotech, Inc., or such other rating(s) by such other entities as may be acceptable to or required by Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Veteran's Administration, or other governmental or quasi-governmental agencies involved in the secondary mortgage market, so long as any such agency is a Mortgagee or Owner of an Unit within the Condominium.

(b) The master policy will be primary, even if a Unit Owner has other insurance [other than automobile liability insurance] that covers the same loss, and no insurance coverage obtained and maintained pursuant to the requirements of this Article XI shall be brought into contribution with insurance purchased individually by any of the Unit Owners or their Mortgagees, as herein permitted, and any "no other insurance" or similar clause in any policy obtained by the Board of Directors pursuant to the requirements of this Section shall exclude such policies from consideration.

(c) Each policy shall provide that it may not be canceled, substantially modified or reduced without at least 10 days' prior written notice to all insureds named thereon, including all named Mortgagees.

(d) Each policy of casualty insurance shall contain a waiver of any right of the carrier to elect to restore, or repair damage or reconstruct in lieu of making a cash settlement if a decision is made pursuant to this Declaration not to do so.

(e) Each policy shall contain a waiver of subrogation by the insurer as to any and all claims against the Unit Owners, the Association, the Board of Directors, the Manager, and their respective



agents, arising from the acts of any Unit Owner, member of the Owner's household, or lessee of the Owner.

(f) Policy contracts shall provide that each Unit Owner is an insured person under the policy with respect to liability arising out of the Owner's interest in the Common Elements or membership in the Association.

(g) Each policy shall provide that (i) the policy's coverage shall not be prejudiced by any act or neglect of Unit Owners or their agents, employees, tenants, Mortgagees or invitees when such act or neglect is not within the control of the insured or the Unit Owners collectively; and (ii) the policy shall not be prejudiced by failure of the insured or the Unit Owners collectively to comply with any warranty or condition with regard to any portion of the Condominium over which the insured or the Unit Owners collectively have no control.

(h) Each policy must contain a standard mortgage clause and must name as covered Mortgagees each such covered Mortgagee, followed by the phrase "its successors and assigns."

(i) The insurer issuing the policy may not modify the amount or the extent of the coverage of the policy or cancel or refuse to renew the policy unless the insurer has complied with all applicable provisions of chapter 48.18 RCW pertaining to the cancellation or nonrenewal of contracts of insurance. The insurer shall not modify the amount or the extent of the coverage of the policy, or cancel or refuse to renew the policy without complying with RCW 64.34.352.

(j) No policy shall refuse to recognize any Insurance Trust Agreement.

11.3 Deductible.

11.3.1 General Provisions.

The deductible should be established at a level that is sufficiently high to eliminate minor "nuisance" claims which could cause cancellation of the Association's master policy, but not so high that Unit Owners will have difficulty obtaining their own owners' insurance coverage to cover their potential liability under Section 11.3.2 hereof.

11.3.2 Owner May Be Responsible for Insurance Deductible.

Where damage is limited to a single Unit, the Owner may be held responsible and specially assessed for any uninsured amount and/or for any loss for which the Owner's or occupant's insurance may provide primary coverage. In cases where damage affects more than one Unit, or a Unit and the Common Elements, responsibility for the uninsured amount shall be pro-rated among the affected parties, including the Association; see Section 11.5 for further details. See also Section 10.7.2 of the Declaration.

11.4 Notice of Insurance Coverage or Termination Thereof.

11.4.1 The Board of Directors shall promptly furnish to each Unit Owner and each Eligible Mortgagee written notice of the procurement, subsequent changes, or termination of each insurance policy or fidelity bond obtained on behalf of the Association.

11.4.2 An insurer that has issued an insurance policy under this Section shall issue certificates or memoranda of insurance to the Association and, upon written request, to any Unit Owner or



holder of a mortgage.

11.5 Individual Policies.

11.5.1 Each Unit Owner should obtain, at such owner's expense, a "Condominium Unit Owner's Policy," or equivalent, to insure against loss or damage to any upgrades, improvements or betterments to the Unit not covered by the Association's master policy, or to personal property used in or incidental to the occupancy of the Unit, additional living expenses, loss of rent, vandalism or malicious mischief, theft, personal liability, loss assessment coverage to help the Owner pay a special assessment due to casualty losses which exceed the amount of coverage under the master policy, any loss arising from the application of Section 11.3.2 hereof, and the like. Each Owner should obtain a "building coverage rider", if available. No Unit Owner shall maintain insurance coverage which will tend to decrease the amount which the Association may realize under any insurance policy which it may have in force at any particular time. The Board of Directors may require that each Unit Owner file with the Secretary or the Manager a copy of each individual policy of insurance purchased by the Unit Owner within 30 days after its purchase. Assuming that the Association obtains "all-inclusive" insurance required under Section 11.2.1 hereof, covering upgrades, improvements or betterments supplied or installed within the Units, the Board of Directors may also require that all the Owners notify the Board of Directors of all improvements made to their respective Units having a value in excess of \$5,000.

11.5.2 In the event that any Unit Owner obtains permission from the Board of Directors to construct or maintain any Limited Common Element or other improvements within the Common Elements for the exclusive use of such Owner, the Board may require that such Owner shall acquire property and liability insurance with respect to such improvements, in such form and amount as may be required by the Board from time to time, which shall name the Association as an additional insured, and such Owner shall be solely responsible for all costs of insurance, maintenance, replacement and repair of such improvements.

11.6 Unavailability, Cancellation or Nonrenewal.

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

11.7 Adjustment and Payment of Loss Proceeds.

All policies shall provide that adjustment of loss shall be made by the Board of Directors, and that proceeds payable pursuant to the policies shall be paid directly to the Board of Directors as Insurance Trustee, to be held in trust for Unit Owners and all lienholders as their interests may appear. Proceeds of insurance policies received by the Insurance Trustee shall be distributed to or for the benefit of the Unit Owners and Mortgagees entitled thereto, after first paying or making provisions for the payment of the expenses of the Insurance Trustee, in the following manner:

(a) Proceeds are to be paid first to repair or restore damage or destruction. After completely defraying the cost of the repair or restoration, any surplus proceeds shall be payable jointly to the Unit Owners and Mortgagees, if any, entitled thereto.

(b) If, pursuant to the provisions of Section 11.8 hereof, not all of the damaged or destroyed portions of the Condominium are to be repaired or replaced, insurance proceeds shall be payable



as provided in that Section.

11.8 Reconstruction Following Casualty Loss.

11.8.1 Duty to Reconstruct.

Any portion of the Condominium for which insurance is required under this Section and for which the Board of Directors has the responsibility of maintenance and repair which is damaged or destroyed shall be repaired or replaced promptly by the Association unless: (a) the Condominium is terminated; (b) repair or replacement would be illegal under any state or local health or safety statute or ordinance; or (c) eighty percent (80%) of the Unit Owners, including every Owner of an Unit or assigned Limited Common Element which will not be rebuilt, along with any Mortgagees whose approval must be sought under applicable provisions of the Declaration, vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves shall be a Common Expense.

11.8.2 Decision Not To Reconstruct.

If all of the damaged or destroyed portions of the Condominium are not repaired or replaced: (i) the insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition compatible with the remainder of the Condominium; (ii) the insurance proceeds attributable to Units 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 lienholders, as their interests may appear; and (iii) the remainder of the proceeds shall be distributed to all the Unit Owners or lienholders, as their interest may appear, in proportion to the Common Element interests of all the Units. 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 RCW 64.34.060(1), and the Association promptly shall prepare, execute, and record an amendment to the Declaration reflecting the reallocations. Notwithstanding the provisions of this Subsection, RCW 64.34.268 governs the distribution of insurance proceeds if the Condominium is terminated.

11.8.3 Manner of Reconstruction.

If destroyed or damaged property is to be reconstructed or repaired, the reconstruction or repair thereof shall be accomplished as nearly as practicable to the character of the building or improvement existing immediately prior to such casualty. Any reconstruction or repair shall be done in accordance with then prevailing Building Code requirements and may be accomplished with contemporary building materials, utilizing updated construction systems and technology if appropriate.

11.8.4 Payment of and Procedure for Reconstruction.

The proceeds of insurance collected on account of casualty, and funds received by the Board of Directors from collections of Assessments against Unit Owners on account of such casualty, shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner:

(a) If the damages exist only to parts of an Unit for which the responsibility of maintenance and repair is borne by the Unit Owner, then the Owner shall be responsible for reconstruction and repair after casualty and shall be entitled, with the assistance of the Board of Directors, to apply for and use any applicable insurance proceeds. In such instances, the Association shall not be required to pay any of



the insurance deductible. In all other instances the responsibility of reconstruction and repair after casualty shall be that of the Board of Directors.

(b) If the amount of the estimated costs of reconstruction and repair is \$100,000 or less, (as estimated by the Board of Directors) then the construction fund shall be disbursed in payment of such costs upon order of the Board of Directors, provided, however, that upon request of a Mortgagee which is a beneficiary of an insurance policy, the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner provided in Subsection (iii) hereof;

(c) If the estimated costs of reconstruction and repair of the buildings or other improvement is more than \$100,000, then costs and expenses so incurred from the construction fund shall be disbursed from time to time as the work progresses upon approval by an engineer or architect (hereinafter referred to as the "Reconstruction Supervisor") licensed to practice in the State of Washington and employed by the Board of Directors to supervise such work. The Reconstruction Supervisor shall be required to furnish a certificate giving a brief description of the services rendered and materials furnished by various contractors, subcontractors, materialmen, the Reconstruction Supervisor, or other persons who have rendered services or furnished materials in connection with the work, and stating that: (a) the sums requested by them in payment are justly due and owing and that said sums do not exceed the value of the services and materials furnished; (b) there is no other outstanding indebtedness known to the Reconstruction Supervisor for the services and materials described; and (c) the cost as estimated by the Reconstruction Supervisor for the work remaining to be done subsequent to the date of such certificate, does not exceed the amount of the construction fund remaining after payment of the sum so requested.

11.9 Assessments if Insurance is Inadequate.

Immediately after a casualty causing damage to property for which the Board of Directors has the responsibility of maintenance and repair, the Board shall obtain reliable and detailed estimates of the cost to replace the damaged property in as good a condition as it was before the casualty. Such costs may include professional fees and premiums for such bonds as the Board desires or as may be required. If the proceeds of insurance, coupled with any available reserve funds and/or any payments from Owners under Section 11.3.2 hereof, are not sufficient to defray such estimated costs, the Board shall present to the Owners a Budget containing a Special Assessment to be made against all the Units as provided in Section 10.7 of the Declaration, in sufficient amounts to provide funds to pay the shortfall. If at any time during reconstruction and repair, or upon completion of reconstruction or repair, the funds for payment of the costs thereof are insufficient, the Board shall present a further Budget containing a Special Assessment, in sufficient amounts to provide funds for the payment of such costs.

11.10 Notice to Mortgagees.

The Board of Directors shall give written notice to: (a) an Eligible Mortgagee of the Unit whenever damage to the Unit covered by the mortgage exceeds \$10,000; and (b) all Eligible Mortgagees whenever damage to the Common Elements exceeds \$100,000.

11.11 Miscellaneous.

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



damaged or destroyed. The provisions of this Article XI shall be liberally construed to accomplish such purpose.

EXCEPT as modified by this Amendment, all of the terms and provisions of the Declaration are hereby expressly ratified and confirmed and shall remain in full force and effect.

IN WITNESS WHEREOF, the Association has caused this Amendment to be executed as of the date first written above.

UNIT OWNERS ASSOCIATION OF VERNON
HEIGHTS CONDOMINIUM, a Washington Nonprofit
Miscellaneous and Mutual Corporation

By: *Susan B. Cordsen*
Susan B. Cordsen: President

STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

I certify that I know or have satisfactory evidence that Susan Cordsen the person who appeared before me and said person acknowledged that (s)he signed this **SECOND AMENDMENT TO DECLARATION FOR VERNON HEIGHTS CONDOMINIUM**, on oath stated that (s)he was authorized to execute the instrument and acknowledged it as the President of the Owners Association of the Condominium, to be free and voluntary act of such party for the uses and purposes mentioned in this instrument.

DATED: May 4, 2009.

May Lin
Notary Public in and for the State
of Washington, residing at Sedro Woolley WA
My Commission expires: 8-9-11

